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Executive Orders

EXECUTIVE ORDER BR 91 - 11

WHEREAS, many of our state employees, as members of the Louisiana National Guard and other military reserve units of the armed forces of the United States, have been called to active duty in connection with Operations Desert Shield/Storm pursuant to Presidential Order; and

WHEREAS, these women and men left their families, homes, and careers, in order to serve their country, in many cases creating considerable emotional and financial hardship; and

WHEREAS, the Louisiana Legislature, during the First Extraordinary Session of 1991, passed and I, as governor, signed into law, the Military Service Relief Act to encourage and enable Louisiana's employers to take action to reduce these hardships; and

WHEREAS, it is important that state government take a leadership role to implement this law fairly, uniformly, and expeditiously for all its affected employees;

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

That the adoption and implementation of the following policy by each department within the executive branch of the state of Louisiana and each state agency, board, commission, and elective office with state employees; and

FURTHER, I urge and request the State Civil Service Commission and the State Police Commission to adopt or amend, as necessary, their rules and procedures to enable the implementation of the Military Service Relief Act in accordance with the following policy.

SECTION 1: The purpose of this policy is to assure uniform implementation of Act Six of the First Extraordinary Session of 1991 (Military Service Relief Act) for all eligible state employees.

SECTION 2: The policy is limited to all classified and unclassified state employees who, as members of a reserve component of the armed forces of the United States are defined in the Military Service Relief Act:

- a. called to active duty pursuant to Operations Desert Shield/Storm as defined in the Military Service Relief Act,
- b. released from satisfactory active military duty as defined in the Military Service Relief Act, and
- c. return to their state employment timely as defined in the Military Service Relief Act.

SECTION 3: Eligible employees, whose military active duty base pay was less than their state base pay, shall be compensated in the amount of the difference between the base military pay and base state pay for the time of their eligible active duty.

a. Eligible active duty for purposes of receiving differential pay shall be limited to that time spent in active duty status as an accommodation to the Presidential Call-up and shall not include military active duty that would have taken place if Desert Shield/Storm had not occurred, the time be-

tween release from active duty and the employee's return to work, or voluntary return to, or extension of, active duty status.

SECTION 4: The state employee on return from military duty has the responsibility notifying his or her appointing authority of eligibility to receive differential pay of furnishing the DD214 and other appropriate, official documents from which the appointing authority shall determine the period(s) of eligible active duty and other data required to determine pay and benefits under the Act.

a. The appointing authority may require the returnee to certify that the information presented for purposes of receiving benefits under the Military Service Relief Act is, to her or his knowledge, an accurate portrayal of her or his military record and, further, that she or he understands that any such information found to be false will be reported to appropriate military authorities and will be handled in accordance with the agency's disciplinary procedures and may result in forfeiture of any differential pay for which they would otherwise qualify.

SECTION 5: At the request of the returning state employee, personnel actions, taken at the time she or he left state service for active duty or taken during the active duty for purposes of adjusting to her or his absence from state service, shall be rescinded or otherwise altered so that she or he may take advantage of the Military Service Relief Act.

SECTION 6: Except for those employees who resigned from state service when activated and do not choose to have that action reversed upon return, eligible employees shall, during the eligible period of active military duty, accrue sick and annual leave as though they had not been activated.

SECTION 7: Extraordinary cases not covered by this policy shall be decided by the commissioner of 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 25th day of July, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91 - 12

WHEREAS, the affairs and problems of our elderly citizens are of a major concern to all of the citizens of this state; and

WHEREAS, under the Louisiana Aging Advisory we are making progress in the area of solving many of the most critical needs of the aging; and

WHEREAS, reasonable and good faith disagreement has surfaced concerning the development and implementation of policies and procedures pertaining to elderly affairs in this state, not only in regard to state programs but also in regard to the interface of state programs with federal monies and guidelines;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby appoint the Louisiana Task Force on Aging to be implemented as follows:

SECTION 1: The task force shall consist of 15 members appointed as follows:

a. Five members shall be appointed by the president of the Senate, from each of the five districts of the Public Service Commission.

b. Five members shall be appointed by the speaker of the House of Representatives, from each of the five districts of the Public Service Commission.

c. Five members shall be appointed by the governor, from each of the five districts of the Public Service Commission.

SECTION 2: All appointments shall be made on the basis of recognized interest in and knowledge of the problems of the aging as well as recognizing the potential contributions of legal, medical, religious, social work and educational professions to the welfare of the aging. Preference shall be given to persons 60 years of age and older. None of the members of the task force shall be elected officials or paid employees of the state of Louisiana.

SECTION 3: The task force shall report to the governor within 60 days of the date of the appointment of the full board concerning problems and disagreements which have arisen within the Office of Elderly Affairs including recommendations for solutions to those problems and disagreements.

SECTION 4: The task force shall also make recommendations regarding rules governing the functions of the Office of Elderly Affairs and the Louisiana Aging Advisory Board, including rules which prescribe the policies and procedures followed by the board and the office and the administration of its programs.

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 July, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91 - 13

WHEREAS, The Louisiana Legislature passed House Concurrent Resolution No. 6 of the First Extraordinary Session of 1991 which proclaimed that the POW/MIA flag be flown over the Louisiana state capitol for the three-month period of April, May, and June, to honor and express our gratitude to those men and women who have been or remain prisoners of war and those who are missing in action and unaccounted for, and

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana do hereby order and direct that the POW/MIA flag shall continue to be flown over the Louisiana state capitol building until December 31, 1991, as a symbol of our gratitude to all those who are listed as missing in

action and all those who have been forcibly detained as prisoners of war by our enemies, suffering torture, hunger, humiliation, and disease. They have made the ultimate sacrifice without benefit of the freedom they fought so hard to maintain.

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 30th day of July, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER 91-14

WHEREAS, the Community Action Agencies (CAAs) within the state operate to ameliorate poverty in local areas and to receive funds for specific state and federal programs from several departments and agencies of the state, and

WHEREAS, it is in the best interest of the state of Louisiana to provide comprehensive quality programs for economically disadvantaged citizens of Louisiana, and

WHEREAS, the coordination of activities to eliminate poverty, and to aid economically disadvantaged citizens can best be accomplished by the establishment of a Community Action Agencies Task Force, comprised of designated representatives of state agencies and departments, appointed representatives of the Louisiana House of Representatives and the Senate, and appointed representatives of the CAAs of the state:

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

SECTION 1: The Governor's Community Action Agencies Task Force is hereby established in the Office of the Secretary of the Department of Employment and Training.

SECTION 2: The purpose of the task force shall be to review and evaluate the existing private and public resources available which may be utilized in the elimination of poverty, and aiding economically disadvantaged citizens in the state. The task force shall make recommendations regarding its findings to the secretary of the Department of Employment and Training.

SECTION 3: The task force shall be named the Governor's Community Action Agencies Task Force, and shall be composed of the following members:

A. The secretary of each state department or the director of each state agency as described herein shall designate a representative from his/her department or agency to serve as a member of the task force.

1. Department of Employment and Training.
2. Department of Social Services.
3. Department of Education.
4. Department of Transportation and Development.
5. Governor's Office of Elderly Affairs.
6. The Louisiana Employment and Training Council.

B. The Louisiana Association of Community Services Organizations, Inc. (LASCO, Inc.) shall have four designated

members to serve (North, South, East, and West).

C. The governor shall select two members from the executive directors of Community Action Agencies.

D. One member from the Senate shall be appointed by the president of the Senate.

E. One member from the House of Representatives shall be appointed by the speaker of the House.

F. The president of the State Association of Service Delivery Area Directors.

G. Each member shall serve at the pleasure of the appointing authority.

H. No member of the task force other than a legislator serving thereon, shall receive per diem or other compensation for duties pursuant to this executive order, but may be reimbursed for actual expenses incurred in the performance of duties by the agency or department represented, in accordance with the rules and regulations governing said agency or department. A legislator serving as a member of the council shall receive per diem in accordance with law.

SECTION 4: The governor shall appoint the chairperson of the task force from among its members, who shall serve at the pleasure of the governor. A majority of the members of the task force shall constitute a quorum for the transaction of business.

A. The task force shall elect from its membership, a vice-chairperson and a secretary.

B. The task force shall meet periodically when deemed necessary by the chairperson. The secretary of the Department of Employment and Training shall be responsible for transmitting a report of the task force's recommendations to the governor and appropriate committee(s) of the Louisiana Legislature.

SECTION 5: The goals of the task force shall include, but not be limited to:

A. establishment of a system of communication between departments and the CAAs to assist in resolution of common problems;

B. coordination of the development of standard forms for use by all departments to alleviate paperwork;

C. coordination of efforts to implement the single audit concept of all activities of the CAA;

D. identification of any areas which need coordinated efforts, and establishment of systems to produce the coordination.

SECTION 6: The task force is authorized to use the staff services and facilities of the Department of Employment and Training to carry out its duties pursuant to this order.

SECTION 7: This order will remain in effect until modified, amended, or rescinded by the governor, or until termination by operation of law.

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 5th day of September 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91 - 15

WHEREAS, Act No. 38 of 1914 (now R.S. 41:98) vested the governor of Louisiana with authority to withdraw from sale or entry any of the vacant and unappropriated public lands and lake beds or bottoms belonging to the state, whenever, in his opinion, they appear to be more valuable for mineral than for any other purpose, and to restore to sale or entry all withdrawn lands, at his discretion; and

WHEREAS, acting under the said authority, Honorable Ruffin G. Pleasant, then Governor of Louisiana, by executive order issued on March 20, 1917, withdrew from public sale and entry all state lands, except those adjudicated to the state for non-payment of taxes; and

WHEREAS, Section 4 of Article IX of the Constitution of Louisiana of 1974 provides that in all cases the mineral rights on any and all property sold by the state shall be reserved, except where the owner or other person having the right to redeem may buy or redeem property sold or adjudicated to the state for taxes; and

WHEREAS, the commissioner of the Division of Administration, through the state Land Office has recommended that the hereinafter described property be restored to sale, since the obvious and apparent motive for the withdrawal from sale or entry of the public lands was for the protection of the state in its ownership of the minerals underlying said land; and because the constitution now requires the reservation in all cases of the mineral rights on any and all property sold by the state, there is no longer any particular necessity why the lands hereinafter described should not be restored to sale.

NOW THEREFORE I, BUDDY ROEMER, Governor of Louisiana, do hereby issue this, my executive order, restoring to sale the following described land, and directing that the same shall be sold under the provisions of Act No. 215 of 1908, as amended, (now R.S. 41:131 et seq.). Excepting and reserving, however, to the state of Louisiana all minerals in the land so patented, and to it, or those authorized by it, the right to prospect for, mine and remove such deposits from the same in accordance with Section 4 of Article IX of the Constitution of 1974. Excepted from the lands hereinafter described and not included in this sale, are the waters and beds of all bayous, lagoons, lakes and other water bodies, whether navigable or nonnavigable, in conformity with the statutory law of this state dedicating such property to a public purpose; like exception and exclusion are made of the waters and beds of all inland navigable waters, as well as arms of the sea, pursuant to the statutory, codal or constitutional law of the state, viz. those portions of the North Half of Sections 2 and 3 and the Northeast Quarter of Section 4, Township 16 South, Range 1 East, lying North of a line 200 feet from and parallel to the South line of Township 15 South, Range 1 East, as established by W. Y. Kemper and Val E. Smith in case #13033, Louisiana Furs, Inc., et al; vs. State of Louisiana, et al, and East of the Right-Of-Way of State Highway No. 3147 (former State Highway No. 26) less and except the two canals across said 200 foot wide strip of land, containing approximately 54 acres.

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 11th day of September, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91 - 16

WHEREAS, during the 1988 Regular Session the Legislature enacted Act 933 (originally Senate Bill 606) relative to correctional facilities inmate labor; and

WHEREAS, said Act, among other things, authorizes the governor to use inmate labor in certain projects or maintenance or repair work; and

WHEREAS, the Act provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by executive order, authorize the use of inmates of a penal or correctional facility owned by the state of Louisiana for necessary labor in connection with a particular project;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order the following:

SECTION 1: That inmate labor be and is hereby authorized to replace water lines at the Louisiana State Penitentiary, Angola, Louisiana.

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 23rd day of September, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91 - 17

WHEREAS, Executive Order No. 88-35 (the "executive order") was executed by the governor of the state of Louisiana (the "governor") on September 1, 1988 pursuant to the provisions of the Tax Reform Act of 1986 (the "Act") and provides for the allocation of bonds subject to the private activity bond volume limits of the Act for the calendar year ending December 31, 1990 (the "ceiling"); and

WHEREAS, Section 44 of the executive order provides that if the ceiling exceeds the aggregate amount of bonds during any year by all issuers, the governor may allocate such excess to issuers for one or more carryforward projects permitted under Act through the issuance of an executive order; and

WHEREAS, there remains, as of the date hereof, \$18,284,289 of a carryforward to the Louisiana Public Facili-

ties Authority for student loan bonds under Executive Order No. 90-24; and

WHEREAS, the governor desires to allocate all of the excess unused ceiling to certain projects which are eligible for a carryforward under the Act:

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

SECTION 1. Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, and in accordance with the request for carryforwards filed by the issuing authorities listed below, there is hereby allocated to said issuing authorities the following amounts of excess unused private activity volume limit under the ceiling for the following carryforward projects:

ISSUER	CARRYFORWARD PROJECT	CARRYFORWARD UTILIZED
Louisiana Public Facilities Authority	La. Assn. of Independent Colleges and University Student Loan Bond Issue	\$10,000,000

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 27th day of September, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of Business Development Services

The Department of Economic Development, Office of Business Development Services, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following rule, effective for a period of 120 days, relative to the Regional Economic Development Alliance program. The effective date of the rule is August 30, 1991.

This rule creates the Regional Economic Development Alliance program as authorized by Acts 1991, No. 490, Regular Session; R.S. 39:108(E). This emergency action is necessary for prompt processing of applications and timely contract negotiations.

Title 13
ECONOMIC DEVELOPMENT
Part III. Business Development Services

Chapter 1. Regional Economic Development Alliance

§101. Purpose of Rule

The purpose of this rule is to create the Regional Economic Development Alliance (REDA) program within the Department of Economic Development (DED), Office of Business Development Services, as authorized by Acts 1991, No. 490, Regular Session; R.S. 39:108(E).

§103. Definition of REDA

A REDA is a coalition of existing economic development organizations which join together for the purpose of jointly determining the economic development needs of a multi-parish geographical area and providing certain economic development services through a funding contract provided by DED.

A. A REDA is not a single existing organization or a newly-formed organization.

B. A REDA will include economic development entities which may include, by way of example, chambers of commerce, utilities, port authorities, universities, colleges, community colleges, SBDCs, economic development foundations, parish and municipal governments, planning districts, etc., which have an interest in the geographical area served by the REDA.

§105. REDA Contracts

DED will enter into contracts with REDAs to provide certain specified services. The contracts will be formed as follows:

A. DED will distribute a Solicitation of Proposal or equivalent document each fiscal year which will outline the basic services DED will require and may outline examples of special services which may be solicited and detail the distribution of available funding.

B. REDAs throughout the state will respond to the solicitation by submitting a proposal for services in accordance with the solicitation of proposal document.

C. DED will review all REDA proposals received and will select proposals for awarding contracts in a manner that meets the needs and purposes of the program within the annual funding limitations of the program.

§107. Performance of Contracts

DED staff will closely monitor the performance of all REDA contracts to ensure full compliance with their terms. DED staff will provide technical assistance where necessary to advise the REDAs in the performance of their contract.

§108. Funding Formula

DED will devise a funding formula each year for the distribution of program funding. The formula will be based on various economic and demographic factors that are representative of the state's varied geographical areas.

Kirsten A. Nyrop
Secretary

DECLARATION OF EMERGENCY

Department of Economic Development
Real Estate Appraisal Subcommittee

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Louisiana Real Estate Appraisal Subcommittee has adopted emergency revisions to the rules and regulations affecting prequalifying education as it relates to the state appraiser certification process.

The purpose of this declaration of emergency rule, effective September 9, 1991, for 120 days, is to bring the certification process established in existing rules and regulations into compliance as mandated by the federal government and recently enacted state law.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 2. Appraisers

Chapter 103. Certification

§10307. Basic Education Requirement for Certification

A. Approved Courses

1. The subcommittee shall provide a list prescribing and defining the subjects related to real property appraisal that will satisfy the recertification educational requirements of R.S. 37:3399 A. and B. The list shall include:

a. specific appraisal subjects to be mandatory requirements for Residential and General certification and the minimum number of hours that must be completed in each subject;

b. appraisal subjects to be designated as "electives" and the maximum number of hours of elective study acceptable toward Residential and General certification; and

c. a comprehensive listing of acceptable course offerings, including providers and their addresses and telephone numbers.

B. Applicability

1. The subcommittee will consider, for approval, appraisal courses offered by the following:

a. appraisal organizations;

b. colleges and universities;

c. proprietary real estate schools approved by the LREC;

d. federal or state entities; and

e. proprietary schools registered with the Louisiana Proprietary School Commission, a division of the Louisiana State Department of Education.

C. Application

1. Education providers must apply directly to the subcommittee for course approval. Application forms will be provided by the subcommittee. Information to be submitted for each course offering shall include: course content, program structuring, course completion standards, instructor qualifications, minimum number of classroom hours, textbook and course materials, and any additional information as requested by the subcommittee.

D. Length of Approval

1. Upon approval by the subcommittee, courses will be listed on the approved course list for a period of one year. At its discretion, the subcommittee may elect to automatically extend approval beyond the initial one-year period or request updated course information prior to extending approval for another one-year period.

E. Additional Course Approval

1. Any applicant completing appraisal courses through providers not listed with the subcommittee must apply for and receive approval for such coursework prior to formal application for certification. The applicant must provide the agency with proof of course completion, number of classroom hours, examination requirement, detailed course content, and any additional information on the subject matter to permit the agency to render an informed decision on the request.

F. Course Monitoring

1. As a condition for approval, education providers listed on the approved course list must agree to periodic monitoring of courses by the subcommittee or its authorized representative(s).

G. Withdrawal of Approval

1. The subcommittee reserves the right to withdraw approval and remove, from the approved course list, a course and/or the education provider for the course upon finding that the course fails to meet minimum standards of approval endorsed by the Appraiser Qualifications Board of the Appraisal Foundation as established by the Federal Financial Institutions Examination Council or its successors. A withdrawn approval may not be reinstated for at least a two-year period.

Jane H. Moody
Executive Director

DECLARATION OF EMERGENCY

Department of Economic Development Real Estate Commission

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Louisiana Real Estate Commission has adopted emergency rules and regulations affecting agency disclosure.

The purpose of this declaration of emergency, effective September 9, 1991 for 120 days, is to bring the existing rules and regulations into compliance with recently enacted state law.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Chapter 34. Agency Disclosure

§3401. Definition

In addition to the definitions established by §1431 of the Louisiana Real Estate License Law, *selling agent* means a listing agent who acts alone, or a subagent, or a buyer's agent, who sells or finds and obtains a buyer for real property.

§3403. Listing Agency Disclosure

A listing agent, when entering into a listing agreement for the sale or lease of real estate, shall provide the seller/lessor with a copy of a Listing Agency Disclosure form (Appendix 1), and shall obtain a signed, dated acknowledgment of receipt from the seller/lessor or prepare a declaration of refusal to acknowledge as provided in §3409.

§3405. Seller/Lessor Agency Disclosure

A. A real estate licensee dealing face-to-face with a prospective buyer/lessee shall provide the prospective buyer/lessee or its representative with a copy of the Seller/Lessor Agency Disclosure form (Appendix 2) signed by the licensee before the time the first of the following events occurs:

1. discussing any position the prospective buyer/lessee may wish to take in negotiating a contract to purchase, rent or lease a specific property, such as the amount of terms to be offered; provided, however, that a real estate licensee may qualify a prospective buyer/lessee to a price range or generally discuss prices and financing prior to making disclosure in accordance with this Section;

2. preparing a written offer to purchase, rent, or lease real property.

B. The licensee should retain a copy of the Seller/Lessor Agency Disclosure form signed by the prospective buyer/lessee or its representative in order to demonstrate compliance with this Section.

C. This Section does not apply to:

1. a real estate licensee who enters into a written agreement to represent a prospective buyer/lessee prior to the occurrence of either of the two preceding events; or,

2. to a real estate licensee acting as a principal and not as an agent; or,

3. to residential leases for one year or less where no sale is contemplated.

§3407. Buyer/Lessee Agency Disclosure

A. A real estate licensee representing a prospective buyer/lessee tenant shall disclose to a prospective seller/lessor or its representative the licensee's agency relationship with the prospective buyer/lessee at the first contact regarding the transaction.

B. The licensee shall provide the prospective seller/lessor or its representative with a copy of the Buyer/Lessee Agency Disclosure form (Appendix 3) no later than the first to occur of the following events:

1. first face-to-face contact with prospective seller/lessor or its representative; or,

2. first transmittal of written communication.

C. The licensee should retain a copy of Buyer/Lessee Agency Disclosure form by the prospective seller/lessor or its representative in order to demonstrate compliance with this Section.

D. This Section does not apply to:

1. a real estate licensee acting as a principal and not as an agent;

2. residential leases for terms of one year or less where no purchase is contemplated.

§3409. Refusal to Acknowledge

In any circumstance in which the seller/lessor or buyer/lessee refuses to sign an acknowledgment or receipt pursuant to this Chapter, the licensee shall sign and date a written declaration of such circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Subcommittee, LR 18:

APPENDIX 1

LISTING AGENCY DISCLOSURE FORM

The Louisiana Real Estate License Law and the Louisiana Real Estate Commission regulations require a listing agent to

provide and obtain the following information when entering into a listing agreement.

Absent a written agreement to the contrary, a real estate agent is the agent or subagent of the seller/lessor under Louisiana law. As such, the listing agent acts as the agent for the seller. As such, the seller's agent owes a fiduciary duty of utmost care and loyalty to the seller, and may not disclose to a buyer information about what price or terms the seller will accept other than the price or terms listed. A seller's agent does owe a duty of fair dealing to a buyer, and a duty under Louisiana law to disclose the existence of any known material defects in the property.

Received at _____ .m. on _____, 19____

SELLER

SELLER

LRCA Agency Disclosure Form 1-1

APPENDIX 2

SELLER/LESSOR AGENCY DISCLOSURE

Information for a Prospective Real Estate Buyer or Lessee

When working with a real estate agent in buying or leasing real estate, Louisiana law requires that you be informed of whom the agent is representing in the transaction.

As a prospective buyer or lessee, you should know that:

Both the agent who lists property for sale or lease (the listing agent) and the agent who deals with a buyer or lessee (the subagent or selling agent) are usually paid by the owner and are the owner's agents;

Their loyalties are owed to the owner, and they must inform the owner of all important information they know which might affect the owner's decision concerning the sale or lease of the property;

While neither licensee is your agent, they can provide you with information about available properties and sources of financing and aid you in analyzing and comparing the physical and economic features of different properties, as well as showing you the properties and assisting you in making an offer to purchase or lease.

Agents are obligated by law to treat you honestly and fairly. They must:

- present all written offers to the owner promptly;
disclose material facts about the property known to the agent;

offer the property without regard to race, color, religion, sex, handicap, familial status or national origin.

If you choose to have a real estate agent represent you, you should enter into a written contract that:

- clearly establishes the obligations of both parties; and sets out how your agent will be paid and by whom.

If you have any questions regarding the roles and responsibilities of real estate agents, please ask.

I certify that I have provided

the Prospective Buyer or Lessee with a copy of this information.

Brokerage Company Name

Broker or Agent

Date

I have received, read and understand this information.

Prospective Buyer/Lessee or its representative

Prospective Buyer/Lessee or its representative

This form has been promulgated by the Louisiana Real Estate Commission for required use by Louisiana real estate licensees (09-91). LRCA Agency Disclosure Form 1-2.

APPENDIX 3

BUYER/LESSEE AGENCY DISCLOSURE

Information for a Prospective Real Estate Seller or Lessor

When working with a real estate agent in selling or leasing real estate, Louisiana law requires that you be informed of whom the agent is representing in the transaction.

As a prospective seller or lessor, you should know that:

The agent represents the buyer or lessee.

The loyalties of an agent representing a buyer or lessee are owed to the buyer or lessee, and he must inform the buyer or lessee of all important information he knows which might affect the buyer's or lessee's decision concerning the purchase or lease of the property.

Agents are obligated by law to treat you honestly and fairly. They must:

Present all written offers to the owner promptly;

Disclose to the buyer or lessee material facts about the property known to the agent;

Present or show property without regard to race, color, religion, sex, handicap, familial status or national origin.

If you currently do not have a real estate agent representing you, and want to have one, you should enter into a written contract that:

- Clearly establishes the obligations of both parties; and Sets out how your agent will be paid and by whom.

If you have any questions regarding the roles and responsibilities of real estate agents, please ask.

I certify that I have provided

the Prospective Seller or Lessor or its representative with a copy of this information.

Brokerage Company Name

Broker or Agent

Date

I have received, read and understand this information.

Prospective Seller/Lessor or its representative

Prospective Seller/Lessor or its representative

This form has been promulgated by the Louisiana Real Estate Commission for required use by Louisiana real estate licensees (09-91). LREC Agency Disclosure Form 1-3.

Jane H. Moody
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Reduction in Force Plan for Vocational-Technical Personnel

The Board of Elementary and Secondary Education, at its meeting of September 26, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and approved a revised Reduction in Force Plan for Vocational-Technical Personnel, effective September 26, 1991.

This is an amendment to Bulletin 1868, BESE Personnel Manual.

Emergency adoption is necessary in order to continue this policy which was previously adopted as an emergency rule until the rule becomes effective on October 20, 1991.

Chapter C: Employee Personnel Activities

§131. Reduction in Force

C. Vocational-Technical System

1. Statement of Policy

When conditions such as program changes, declining enrollment, insufficient funds, or other just causes require a reduction in school faculty and staff institute and/or regional management center personnel, as approved by the BESE, the priorities and procedures outlined in this policy shall be implemented. It is important to understand that there is a difference between a reduction in force and a discharge for cause. The termination of employment brought on by a necessary reduction in force is caused not by a personal failure but because of some external factor or factors. Therefore, the decision as to who must be laid off when a Reduction in Force (RIF) occurs is to be based on the criteria and procedure set forth herein and not on a judgment as to the merit of an employee's performance.

2. Civil Service Employees

a. Reductions or changes affecting classified Civil Service employees shall be made in accordance with Civil Service rules and regulations.

3. Unclassified Employees, Personnel

a. Administrative

In any situation wherein a reduction in force is required, all practical measures shall be taken to avoid the termination of employment of unclassified administrative personnel. When an administrative activity is discontinued or reduction in force is mandated by board policy or ruling and a reduction in force is accordingly also mandated, unclassified administrative personnel in this activity or its equivalent that must be reduced or discontinued preference for continued employment will be based on the position and administrator total time of service in the postsecondary vocational-technical system.

1. In case of a Reduction in Force (RIF) for a regional management center director, the Regional Management Center director would displace (bump) the institute director in the region with the least time as institute director, still considering total time of service in the postsecondary vocational-technical system.

2. In case of RIF for an institute director, this person would bump the assistant director or any other position he/she is certified for, still considering total time of service in the postsecondary vocational-technical system.

b. Support

In any situation wherein a reduction in force is required, all practical measures shall be taken to avoid the termination of employment of a tenured unclassified support personnel. When a support activity is discontinued or reduction in force is mandated by board policy or ruling and a reduction in force is accordingly also mandated, tenured unclassified support personnel in this activity or its equivalent at the institute or branch campus will have continued employment preference over non-tenured unclassified support personnel. Among tenured unclassified support personnel activities or its equivalent that must be reduced or discontinued, preference for continued employment will be based on the unclassified support personnel's total time of service in the postsecondary vocational-technical system.

c. Instructional

In any situation wherein a reduction in force is required, all practical measures shall be taken to avoid the termination of employment of a tenured instructor. When an instructional course's discontinuance or reduction in force is mandated by board policy or ruling and a reduction in force is accordingly also mandated, tenured instructors in the course or its equivalent at the institute or branch campus will have continued employment preference over non-tenured instructors. Among tenured instructors in the course or its equivalent that must be reduced or discontinued, preference for continued employment will be based on an instructor's total time of service in the postsecondary vocational-technical system.

d. Reemployment Rights

1. If an unclassified administrator is terminated from employment because of a RIF, that person shall have the first option to be reemployed if the discontinued administrator's activity or its equivalent is reinstated at his/her former domicile within three years from date of RIF.

2. If a tenured unclassified support or instructional

personnel is terminated from employment because of RIF, that support or instructional personnel shall have the first option to be reemployed if the discontinued course or activity or its equivalent is reinstated at his/her former institute or branch campus within three years from date of RIF.

4. Procedure for Termination of Tenured Employees

a. Instructional and Support

If after taking all practical measures to avoid the termination of a tenured employee, the director nonetheless concludes that the tenured employee's employment must be terminated, the appointing authority shall inform the employee in writing of the proposed action. The employee shall be told that he/she has the right to a hearing at which he/she may be represented by counsel and at which he/she may present evidence and bring witnesses to dispute the proposed termination. The hearing shall be limited to the issue of whether the reduction in force policies of the Board of Elementary and Secondary Education require that the aggrieved employee be terminated from his/her employment. If the employee is not satisfied with the director's decision following the hearing, the employee may appeal to the Due Process Committee of the BESE in writing within 10 days after the director's confirmation that he/she is proposing the termination stating why the employee believes that the reduction in force policy was not properly followed in his/her case. The board may order a further investigation of the matter or take action without any further hearing on the appeal.

b. Assistant Director

If after taking all practical measures to avoid the termination of an unclassified administrative personnel at an institute or branch campus the director nonetheless concludes that the employee's employment must be terminated, the appointing authority shall inform the employee in writing of the proposed action. The employee shall be told that he/she has the right to a hearing at which he/she may be represented by counsel and at which he/she may present evidence and bring witnesses to dispute the proposed termination. The hearing shall be limited to the issue of whether the reduction in force policies of the BESE require that the aggrieved employee be terminated from his/her employment. If the employee is not satisfied with the director's decision following the hearing, the employee may appeal to the Due Process Committee of the BESE in writing within 10 days after the director's confirmation that he/she is proposing the termination stating why the employee believes that the reduction in force policy was not properly followed in his/her case. The board may order a further investigation of the matter or take action without any further hearing on the appeal.

c. Director

If after taking all practical measures to avoid the termination of an unclassified administrative personnel at an institute or branch campus the regional director nonetheless concludes that the employee's employment must be terminated, the appointing authority shall inform the employee in writing of the proposed action. The employee shall be told that he/she has the right to a hearing at which he/she may be represented by counsel and at which he/she may present evidence and bring witnesses to dispute the proposed termination. The hearing shall be limited to the issue of whether the reduction in force policies of the BESE require that the aggrieved employee be terminated from his/her employment. If the employee is not satisfied with the regional director's decision following the hearing, the employee may appeal to

the Due Process Committee of the BESE in writing within 10 days after the regional director's confirmation that he/she is proposing the termination stating why the employee believes that the reduction in force policy was not properly followed in his/her case. The board may order a further investigation of the matter or take action without any further hearing on the appeal.

d. Regional Management Center Director

If after taking all practical measures to avoid the termination of an unclassified administrative personnel at the regional management center, the assistant superintendent for vocational education nonetheless concludes that the employee's employment must be terminated, the appointing authority shall inform the employee in writing of the proposed action. The employee shall be told that he/she has the right to a hearing by the Department of Education at which he/she may be represented by counsel and at which he/she may present evidence and bring witnesses to dispute the proposed termination. The hearing shall be limited to the issue of whether the reduction in force policies of the BESE require that the aggrieved employee be terminated from his/her employment. If the employee is not satisfied with the decision following the hearing, the employee may appeal to the Due Process Committee of the BESE in writing within 10 days after the review committee confirmation that he/she is proposing the termination stating why the employee believes that the reduction in force policy was not properly followed in his/her case. The board may order a further investigation of the matter or take action without any further hearing on the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10) and 7(5), R.S. 17:81.4, and R.S. 17:1941-1956.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 10:875 (November 1984) amended LR 11:1138 (December 1985), LR 12:290 (May 1986)

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Salary Schedule for Technical Institutes

The Board of Elementary and Secondary Education, at its meeting of September 26, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and adopted an amendment to the Salary Schedule for Technical Institutes to include appropriate salaries for Associate Degree Licensed Practical Nursing instructors, effective September 26, 1991 as stated below:

Bulletin 1868, BESE Personnel Manual amendment:

Associate degree and three-year diploma nursing salary schedule:

A. Associate degree nursing instructor would start at \$22,873. This would be base pay with no degree with credit for the equivalent of 72 college credit hours for associate degree in nursing.

B. Three-year diploma nursing instructor would start at \$23,033. This would be base pay with no degree with credit for the equivalent of 96 college credit hours for three-year diploma in nursing.

The associate degree and three-year diploma nurses would receive, upon receipt of grade slip to Office of Vocational Education, credit for pay purposes up to 105 hours towards a B.S.N. degree.

The current BESE approved salary schedule does not have a schedule for associate degree registered nurse instructors. This amendment will add the associate degree registered nurse instructors to the schedule and provide for an equitable and corresponding increase for three-year diploma registered nurse instructors.

Emergency adoption is necessary in order to continue this policy which was previously adopted as an emergency rule until the rule becomes effective on October 20, 1991.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Louisiana Model Career Options Program Guide

The Board of Elementary and Secondary Education, at its meeting of September 26, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act 49:953(B) and approved a revision to the Model Career Options Program (MCOP) Guide to delete the paragraph listed below from page 15 of the Guide.

Delete:

If funds are available from the legislature for the MCOP, the employer's portion of the contribution to the teacher's retirement fund will be provided to the LEAs.

A letter from the Teachers' Retirement System of Louisiana dated August 16, 1991 informed the Department of Education that the additional services provided by the MCOP teachers do not meet the definition of "Earnable Compensation" in R.S. 17:541(9). Therefore, the employer's portion of the contribution to the teacher's retirement fund for the additional MCOP compensation cannot be remitted to the Teachers' Retirement System. In order to be in compliance with the definition of "Earnable Compensation" as cited in R.S. 17:541(9), the department recommended that the above quoted paragraph on page 15 of the MCOP Guide be deleted.

Emergency adoption is necessary because the MCOP Guide affects teachers who are eligible to participate in the MCOP in the 1991-92 school year. It is distributed to all eligible teachers so that they have essential information for the implementation of the MCOP in the 1991-92 school year. Effective date of this Emergency Rule is October 20, 1991.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Salaries for Postsecondary Vocational-Technical Personnel FY 1991-92

The Board of Elementary and Secondary Education, at its meeting of September 26, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act 49:953(B) and approved the Department of Education's recommendations for funding of salaries for Fiscal Year 1991-92 for all postsecondary vocational-technical personnel as listed below.

Recommendations for Funding of Salaries for Fiscal Year 1991-92 for all Postsecondary Vocational-Technical Personnel

- I. Suspend the new pay plan that was adopted by the board in August 1989 for Fiscal Year 1991-92.
- II. Continue the use of the board-approved, September 1, 1984 and revised August 20, 1990, salary schedule with the following changes:
 1. Make each yearly step increase consistent by category.
 2. Add two steps to the base plus 12-step salary schedule (See salary schedule.)This will allow all unclassified employees to receive a one-step raise.
- III. All classified employees will receive their regular merit increase of four percent on their anniversary date, and those classified employees who qualify will receive an additional four percent pay equalization raise.
- IV. Authorize each technical institute director and regional management center director to work with other state agencies that are providing funding for personnel in the postsecondary vocational-technical system to seek additional funds or budget revisions to accommodate salary adjustments for their personnel not on the state T.O.

SALARY SCHEDULE FOR STATE TECHNICAL INSTITUTES
EFFECTIVE SEPTEMBER 26, 1991

INSTRUCTOR			ASSISTANT DIRECTOR		DIRECTOR (1-13 Staff)		DIRECTOR (14-26 Staff)		DIRECTOR (27-40 Staff)		DIRECTOR (41-55 Staff)		DIRECTOR (56 + Staff)		
* No Degree	B.S.	M.A.	B.S.	M.A.	B.S.	M.A.	B.S.	M.A.	B.S.	M.A.	B.S.	M.A.	B.S.	M.A.	
B	22,299	23,316	23,993	27,583	28,260	34,370	34,986	35,110	35,726	35,850	36,466	36,590	37,206	37,330	37,946
1	22,976	23,993	24,670	28,397	29,074	35,110	35,726	35,850	36,466	36,590	37,206	37,330	37,946	38,070	38,686
2	23,653	24,670	25,347	29,211	29,888	35,850	36,466	36,590	37,206	37,330	37,946	38,070	38,686	38,810	39,426
3	24,330	25,347	26,024	30,025	30,702	36,590	37,206	37,330	37,946	38,070	38,686	38,810	39,426	39,550	40,166
4	25,007	26,024	26,701	30,839	31,516	37,330	37,946	38,070	38,686	38,810	39,426	39,550	40,166	40,290	40,906
5	25,684	26,701	27,378	31,653	32,330	38,070	38,686	38,810	39,426	39,550	40,166	40,290	40,906	41,030	41,646
6	26,361	27,378	28,055	32,467	33,144	38,810	39,426	39,550	40,166	40,290	40,906	41,030	41,646	41,770	42,386
7	27,038	28,055	28,732	33,281	33,958	39,550	40,166	40,290	40,906	41,030	41,646	41,770	42,386	42,510	43,126
8	27,715	28,732	29,409	34,095	34,772	40,290	40,906	41,030	41,646	41,770	42,386	42,510	43,126	43,250	43,866
9	28,392	29,409	30,086	34,909	35,586	41,030	41,646	41,770	42,386	42,510	43,126	43,250	43,866	43,990	44,606
10	29,069	30,086	30,763	35,723	36,400	41,770	42,386	42,510	43,126	43,250	43,866	43,990	44,606	44,730	45,346
11	29,746	30,763	31,440	36,537	37,214	42,510	43,126	43,250	43,866	43,990	44,606	44,730	45,346	45,470	46,086
12	30,423	31,440	32,117	37,351	38,028	43,250	43,866	43,990	44,606	44,730	45,346	45,470	46,086	46,210	46,826
13	31,100	32,117	32,794	38,165	38,842	43,990	44,606	44,730	45,346	45,470	46,086	46,210	46,826	46,950	47,566
14	31,777	32,794	33,471	38,979	39,656	44,730	45,346	45,470	46,086	46,210	46,826	46,950	47,566	47,690	48,306

<u>INCREMENTS</u>	<u>INSTRUCTOR</u>	<u>ASSISTANT DIRECTOR</u>	<u>DIRECTOR</u>	<u>INCREMENT FOR DEPARTMENT HEAD</u>
Merit	677	814	740	
Specialist	977	977	889	4-6 (including head) \$651
Ph.D or Ed.D.	1,302	1,302	1,185	7 + (including head) 782
AD Nurse (72)	575			
3 Yr. Diploma (96)	735			

NOTE: The minimum extension rate shall be \$15 per hour and the maximum rate shall be \$20 per hour.

* COLLEGE CREDITS

3 hrs. \$ 39	57 hrs. \$475
6 hrs. 78	60 hrs. 495
9 hrs. 117	63 hrs. 515
12 hrs. 156	66 hrs. 535
15 hrs. 195	69 hrs. 555
18 hrs. 215	72 hrs. 575
21 hrs. 235	75 hrs. 595
24 hrs. 255	78 hrs. 615
27 hrs. 275	81 hrs. 635
30 hrs. 295	84 hrs. 655
33 hrs. 315	87 hrs. 675
36 hrs. 335	90 hrs. 695
39 hrs. 355	93 hrs. 715
42 hrs. 375	96 hrs. 735
45 hrs. 395	99 hrs. 755
48 hrs. 415	102 hrs. 775
51 hrs. 435	105 hrs. 795
54 hrs. 455	

- In changing position from instructor, student personnel services officer, D.E. Coordinator or Supervisor Trainer to Assistant Director or from Assistant Director to Director, no reduction in salary will be given. The salary in the new position shall be determined by placing the employee's salary on the lowest step that will provide for an increase of at least one full increment of new position.
- All employees employed prior to September 26, 1991 will be placed on their present step.
- Beginning employees will be employed at base salary.
- Personnel transferring from one technical institute to another, from the La. Technical Resource Center to a technical institute or vice versa, will be considered lateral transferees with no pay adjustment necessary.
- Former employees when re-employed will not be considered new employees for pay purposes, but will be given credit for prior Louisiana technical institute experience, as follows: 1 year - 1 step; 2-4 years - 2 steps; 5-7 years - 3 steps; 8 and above - 4 steps. Personnel who left after July 1, 1981 and who are being re-employed will be placed on their former step. If a former employee was RIF'd and has been employed in the Vocational-Technical System under another source of funding and re-employed in a state T. O. position, he or she will be given credit for pay purpose for those years worked.
- Eligible personnel may receive an educational increment for a specialized degree or a doctor's degree, but not both.
- To receive an increment, an employee must have been employed in a position for more than six months in the prior fiscal year.
- No increment for additional hours completed shall be added to a salary at any time other than July 1.

Emergency adoption is necessary for the inclusion of these figures in next year's budget requests. Effective date of emergency rule is September 26, 1991.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Department of Employment and Training
Office of Worker's Compensation

Medical Fee Schedule

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and the authority of R.S. 23:1034.2 of Act 938 of 1988 Regular Session and R.S. 23:1203, the director of the Office of Worker's Com-

pensation has determined that because of the imminent peril of the public health, safety and welfare, it is necessary that the Office of Worker's Compensation adopt, for 120 days, an immediate medical reimbursement fee schedule for drugs, supplies, hospital care and services, medical and surgical treatment and any non-medical treatment recognized by the laws of this state as legal and due under the Worker's Compensation Act and is applicable to any person or corporation who renders such care, services or treatment or provides such drugs or supplies to all state employees covered by Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950.

Additionally, Act 938 mandates the promulgation of a medical reimbursement fee schedule by the director of the Office of Worker's Compensation effective January 1, 1989.

This medical reimbursement fee schedule, LAC 40:1. Chapter 21, establishes a basis for billing and payment of medical services provided all injured state employees. A copy of the fee schedule is available at the Office of the State Register, 1051 Riverside North, Suite 512, Baton Rouge, LA

and the Office of Worker's Compensation Administration at 1001 North 23rd Street, Room 142, Baton Rouge, LA 70804.

AMENDMENT TO THE MEDICAL FEE SCHEDULE

Change cover sheet to read as follows:

Office of Worker's Compensation Administration
Medical Fee Schedule
For State Employees

Department of Employment and Training

§2101. - Change the words "Risk Management" on line 2 to read "Worker's Compensation Administration."

§2101. - Change the word "physicians" on line 2 to read "health care providers."

§2101. - Change the heading "Physician Defined" to "Health Care Provider."

Change the word "physicians" on line 1 to read "health care providers."

Change the word "physician" on line 2 to read "health care provider."

§2101.E.1 - Change the word "physicians" on line 2 to read "health care providers."

§2101.E.3 - Change the word "physician" on line 5 to read "health care provider."

Change the words "his or her" on line 5 to read "its."

§2101.E.4 - On line 5 and 6 change the words "Office of Risk Management, Box 94095, Capital Station, Baton Rouge, LA 70804-9095" to read "Department of Employment and Training, Office of Worker's Compensation Administration, Post Office Box 94040, Baton Rouge, LA 70804-9040."

§2104.E.5 - Change the words "Risk Management" on line 2 to read "Worker's Compensation Administration."

§2101.F.3 - Change the word "Labor's" on line 8 to read "Employment and Training's."

Add the word "Administration" on line 8 at the end of the sentence.

§2101.H - Change the words "of risk management" on line 4 to read "Worker's Compensation Administration."

§2101.J.1 - Change the word "physician" on line 3 to read "health care provider."

§2101.J.2 - Change the words "Risk Management" on line 4 to read "Worker's Compensation Administration."

§2101.K - Change the word "physician" on line 2 to read "health care provider."

§2101.L.2 - Change the words "Risk Management" on line 3 to read "Worker's Compensation Administration."

§2101.L.2.d - Change the word "physician" on line 1 to read "health care provider."

§2101.M - Change the word "physician's" on line 8 to read "health care provider's."

§2101.N - Change the word "physician" on line 1 to read "health care provider."

§2101.F - Change the word "physicians" on line 1 to read "health care providers."

§2101.F.2 - Change the word "physicians" on line 1 to read "health care providers."

§2101.F.3 - Change the word "physician's" on line 2 to read "health cre provider's."

§2103.A.1 - Change the words "anesthesia, surgery, radiology and nuclear medicine and pathology" on lines 2 and 3 to read "medicine, surgery, radiology (full service) - professional component only, pathology, anesthesia." Change the word "physician" on line 4 to read "health care provider."

§2103.A.3 - Change the word "physician" on line 2 to read "health care provider."

§2103.A.4 - Change the word "physician" on line 3 to read "health care provider."

§2103.A.5 - Change the word "physician" on line 2 to read "health care provider."

Add a new §2103.D as follows:

D. Official Medical Fee Schedule

The director of the Officer of Worker's Compensation Administration has approved the following conversion factors to be applied to the Official Medical Fee Schedule by health care providers furnishing medical treatment under the Worker's Compensation Law.

These factors, applicable to services provided on or after April 1, 1988, are:

SERVICE	\$ PER UNIT
Medicine	\$ 5.81
Surgery	\$145.08
Radiology (full service)	\$ 11.40
Professional component only	\$ 2.18
Pathology	\$ 1.75
Anesthesia	\$ 29.00

(Section 96040 - 96920)

Under the heading "Special Osteopathic Procedures," change the word "only" on line 1 to "and chiropractic physicians only."

Stephen W. Cavanaugh
Director

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 Title XIX Medicaid Program. The rule was previously adopted by emergency rulemaking and published in the October 20, 1990 issue of the *Louisiana Register* (Volume 16, page 839) and re-published in the February 20, 1991 issue of the *Louisiana Register* (Volume 17, page 158), and the June 20, 1991 issue of the *Louisiana Register* (Volume 17, page 565). This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

The reimbursement methodology for inpatient hospital services incorporates a provision for payment adjustment for hospitals serving a disproportionate share of low-income patients. This disproportionate share payment adjustment was implemented on July 1, 1988, in accordance with Section 4112 of the Omnibus Reconciliation Act of 1987 (Public Law 100-203). Rulemaking to adopt the provision was published in the *Louisiana Register*, Volume 14, No. 8, dated August 20, 1988.

The bureau has made the finding that Title XIX inpatient hospital reimbursement rates are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards except for those hospitals which provide services to a disproportionate share of medically indigent inpatients. One of the qualifying criteria for a disproportionate share payment adjustment is that the hospital must have a utilization rate in excess of the defined Medicaid utilization rate or the low-income utilization rate. As a result of discussion with the Health Care Financing Administration, the emergency rule is being modified to delete the additional criterion of providing a minimum percentage of free care. HCFA has advised that this would be contrary to federal laws and regulations. In accordance with the intent of Sections 1902 (a)(13) and 1923 of the Social Security Act to provide additional reimbursement to hospitals serving a disproportionate share of indigent patients, the bureau will increase the payment under the low-income utilization methodology to three times the amount over the qualifying percentage (25 percent). In addition, modification to add a minimum payment of \$1 in addition to the payment adjustment proportional to the amount in excess of the qualifying percentage for Medicaid utilization or low-income utilization has been necessitated by Section 4703 of the Omnibus Reconciliation Act of 1990.

Emergency rulemaking is necessary in order to enhance federal funding to hospitals providing indigent care as a result of this policy change in the disproportionate share payment adjustment in the inpatient hospital services program.

Emergency Rule

I. In order to qualify for a payment adjustment based on low-income utilization, the hospital must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and procedures for applying for same.

II. The low-income utilization rate is defined as the sum of

(a) the fraction, (expressed as a percentage), the numerator of which is the sum (for the period) of the total Medicaid (Title XIX) patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments, and the denominator of which is the total amount of hospital revenues for patient services (including the amount of such cash subsidies) in the cost reporting period; and

(b) the fraction (expressed as a percentage), the numerator of which is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in (a) above in the period which are reasonably attributable to inpatient hospital services; and the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. The above numerator shall not include contractual allowances and discounts (other than for indigent patients not eligible for Medicaid), that is, reductions in charges given to other third

party payers, such as HMO's, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations.

Hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent.

III. Payment Adjustment

When a disproportionate share hospital qualifies for a payment adjustment based on low-income utilization, the payment adjustment factor is as follows: Effective for services November, 1990 and after, a minimum of \$1 plus a proportional adjustment equal to the percentage or portion thereof, of the low-income utilization rate as defined in II. in excess of 25 percent times a factor of three.

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.

J. Christopher Pilley
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 effective March 1, 1991.

Groups of individuals who are eligible for Medicaid reimbursement for services are defined in federal regulations. Coverage for certain groups are mandated, and other groups to whom coverage may be extended are described. Recipients of Aid to Families with Dependent Children (AFDC) administered by the Department of Social Services (DSS), Office of Family Support (OFS), and recipients of Supplemental Security Income (SSI) administered by the Social Security Administration (SSA) are among the groups required to be covered for Medicaid services.

The Department of Health and Hospitals is the single state agency responsible for administration of the Medicaid Program in the state. Under the terms of an interagency agreement, OFS field staff determines eligibility for Medicaid coverage. The eligibility determination examiners of the Medical Assistance Program (MAP) Unit are stationed on-site in state charity hospitals and some public health units to assist patients in making application for Medicaid benefits.

In order to expedite certification for Medicaid coverage, DHH is implementing coverage of individuals described in 42 CFR 435.210 who would be eligible for but are not receiving cash assistance. This eligibility group is described as persons who have been determined to meet all the eligibility criteria for cash assistance under AFDC or SSI, but are not receiving these benefits. At the time of notification of certification, the recipients will be informed of their eligibility for cash assistance so that they may make application for those benefits if they so choose.

Emergency rulemaking is necessary to extend Medicaid coverage to hospital patients in need of expeditious certification in order to receive necessary services. The emergency rulemaking provisions of the Administrative Procedure Act, R.S. 49:953(B), were previously exercised effective February 11, 1991 and published in the *Louisiana Register*, Vol. 17, page 159 on February 20, 1991 relative to this provision and Vol. 17, page 567 on June 20, 1991. This rule is effective for the maximum period allowed under R.S. 49:954(B), et seq.

EMERGENCY RULE

Medicaid eligibility is extended to individuals who would be eligible for but are not receiving cash assistance as an Optional Categorically Eligible group. This eligibility group is described as persons who have been determined to meet all the eligibility criteria for cash assistance under AFDC or SSI, but are not receiving these benefits.

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.

J. Christopher Pilley
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 provisions of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program. This emergency rule replaces entirely the emergency rule published in the August 20, 1991, issue of the *Louisiana Register* on page 766.

The bureau has amended the Medicaid standards for payment for skilled nursing, intermediate care I and intermediate care II levels of care to assure compliance with the Omnibus Budget Reconciliation Act of 1987, which became effective October 1, 1990. This emergency rule is necessary to ensure compliance with mandatory federal law.

EMERGENCY RULE

Nursing homes participating in Medicaid (Title XIX) shall be required to meet the following standards for payment for nursing home services in addition to the standards currently in effect:

1. the ratio of nursing care hours to residents shall be 2:35 on intermediate care level residents;
2. the ratio of nursing care hours to residents shall be 2:60 on skilled level residents;
3. nursing homes with a census of 101 or more shall have a full-time assistant director or nursing;
4. the assistant director of nursing shall be a registered nurse unless a written waiver has been approved by the department;
5. nursing homes shall have at least one Patient Activities Coordinator (PAC) per facility. An additional PAC per resi-

dent census in excess of one hundred shall be required. All PAC employees shall be full time, or sufficient full-time equivalent employees shall be maintained to comply with these standards. Regardless of the number of PAC employees required, one full-time PAC shall be certified;

6. nursing homes shall employ one additional clerical employee.

J. Christopher Pilley
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 (BHSF), 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. The emergency rulemaking provisions were previously exercised effective April 1, 1990 and published in the *Louisiana Register* Vol. 16, page 286 on April 20, 1990 relative to this provision, and the emergency rule was readopted effective July 30, 1990 and published in the *Louisiana Register* Vol. 16, page 673 on August 20, 1990. The rule was published as a notice of intent on September 20, 1990 (Volume 16, page 795). Subsequently, the emergency rule was readopted and published in the *Louisiana Register* Vol. 16, page 1042 on December 20, 1990, and Vol. 17, page 343 on April 20, 1991. This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

Under current policies only physician services and prenatal clinic services are reimbursed to federally-qualified health centers (FQHC). Effective April 1, 1990, BHSF will begin implementation of reimbursement based on allowable costs for federally-qualified health center services. This includes "core" services as well as any other services provided by a federally-qualified health center which are otherwise covered as reimbursable Medicaid services in Louisiana. Federally-qualified health centers are defined as those receiving a grant under Section 329, 330, or 340 of the Public Health Service Act or which, based on the recommendation of the Health Resources and Services Administration within the Public Health Service, are determined by the secretary to meet the requirements for receiving such a grant and have been recognized by the Health Care Financing Administration (HCFA) as eligible for Medicaid reimbursement.

Following implementation of these regulations, health services mandated to be covered when rendered by the federally-qualified health centers shall include the following "core services": physician and physician assistant services, medically necessary services including pneumococcal and influenza vaccines and supplies incident to physician services; nurse practitioners; and clinical psychologist and clinical social worker services. Any other ambulatory services covered by Title XIX in Louisiana may also be reimbursed when rendered by a qualified FQHC provider in accordance with state policy and procedures.

Implementation of this provision is mandated by the

Omnibus Reconciliation Act of 1989, Section 6404 (P.L. 101-239). This rule is necessary to ensure compliance with mandated federal regulations and to avoid sanctions from HCFA.

EMERGENCY RULE

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall begin implementation of reimbursement for "core" services and other ambulatory services covered under Medicaid and delivered by federally-qualified health centers as required by Section 6404 of the Omnibus Reconciliation Act of 1989 in accordance with state policy and procedures. Reimbursement for these services shall be based on allowable costs in accordance with Medicare principles of cost reimbursement found at 42 CFR Part 413. Annual cost reporting and full cost settlement shall be required to participate in Title XIX as a federally-qualified health center.

J. Christopher Pilley
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 Medicaid Program.

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) (OBRA '90) was signed by the president on December 5, 1990, enacting numerous changes in the Medicaid program. This rule is promulgated in order to implement the mandatory provisions of that law and to avoid sanctions.

OBRA '90 requires numerous amendments to existing regulations as well as making available new optional and mandated coverage for both eligibility groups and services. Among the more prominent provisions are:

1. mandatory rebate provisions for prescribed drugs and drug use review;
2. higher income levels for recipients eligible for buy-in of Medicare premiums;
3. new mandatory use of outreach locations;
4. modifications of disproportionate share hospital regulations;
5. clarifications concerning Federally Qualified Health Centers;
6. descriptions of various alternative services;
7. technical amendments to several income consideration regulations;
8. provisions for new personal care attendant and alcoholism and drug dependency services;
9. optional new spenddown eligibility option;
10. amended calculation factors for home and community based waiver cost effectiveness formulas;
11. modifications to physician identification requirements and qualifications;
12. reporting requirements concerning sanctions; and
13. technical corrections to nursing facility nurse aide

requirements, deficiency standards, readmission standards, reports, professional practitioners, resident assessment, nursing waivers, recipient rights and charges, and staffing requirements.

This emergency rule was previously implemented effective January 2, 1991 and published in the *Louisiana Register*, January 20, 1991 (Vol. 17, page 27), and June 20, 1991 (Vol. 17, page 566). This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Mandatory Title XIX provisions of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) are hereby adopted and implemented as required by the provisions of said Act, utilizing the interpretations set forth by the Health Care Financing Administration (HCFA) in its State Medicaid Manual publication and in conformity with technical assistance rendered until final regulations are adopted by HCFA, as appropriate.

J. Christopher Pilley
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.

Currently, anesthesia services are provided to Title XIX Medicaid eligible recipients by anesthesiologists and certified registered nurse anesthetists (CRNAs) in accordance with federal and state regulations. These providers are reimbursed on a flat fee for services in accordance with Health Care Procedure Codes (HCPC). For each HCPC a maximum reimbursement is assigned and automated payment is made based on the dollar amount assigned to each HCPC, not to exceed billed charges. When anesthesia services are provided by a CRNA, payment for these services may not duplicate payment to the anesthesiologist. Payment to CRNAs for services provided is limited to the applicable modifier amount of the appropriate procedure code.

Section 6402 of the Omnibus Budget Reconciliation Act of 1989 requires that payments are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population. Based on a review of anesthesiology provider participation in the state's Title XIX program as well as a review of the reimbursement structure for anesthesiology services, the bureau has determined that less than 50 percent of the state's licensed anesthesiologists are actually enrolled in the Medicaid program. In order for the bureau to comply with mandatory federal statute provisions, the reimbursement level for anesthesia services was increased effective September 1, 1990. This emergency rule was previously published in the *Louisiana Register* on September 20, 1990, Volume 16, page 753 and on January 20,

1991, Volume 17, and on June 20, 1991, Volume 17, page 569.

This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Anesthesiology services shall be reimbursed in accordance with the guidelines set forth herein when provided to eligible Title XIX recipients. With some exceptions, anesthesia services will be reimbursed by the formula in I., which considers Base Units and Time Units and a multiplier Coefficient along with Modifiers which identify the involvement of the anesthesia services provider. The exceptions to the formula to determine reimbursement are certain CPT-4 procedure codes identified in IV., which will continue to be reimbursed on a flat fee basis. In addition, maternity-related anesthesia services will be reimbursed on a flat fee basis in accordance with the provisions set forth in V.

"Personal Medical Direction" as used in this rule is defined in the same manner as "personal medical direction" in the Medicare billing guidelines.

I. Formula Determining Payment for Anesthesia Services

Reimbursement to anesthesiologists and certified registered nurse anesthetists will be calculated using the following formula: base units + time units x coefficient = payment. A Base Unit is the relative value assigned to a CPT-4 procedure code. A time unit equals the length of the anesthesia service in minutes divided by either 15 or 30. The coefficient will be either \$8.49 or \$15.

If there are additional minutes remaining when time units are computed, then reimbursement will only be paid for five minute intervals. When one unit = 15 minutes and the coefficient is \$15, reimbursement will be paid at the rate of \$5 for each additional five minute interval. When one unit = 15 minutes and the coefficient is \$8.49, reimbursement will be paid at the rate of \$2.83 for each additional five minute interval. When one unit = 30 minutes and the coefficient is \$15, reimbursement will be paid at the rate of \$2.50 for each additional five minute interval. Remaining minutes less than five will not be reimbursed.

II. Certified Registered Nurse Anesthetists (CRNAs) Payment Schedule

Reimbursement to CRNAs will be paid at two levels differentiated by whether the CRNA is personally medically directed by an anesthesiologist or works independently of an anesthesiologist. The Coefficient will be \$8.49 for a medically directed CRNA (designated by modifier AH) and \$15 for a non-medically directed CRNA (designated by modifier AI). The payment will be calculated as follows:

Modifier AH Base Units + Time Units (1 = 15 minutes) x \$8.49 = Payment

Modifier AI Base Units + Time Units (1 = 15 minutes) x \$15 = Payment

No reimbursement will be paid to a surgeon for the personal medical direction of a CRNA. The anesthesia service will be considered non-medically directed and should be billed as such by the CRNA.

III. Concurrent Medical Direction by the Anesthesiologist

When an anesthesiologist and a CRNA are both involved in the performance of a single anesthesia service, the service will be considered as performed by the anesthesiologists. No separate payment will be made to the CRNA.

An anesthesiologist may bill for personal medical direction only when two or more anesthesia services are being concurrently performed. When the anesthesiologist is involved in directing two or more concurrent anesthesia procedures, the coefficient for the anesthesiologist is \$15 with a percentage reduction of the Base Units according to the number of CRNAs under his/her personal medical direction. Payment will be computed using the following modifiers and formula:

- Modifier AA (Anesthesiologist working alone) Base Units + Time Units (1 = 15 minutes) x \$15 = Payment
 - Modifier AB (Direction of two CRNAs) Base Units - 10% + Time Units (1 = 30 minutes) x \$15 = Payment
 - Modifier AC (Direction of three CRNAs) Base Units - 25% + Time Units (1 = 30 minutes) x \$15 = Payment
 - Modifier AD (Direction of four CRNAs) Base Units - 40% + Time Units (1 = 30 minutes) x \$15 = Payment
- IV. CPT-4 Procedure Codes Reimbursed on Flat Fee Basis**

The following CPT-4 procedure codes will continue to be reimbursed on a flat fee basis. Current billing procedures apply.

36000	*36491	62279
*36010	36500	*62282
36405	36600	*62284
*36420	36620	*62289
*36425	*36625	*62290
36430	36640	*62291
*36440	62270	*62292
*36470	62273	
*36471	62274	
*36490	62278	

Under the State Nursing Practice Act, CRNAs do not have the authority to perform the procedures listed above which are marked with an asterisk.

V. Reimbursement for Maternity-Related Anesthesia

Maternity-related anesthesia will be reimbursed on a flat fee basis at three levels differentiated by who personally administers the anesthesia — the anesthesiologist, the CRNA, or the surgeon/delivery physician. The only exception is general anesthesia for vaginal delivery which will continue to be reimbursed according to base units and time units. The flat fee will be paid in accordance with the CPT-4 procedure code and appropriate modifier for both vaginal and cesarean deliveries.

The surgeon or delivering physician will be reimbursed when he initiates the epidural procedure with inclusion of the appropriate procedure with inclusion of the appropriate procedure code modifier.

The anesthesiologist or CRNA who is called in to continue administering the anesthesia after the epidural was inserted will be reimbursed for the continued administration of the anesthesia modifier. Anesthesia and operative reports must substantiate the modifier utilized.

Anesthesiologists and/or CRNAs may not bill for both continued administration and general anesthesia.

J. Christopher Pilley
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 Title XIX Medicaid Program. The rule was previously adopted as an emergency rule and published in the October 20, 1990 issue of the *Louisiana Register* (Volume 16, page 842) and re-published in the February 20, 1991 *Louisiana Register* (Volume 17, page 161), and the June 20, 1991 issue (Vol. 17, page 570). This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

Currently, hospitals providing Title XIX services, including those in rural areas, are reimbursed based on allowable costs, subject to a per discharge limitation or per diem limitation for certain special care units. The department is utilizing emergency rulemaking to change the reimbursement methodology for rural hospitals with 60 beds or less which has a service municipality with a population of 20,000 or less. Effective for admissions November 1, 1990, rural hospitals which meet this criterion will be reimbursed for inpatient hospital services based on allowable costs as defined by Medicare principles of reimbursement. The effective date was changed as a result of discussions with the Health Care Financing Administration.

The department's intent in making this change in reimbursement methodology for rural hospitals is to enhance and assure access to medical care for eligible Medicaid recipients in rural areas of the state. In addition, this change, while providing additional reimbursement to these facilities, is expected to result in an overall cost savings as patients will be provided services in these rural hospitals when appropriate services are available, rather than being referred to large urban hospitals where the costs are higher. The change will also permit reasonable and necessary increases in costs to meet those additional costs engendered by medical manpower shortages in rural areas as well as higher transportation costs for supplies and equipment.

RULE

The reimbursement for inpatient hospital services to rural hospitals with 60 beds or less which has a service municipality with a population of 20,000 or less shall be based on allowable costs as defined by Medicare principles of reimbursement. Cost per discharge limitations shall not be applied to these facilities.

J. Christopher Pilley
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 exer-

cised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program. This rule was previously adopted by emergency rulemaking and published in the June 20, 1991 issue of the *Louisiana Register* (Volume 17, page 571). This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

Medicaid currently reimburses for inpatient hospital services allowable costs subject to a cost per discharge limit. However, because of the long lengths of stay and intensive services, this reimbursement does not adequately address the costs of hospitals providing services to patients with traumatic brain injury (TBI). In-state hospitals capable of providing inpatient services to TBI patients are reluctant to accept these patients due to the adverse effect on their over-all reimbursement. Therefore, effective for services July 1, 1991 and after, the reimbursement for head injury patients shall be handled separately as a "carve-out unit" and shall not be subject to the cost per discharge limit applicable to non-carve-out unit admissions. This will address the additional costs of such facilities. This emergency rule will then ensure the availability of treatment in-state for traumatic brain injury Medicaid patients. Thus, imminent peril to the health and welfare of these individuals due to non-availability of these services will be avoided.

Emergency Rule

Effective for services provided to traumatic brain injury patients who are Medicaid eligible, the Bureau of Health Services Financing shall revise Medicaid reimbursement for hospital inpatient services to provide for such services to be reimbursed as a carve-out unit subject to Medicare principles of allowable costs. Such services shall not be subject to the cost per discharge limitation applicable to non-carve-out unit admissions. Hospitals must maintain separate accounting and other documentation for such admissions and services as to permit audit of the costs related to such services. Additional cost reporting forms must be completed as designated by the department.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Social Services Office of Community Services

The Department of Social Services, Office of Community Services has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Adoption Program.

This rule is mandated by Act 519 of the 1991 Session of the Louisiana Legislature which amends and reenacts R.S. 40:91(D) and 92(B) to revise the State Voluntary Registry Act with respect to age limitations and time within which to match registrants. Emergency rulemaking is necessary as Act 519 (H.B. 1420) became effective 60 days after the close of the 1991 Legislative Session.

EMERGENCY RULE

Effective September 6, 1991, adoptees and birth parents may register in the State Voluntary Register when the

adoptee reaches 18 years of age. The registration will remain in effect indefinitely. The registration may be withdrawn by the adoptee or birth parent at any time by a written request.

May Nelson
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 effective October 1, 1991 in the Food Stamp Program.

Emergency rulemaking is necessary to comply with USDA Food and Nutrition Service directives to implement federal regulations at 7 CFR 273.8 (e)(17).

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

**RULE
Title 67**

**Department of Social Services
Part III. Office of Family Support
Subpart 3. Food Stamps**

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§249. Exclusions From Resources

A. Effective April 1, 1987, the following items shall not be counted as a resource in the Food Stamp Program.

B. Effective October 1, 1991, resources of an individual household member who receives SSI or AFDC benefits shall be excluded for food stamp purposes during the period the resources are excluded under SSI or AFDC policy if the individual meets the gross income limit for a one-person household.

1. This policy change is applicable to "mixed (NPA) food stamp households", i.e., households in which all members do not receive SSI and/or AFDC.

2. The resource shall be counted in the household's resource calculation when it is no longer excluded under SSI or AFDC policy.

AUTHORITY NOTE: Promulgated in accordance with F. R. 52:26937 et seq., 7 CFR 273.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:656 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 17:

May Nelson
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 effective July 1, 1991 in the Job Opportunities and Basic Skills (JOBS) Training Program, also referred to as Project Independence, the name of Louisiana's program.

Emergency rulemaking is necessary to comply with federal regulations at 45 CFR 251.4 and 45 CFR 251.5 concerning Program Participant Employment Protection.

EMERGENCY RULE

Louisiana will implement a grievance procedure, as mandated by federal regulations at 45 CFR 251.4, for resolving displacement complaints by regular employees or their representatives relating to Project Independence participants. Also, a grievance procedure will be implemented in accordance with federal regulations at 45 CFR 251.5 for resolving complaints by or on behalf of Project Independence participants in a work-related program or activity. This grievance procedure will hear complaints relating to on-the-job working conditions, workers' compensation coverage and wage rates used to calculate the hours of participation required of participants in the Community Work Experience Program.

May Nelson
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 effective October 1, 1991 in the Refugee Cash Assistance (RCA) Program.

Emergency rulemaking is necessary to comply with a directive from the Office of Refugee Resettlement in the U.S. Department of Health and Human Services to implement this change in the eligibility period for Refugee Cash Assistance effective October 1, 1991.

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III., Subpart 7. Refugee Cash Assistance.

**RULE
Title 67**

**DEPARTMENT OF SOCIAL SERVICES
Part III. Office of Family Support
Subpart 7. Refugee Cash Assistance**

Chapter 39. Application, Eligibility, and Furnishing Assistance

Subchapter B. Coverage and Conditions of Eligibility

§202. Eligibility Periods

Periods of eligibility for Refugee Cash Assistance will be determined by, and are subject to change according to, the extent of federal funding available. As such eligibility periods may vary based on federal appropriations, these eligibility periods are determined by the Office of Refugee Resettlement of the U.S. Department of Health and Human Services. The Department of Social Services shall provide notice of these eligibility periods by means of Potpourri Notices in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.202.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:

May Nelson
Secretary

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Establishment of 1991-92 Furbearer Trapping Season and
Nutria Control Cost Share Program**

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967, which allows the Wildlife and Fisheries Commission to use emergency procedures to set the furbearer trapping season and the rules regulating it, and R.S. 56:260, the 1991-92 furbearer trapping season is hereby established in accordance with the following regulations.

The season for the trapping of furbearers by licensed trappers shall be:

North Zone - All furbearers, November 20, 1991 through February 15, 1992. North Zone experimental season from February 15, 1992 through March 15, 1992 for soft catch only (padded trap).

South Zone - All furbearers, December 1, 1991 through February 29, 1992.

The boundary between the North and South Zones will be Interstate Highway 10 from the Texas state line to Baton Rouge; Interstate Highway 12 from Baton Rouge to Slidell; and Interstate Highway 10 from Slidell to the Mississippi line.

Bobcat and otter by federal restrictions imposed by the CITES Scientific Authority require the placement of an export tag prior to out-of-state shipment.

As authorized by Act 552 of the 1990 Regular Session of the Legislature, the Wildlife and Fisheries Commission has established a nutria cost-share program with coastal landowners as an economic incentive to trap and control overpopulated nutria contributing to coastal wetlands loss in certain areas. Landowners wishing to participate in the program must contact the Fur and Refuge Division of the Department of Wildlife and Fisheries.

A. Kell McInnis III
Acting Secretary

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Office of Fisheries**

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:317, which provides that the secretary of the department may declare a closed season when it is in the best interest of the state; the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective 12:01 a.m. October 1, 1991, the commercial fishery for king mackerel in Louisiana waters will close and remain closed until 12:01 a.m. July 1, 1992.

The secretary was notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service on September 26, 1991 that the Western Gulf commercial king mackerel quota had been reached and the season closure is necessary to prevent overfishing of this species.

A. Kell McInnis III
Acting Secretary

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967, which allows the Wildlife and Fisheries Commission to use emergency procedures to set annual seasons, and R.S. 56:433, which establishes the responsibility of the Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries regarding oyster management, the secretary of the Department of Wildlife and Fisheries, pursuant to a resolution passed by the Wildlife and Fisheries Commission on August 9, 1991 at Cocodrie, LA, hereby declares an emergency and adopts the following rule:

The season for the taking of Seed oysters on some portions of the Public Oyster Seed grounds is delayed until one-half hour before sunrise on December 1, 1991. The areas in which the season is delayed include

(1) that portion of the Public Oyster Seed Grounds east of the Mississippi River within an area in Plaquemines Parish bounded by a line from California Point to Telegraph Point then to the white tank batteries at Curlew Point, then to the red and white beacon at Stone Island, then to Mozambique Point, then to Battledore Reef, then to Sable Island/Raccoon Point then back to California Point;

(2) that portion of the Vermilion Bay Public Oyster Seed Grounds, within Vermilion and West Cote Blanche Bay in an area bounded by a line drawn across the southern most points of Southwest Pass and a line drawn connecting Lake Point on Marsh Island and Marone Point. This emergency action is being taken because department samples indicate

that these areas contain recently set oysters which may experience significant mortalities if seed oysters are allowed to be harvested prior to December 1, 1991.

A. Kell McInnis, III
Acting Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Tunica Hills Area
Hunting Season

In accordance with the provisions of R.S. 49:967(D) of the Administrative Procedure Act, and under the authority of R.S. 56:1921 et seq., the Wildlife and Fisheries Commission hereby adopts the following rule relative to hunting seasons on the Tunica Hills Area.

All general rules and regulations applicable to Wildlife Management Areas for 1991-1992 will be applicable to the Tunica Hills Area except as provided below.

The area may be accessed by walk-in only. No vehicles of any type are permitted on the area, except for the existing parish gravel road that crosses generally east to west across the middle of the property.

Hunting seasons will commence on the area Saturday, October 19, 1991 at which time all designated hunting or trapping periods, bag limits, and all other hunting or trapping regulations in effect in Zone 1 will apply to the area.

In order to protect wildlife, rare species, or other natural components of features of the area, the secretary of the Department of Wildlife and Fisheries has the authority to restrict or close all or portions of the area to any or all public use, as appropriate, by public notice.

This rule shall become effective October 9, 1991.

James H. Jenkins, Jr.
Chairman

Rules

RULE

Department of Agriculture and Forestry Agriculture Commodities Commission

The Department of Agriculture and Forestry, Agriculture Commodities Commission, has adopted LAC 7:XX-VII.14759, which establishes a stay of claims to take place when litigation which could determine the outcome of a claim under the Self-Insurance Fund is pending.

Title 7

AGRICULTURE AND ANIMALS

Part XXVII. Agricultural Commodity Dealer and Warehouse

Chapter 147. Agricultural Commodities Commission Subchapter P. Pending Litigation

§14759. Stay of Claims

Where the commission finds that litigation is pending which could determine whether payment of a claim is due or to whom payment of a claim is due, the claim in question may be stayed until the judgment in said litigation has become final and definitive. The commission shall give notice of the stay to any claimants whose claims have been stayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3401.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agriculture Commodities Commission, LR 17: (October 1991).

Bob Odom
Commissioner

RULE

Department of Agriculture and Forestry Market Commission

The Department of Agriculture and Forestry has amended regulations regarding the collection of an assessment on pint containers of strawberries. These regulations clarify the procedures and bookkeeping requirements necessary for the implementation of this assessment.

These regulations comply with and were mandated by the enactment of Act No. 908 of the 1990 Regular Legislative session, which amended R.S. 3:475. The funds generated by this assessment shall be used by the Strawberry Marketing Board pursuant to R.S. 3:476.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 35. Louisiana Strawberry Marketing Board §3503. Collection

A. The assessments provided for by these regulations and R.S. 3:475 shall be collected at the first point of sale in Louisiana. The person selling the containers or strawberries shall collect the assessments and complete a department prescribed assessment form.

B. Distributors, wholesalers, brokers or retailers of strawberries produced outside of Louisiana shall collect this assessment at the time they first distribute or sell such strawberries in this state.

C. Each person who collects the assessments shall remit the collections and assessment forms to the department within 60 days of the end of each fiscal year. As it pertains to this section, a fiscal year shall begin on July 1 and end on June 30 of the next calendar year.

D. Persons who purchase pint containers and who do not use those containers for the sale of strawberries may apply for a refund of the assessment upon the signing and submission of a refund form to the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:249 (March 1991), amended LR 17: (October 1991).

§3504. Records

A. Each person who collects the assessments levied by these regulations shall keep accurate records, including one copy of each completed assessment form, of the number of pint containers sold and the assessments collected.

B. Each person who collects assessments shall retain for examination by representatives of the Department of Agriculture and Forestry evidence of sales of pint containers sold within the state. This shall include sales invoices and shipping tickets. Each invoice or ticket should state the number of pint containers sold, or in the case of containers containing multiples of pints, the number of pint equivalents.

C. Each person who collects assessments shall retain for examination by representatives of the Department of Agriculture and Forestry evidence of all shipments received from outside of Louisiana for distribution within the state. This shall include receiving and shipping tickets and all sales invoices. Each invoice should state the number of pint containers of strawberries or equivalent pint containers.

D. Original documentation shall be kept for a period of two years from the date of sale or distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:249 (March 1991), amended LR 17: (October 1991).

§3505. Authority of Agents to Enter Premises

A. Agents of the department are authorized and shall be allowed entrance onto any property or premises in the state of Louisiana during normal business hours for the purpose of carrying out the provisions of these regulations. Agents shall notify the dealer, distributor or shipper before performing any inspections.

B. Agents of the department are authorized to inspect all records maintained by dealers, distributors and shippers in order to enforce the provisions of R.S. 3:475 et seq. and these regulations.

C. No person shall in any way interfere with an agent in making inspections on properties or premises in carrying out the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:249 (March 1991), amended LR 17: (October 1991).

§3506. Refunds

A. Each person who purchases pint containers for a use other than for the sale of strawberries may obtain a refund of the assessment by submitting a written request on a form prescribed by the department to the department within 60 days of the end of each fiscal year. As it pertains to this section, a fiscal year shall begin on July 1 and end on June 30 of the next calendar year.

B. Each request for a refund shall be accompanied by copies of invoices or sales receipts showing the amount of containers purchased, along with a completed and signed department prescribed form showing that the containers were not used for the sale of strawberries. In the case of

assessments against containers for strawberries produced outside of Louisiana, distributed in this state, but not sold in this state, along with said signed form, documentation must be included with the request which corroborates this claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:249 (March 1991), amended LR 17: (October 1991).

§3507. Penalties

A. Any person who willfully evades the payment of the tax provided for in R.S. 3:475, or who violates any other provision of these regulations, may be fined in accordance with the provisions of R.S. 3:478.

B. Prior to the assessment of any civil penalties, there shall be an adjudicatory hearing in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475 and R.S. 3:478.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:249 (March 1991), amended LR 17: (October 1991).

Bob Odom
Commissioner

RULE

Board of Elementary and Secondary Education

Tuition Exemption Guidelines

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July 20, 1991 in the *Louisiana Register* and under the authority contained in the Louisiana State Constitution (1974) Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following revised Tuition Exemption Guidelines, effective June 20, 1991 and printed in full in the June, 1991 issue of the *Louisiana Register*.

Bulletin 921: 8(g) Policy and Procedure Manual

C. Revised Tuition Exemption Guidelines

AUTHORITY NOTE: R.S. 17:7.3.

HISTORICAL NOTE: LR 17: (October 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Amendments to Bulletins 1508 and 1706

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July 20, 1991 in the *Louisiana Register* and under the authority contained in the Louisiana State Constitution (1974) Article VIII, Section 3, Act 800 of the 1979 Regular Session,

adopted amendments to Bulletins 1508, *Pupil Appraisal Handbook* and 1706, *Regulations for Implementation of the Exceptional Children's Act*, including assurance statements for Fiscal Year 1992. These amendments were adopted as an emergency rule effective June 20, 1991 and printed in full in the July, 1991 issue of the *Louisiana Register*.

AUTHORITY NOTE: R.S. 17:1941-1958.

HISTORICAL NOTE: LR 17: (October 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

"Speech Therapy Program" Definition

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July, 20, 1991 in the *Louisiana Register* and under the authority contained in the Louisiana State Constitution (1974) Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following revised definition for the term "Speech Therapy Program" in Bulletin 1706, *Regulations for Implementation of the Exceptional Children's Act*, R.S. 17:1941 et seq. This revision was adopted as an emergency rule, effective 6/20/91.

Amend Bulletin 1706, Section 884 to read:

Speech therapy program is a service delivery pattern in which exceptional children receive speech/hearing/language intervention services as specified on the IEP which the speech disorder is identified according to Bulletin 1508.

AUTHORITY NOTE: R.S. 17:1941 et seq.

HISTORICAL NOTE: LR 17: (October 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Amendment to Bulletin 1822

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July 20, 1991 in the *Louisiana Register* and under the authority contained in the Louisiana State Constitution (1974) Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted an amendment to Bulletin 1822, Competency-Based Postsecondary Curriculum Outlines which changed the length of the Truck Driving course to 620 hours, five and one-half months.

AUTHORITY NOTE: R.S. 17:24.4.

HISTORICAL NOTE: LR 17: (October 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Reduction in Force Plan for Vocational-Technical Personnel

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July 20, 1991 in the *Louisiana Register* and under the authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the revised Reduction in Force Plan for Vocational-Technical Personnel, effective May 23, 1991. This amendment to Bulletin 1868, BESE Personnel Manual was also adopted as an emergency rule. See June, 1991 issue of the *Louisiana Register* for complete text of policy.

Bulletin 1868 amendment

Chapter C: Employee Personnel Activities

§131: Reduction in Force

* * *

C. Vocational-Technical System

AUTHORITY NOTE: R.S. 17:6(10); 7(5); R.S. 17:81.4;
R.S. 17:1941-1956.

HISTORICAL NOTE: LR 17: (October 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Entrance Requirements for Postsecondary Technical Institutes

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July 20, 1991 in the *Louisiana Register* and under the authority contained in the Louisiana State Constitution (1974) Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the revised entrance requirements for postsecondary technical institutes, effective July 1, 1991 as stated below:

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 15. Vocational and Vocational-Technical Education

§1523. Students

A. Admission Procedures

* * *

2. Entrance Requirements

General entrance requirements for postsecondary technical institutes, effective July 1, 1991:

These requirements herein are designed to identify the academically disadvantaged, provide for a program of academic and technical knowledge improvement, reduce the dropout rate, encourage program completions, and improve placement rates. The requirements herein are:

1. The technical institutes shall be operated under an open door policy and shall serve programs on an equal prior-

ity basis, including but not limited to adults, veterans, high school students, persons who have dropped out of high school, and minority ethnic groups.

2. A student shall have reached 16 years of age prior to entry into a technical institute.

3. All postsecondary technical education institutions under the jurisdiction of the Board of Elementary and Secondary Education shall administer the Test of Adult Basic Education (TABE) Survey Edition-Level A, to anyone who wishes to enroll in a technical institute except for extension courses. The test results will be used for diagnostic purposes and assisting applicants in program planning which may include upgrading of basic skills, but shall not be used to determine entrance into an institute. This test is nationally normed, provides grade-equivalent test results, is electronically scoreable, has reasonable costs and is easily administered to large or small groups.

Aptitude may be accomplished by using the Armed Services Vocational Aptitude Battery (ASVAB), which is taken by many high school students during their senior year, or other appropriate testing instrument. Specific aptitude testing may be requested by the student personnel services officer of the technical institute and/or upon the request of the student.

Exception: Where academic achievement levels are required by a licensure board, such as LPN programs, barbering programs, cosmetology programs, etc., or any other program under a licensing board that establishes requirements for that program, the following guidelines are recommended:

4. A special remediation program designed for each academically disadvantaged student could run concurrently with skills training. A portion of each day could be devoted to academics and a portion to skill training. Personnel to facilitate technical studies and developmental studies instruction in the postsecondary technical system shall be state certified.

5. Appropriate developmental studies instructors and student personnel services officers must be available for diagnosing student academic deficiencies, developing individual employability development plans, providing remedial instruction, and/or appropriate related instruction.

AUTHORITY NOTE: R.S. 17:1997.

HISTORICAL NOTE: LR 17: (October 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Amendment to Salary Schedule for State Technical Institutes

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July 20, 1991 in the *Louisiana Register* and under the authority contained in the Louisiana State Constitution (1974) Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted an amendment to the Salary Schedule for State Technical Institutes to include appropriate salaries for Associ-

ate Degree Licensed Practical Nursing instructors, effective May 23, 1991 as stated below:

Bulletin 1868, BESE
Personnel Manual

Associate degree and three-year diploma nursing salary schedule:

A. Associate degree nursing instructor would start at \$22,873. This would be base pay with no degree with credit for the equivalent of 72 college credit hours for associate degree in nursing.

B. Three-year diploma nursing instructor would start at \$23,033. This would be base pay with no degree with credit for the equivalent of 96 college credit hours for three-year diploma in nursing.

The associate degree and three-year diploma nursing instructors would receive, upon receipt of grade slip to Office of Vocational Education, credit for pay purposes up to 105 hours towards a B.S.N. degree.

AUTHORITY NOTE: R.S. 17:7.

HISTORICAL NOTE: LR 17: (October 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Model Career Options Program Guide

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July 20, 1991 in the *Louisiana Register* and under the authority contained in the Louisiana State Constitution (1974) Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the Louisiana Career Options Program Guide, Bulletin 1895. This guide was adopted as an emergency rule and printed in full in the June, 1991 issue of the *Louisiana Register*.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§917. Personnel Evaluation Standards and Regulations

* * *

D. Bulletin 1895 - Model Career Options Program R.S. 17:3901 states the purposes of the MCOP as follows:

1. to provide an opportunity for the teachers of this state to expand their professional horizons and explore new avenues in their roles as educators;

2. to provide teachers with meaningful career advancement;

3. to provide teachers with salary enhancements that reflect meritorious performance and advancement; and

4. to provide to school systems additional services based on an expanded use of the talent of teachers.

AUTHORITY NOTE: R.S. 17:3901-3905.

HISTORICAL NOTE: LR 17: (October 1991).

Carole Wallin
Executive Director

RULE

**Department of Education
Council for the Development of French in Louisiana
(CODOFIL)**

Bilingual Writing Assistance Fee Schedule

In accordance with the Administrative Procedure Act, R.S. 49:950-970, the Department of Education, Council for the Development of French in Louisiana (CODOFIL), is hereby adopting the fee schedule described below for bilingual writing assistance effective August 19, 1991. A notice of intent was published in the *Louisiana Register*, Volume 17, Number 7, pages 702-703, dated July 20, 1991.

The bilingual writing assistance includes French-English and English-French translation, proofreading and copywriting. Upon submission of proposal or text, CODOFIL shall evaluate the feasibility of said project based upon the following criteria: appropriateness, availability of personnel, expertise or technical knowledge required, availability of research materials, and estimated amount of time required to complete the work. Once CODOFIL and the contractee have agreed to the conditions described in the contract, an hourly fee of \$15 shall be charged to recover operating expenses.

1. Any public or private party may submit a proposal or text for bilingual writing assistance to CODOFIL.

2. Requests for bilingual writing assistance must be submitted in writing, using the following contract proposal.

3. The contract proposal must be completed and signed in order to be considered. Incomplete forms will be automatically rejected.

4. The contract proposal will contain the following information: name, address, organization and telephone number of the requesting party, a legible copy of the proposal or text, an estimate of the number of hours required to complete said work and a projected date of completion.

5. CODOFIL will make an evaluation of the feasibility of said proposal based on the following criteria: appropriateness, availability of personnel, expertise or technical knowledge required, availability of research materials, and amount of time required for preparation, research, copywriting and translation.

6. Once both parties have reached an agreement of conditions, they will sign the contract and CODOFIL will lend the bilingual writing assistance for a fee of \$15 per hour. This fee has been designated to recover operating expenses.

CODOFIL Bilingual Writing Assistance Contract

CODOFIL will review the work proposal and decide if it fits within its objectives and whether or not the service can be completed within a time frame acceptable to the contractee. Once CODOFIL agrees to perform the bilingual writing assistance, the contractee agrees to pay CODOFIL a fee of \$15 per hour for this service. This service may include bilingual writing assistance in the form of translation, copywriting and/or editing. Both parties, CODOFIL and the contractee, must sign this contract in order for the agreement to be valid.

To be completed by the contractee:

Name _____ Association _____

Address _____ City _____ Zip _____

Daytime phone () _____

Date of submission ____ / ____ / ____

Nature of the document _____ Number of pages _____

Type of assistance requested _____

Requested date of completion ____ / ____ / ____

I, the undersigned, understand and accept the terms of this agreement:

_____ / ____ / ____

Signature of Contractee

Date of signature

To be completed by CODOFIL:

Work proposal approved? yes _____ no _____

Total cost of services \$ _____

Completed work approved by:

_____ / ____ / ____

Signature of Director

Date of signature

Jacques Henry
Director

RULE

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

**Louisiana Scholarship and Grant
Policy and Procedure Manual**

The Student Financial Assistance Commission advertises its publication of the Louisiana Scholarship and Grant Policy and Procedure Manual, codifying the rules governing the commission's administration of assigned programs.

A copy of the Scholarship and Grant Policy and Procedure Manual may be obtained from the office of the State Register, 1051 Riverside North, Baton Rouge, LA or from the Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

RULE

**Department of Employment and Training
Office of Worker's Compensation**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 23:1168

and Act 938 of the 1988 Regular Legislative Session, the Office of Worker's Compensation, through the Department of Employment and Training, has amended rules and regulations pertaining to the fiscal responsibility of worker's compensation carriers. This rule provides methods and criteria for implementing self insurance and own risk programs.

The fiscal responsibility rule establishes that all employers are responsible for compliance with R.S. 23:1168 and provides directions for notifying the Office of Worker's Compensation of compliance with this legislation. Also the rules provide guidelines for the termination of a worker's compensation policy by an insurance carrier.

Title 40

LABOR AND EMPLOYMENT

Part I. Worker's Compensation Administration

Chapter 17. Fiscal Responsibility Unit

§1701. Financial Compliance

Every employer subject to the jurisdiction of the Louisiana Worker's Compensation Act shall file with the Office of Worker's Compensation proof of its compliance with the worker's compensation insurance provision of the Act R.S. 23:1168. A notice from the insurer, on a form developed by the director, certifying compliance will be accepted as proof. The form must be received within 30 days of the policy's effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1703. Termination of Coverage by Insurance Carriers; Employer to Obtain New Coverage

A. Any insurance carrier desiring to cancel or terminate an insurance policy before the expiration date stated in the policy shall be required to give 20 days prior notice thereof in writing to the Office of Worker's Compensation, the employer, and the Louisiana commissioner of insurance.

B. The employer whose policy has been cancelled or terminated shall, on or before the twentieth day after receipt of the notice of cancellation or termination, file evidence with the Office of Worker's Compensation of having obtained other coverage in accordance with the Act. Failure on the part of the employer to file such evidence within 20 days shall be considered by the Office of Worker's Compensation as prima facie evidence of violation and subject the employer to the penalties prescribed under R.S. 23:1170 of the Act (Effective July 1, 1989).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1705. Definitions

A. When used in these rules, the following words or terms shall have the meaning as described in this Section.

1. *Certified Audit* - an audit upon which the auditor expresses his professional opinion that the accompanying statement presents fairly the financial position of the self-insurer or fund in conformity with generally accepted accounting principles consistently applied.

2. *Conditional Reserves* - acceptable assets equal to the security deposit requirement plus any additional contin-

gent reserves established by the trustees or required by the office.

3. *Contingent Liability* - the amount that a self-insurer's fund may be obliged to pay in excess of a given fund year's standard premium collected or on hand. This liability is considered funded if a security deposit equal to the total amount of the contingent liability has been posted. This liability is considered unfunded if a surety bond has been posted equal to all or a portion of the total amount of the contingent liability.

4. *Current Ratio* - the ratio of current assets to current liabilities as shown in the most recent financial statement.

5. *Manual Premium* - premium determined by multiplying the payroll (segregated into the proper worker's compensation job classifications) times the appropriate manual premium rates, or premiums tabulated on unspent payrolls, or limited payrolls as promulgated by the National Council on Compensation Insurance.

6. *Loss Development* - the change in incurred loss from one point in time to another.

7. *Loss Fund* - the retention of liability for an individual self-insurer under the terms of an aggregate excess contract. In the absence of an aggregate excess policy, it is the amount of money allocated to pay claims.

8. *Net Safety Factor* - any amount needed in a given fund year in addition to current loss reserves to fund future loss development.

9. *Service Company* - a business which has met all the requirements of §1713 of these rules and which has obtained office approval to contract with self-insurers for the purpose of providing all services necessary to plan and maintain an approved self-insurer program. The term *Service Agent* is synonymous with the term *Service Company* as used in these rules.

10. *Surplus* - all other assets a fund may have on hand in excess of all loss reserves, actual and contingent liabilities and net safety factors in all fund years.

11. *Office* - the Office of Worker's Compensation Administration.

12. *Working Capital or Net Current Assets* - current assets less current liabilities.

13. *Commutation* - a substitution, exchange or interchange of one security for another.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291, R.S. 23:1168, and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1707. Conditions for Obtaining Certificate of Self-Insurance

The director shall prescribe aggregate and specific excess insurance coverage and/or surety bonds or the deposit of other security as a condition of obtaining a certificate of self-insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291, R.S. 23:1168, and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1709. Acceptable Securities or Surety

A. The securities acceptable to the Office of Worker's Compensation Administration as a security deposit shall be U.S. Government Bonds; irrevocable letters of credit issued by a federal or state bank pre-approved by the Office of Worker's Compensation; surety bonds in a form prescribed by the office which are issued by any corporate surety which meets the qualifications prescribed in Subsection B of this Section; and other forms of security deemed acceptable by the director of the Office of Worker's Compensation. Self-insurers must have all funded securities made payable to the Louisiana Office of Worker's Compensation.

B. Any corporate surety, to be eligible for writing self-insurers' bonds in the state of Louisiana, shall be an admitted or approved carrier by the insurance commissioner of the state of Louisiana to transact such a business in the state, shall have its latest financial statement on file with the insurance commissioner and the Office of Worker's Compensation Administration; and shall at all times show assets, including surplus to policyholders, at least equal to the latest insurance commission requirements for admission of a new company to do business in the state. The policyholders and financial ratings, as shown in the most current issue of Best's Key Rating Guide, Property - Casualty, shall not be less than "B" and "IV", respectively. In the event a company is not rated by Best's, a corporate surety may be approved at the discretion of the office.

C. All such securities shall be filed with the Office of Worker's Compensation for deposit under custody receipt. The office shall be authorized to sell and/or collect, in the case of default of the employer or group, such amount thereof as shall yield sufficient funds to pay compensation liabilities. The office shall likewise be authorized to bring suit upon any surety bond so posted, to procure prompt payment of compensation liabilities. Interest accruing on any negotiable securities so deposited shall be collected and transmitted to the depositor, provided he is not in default in the payment of compensation or the annual premium tax. All deposits shall remain in the custody of the office until such time as the worker's compensation claims, which the deposits secure, have been fully satisfied.

D. Any securities held by the office may be exchanged or replaced by the depositor with other securities of like nature and amount. Any surety bond may be exchanged or replaced with another surety bond, provided the required 30 days notice of termination of liability is given to the office. Whenever an employer discontinues business in the state or desires to terminate his status as a self-insurer, or desires to replace securities with a surety bond, he shall so notify the office and may recover the securities deposited with the office upon posting in lieu thereof a special release bond issued by a corporate surety in an amount equal to the total value of such securities. The special release bond shall cover all existing liabilities under the Worker's Compensation Act and shall remain in force in accordance with the prescriptive and preemptive period provided at R.S. 23:1209, and until such time, to be determined by the office, that all obligations under the Act have been fully discharged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1711. Filing of Reports - Penalties

A. Each individual self-insurer shall file annual statements of financial condition with the Office of Worker's Compensation in a form acceptable to the Office of Worker's Compensation on or before May 1 of each year, except that fiscal year-end filers shall file annual statements of financial condition four months after fiscal year-end. These statements must be prepared by a Certified Public Accountant and must be certified audits, except that an individual self-insurer may be allowed to submit another type of statement acceptable to the Office of Worker's Compensation. An additional security deposit or surety bond may be required in the absence of a certified audit.

B. Summary loss data will be filed with the Office of Worker's Compensation by each individual self-insurer on or before February 1 of each year. This report will include but not be limited to the name of the employer, name of the injured employee, claim number, date of accident, nature of injury, amounts paid on the claim for indemnity or medical and outstanding reserves, if any. This report will cover all incurred losses for the prior year as well as any pending claims where any type payment is made or reserve is pending.

C. In addition to the above required annual reports, the Office of Worker's Compensation may require interim financial statements, summary loss data, payroll audits, or such other reports or statements upon reasonable notice.

D. This rule places the responsibility on the employers, groups and service companies to perform their prescribed duties and responsibilities without prompting from the office. Failure or refusal of any self-insurer to file the required report with the office within the prescribed time period shall subject the self-insurer to a civil penalty in such amount as the office may prescribe, not to exceed \$100 per infraction per day, and may be sufficient cause for the revocation of the self-insurer privilege. Failure to pay such penalty within 30 days of the notification may be considered additional cause for revocation of the self-insurer privilege.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1713. Contract of Excess Insurance

A. Aggregate and specific excess insurance with liability limits and retention amounts acceptable to the Office of Worker's Compensation shall be required as a condition of approval of any individual self-insurer as hereinafter provided:

1. The retention of specific excess policies shall be no more than \$25,000 or one percent of the self-insurer's net worth, whichever is greater. The maximum retention so calculated shall be rounded to the nearest \$50,000. Acceptable retention levels, subject to the above maximum shall be determined by the office for each self-insurer. Such acceptable retention shall be based on an evaluation of the self-insurer's financial condition and exposure to loss.

2. In cases where the upper limit of a corporation's excess insurance is not statutory, the Office of Worker's Compensation will require that the amount be at least the greater of the average incurred worker's compensation losses for the last three years or five million dollars.

B. No contract or policy of excess insurance shall be

recognized by the office in considering the ability of an applicant to fulfill its financial obligation under the Worker's Compensation Act unless such contract or policy:

1. is issued by a recognized, admitted or approved casualty insurance company with a financial rating as shown in the most current issue of Best's Key Rating Guide, Property-Casualty of not less than "B" and "IV";

2. is not cancellable except upon 20 days written notice by registered or certified mail to the other party to the policy and the Louisiana Office of Worker's Compensation. The required notice is 10 days if the cancellation is for non-payment of policy premium; and

3. is renewable at the expiration of the policy period unless written notice by registered or certified mail is given to the other party to the policy and the Louisiana Office of Worker's Compensation, 20 days prior to such expiration, by the party desiring to cancel or not to renew the policy. The required notice or non-renewal is 10 days if the non-renewal is for non-payment of policy premium.

C. Additionally a contract or policy of excess insurance containing any commutation clause shall only be recognized by the office in considering the ability of an applicant to fulfill its financial obligation under the Worker's Compensation Act where the office is satisfied that sufficient security is provided to assure future payments of compensation to employee(s) entitled thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1715. Servicing for Self-Insurer; Qualifications for Service Companies

A. Each individual self-insurer, as a condition of approval to self-insure, shall be required to provide proof of compliance with the provisions of this Section as follows:

1. It shall be the sole responsibility of each individual self-insurer to provide for qualified persons to service its program in the areas of claims adjusting, underwriting, safety engineering and loss control. Should the individual self-insurer be unable or unwilling to provide any or all of these services through the use of its own employees, then it shall contract with outside agencies with established qualifications, as evidenced by their official certificates of approval issued by this office, to provide these services.

2. In the case where an individual self-insurer elects to contract with an approved service company, the Office of Worker's Compensation may, at its discretion, choose to use the service company as an intermediary in its dealings with the employer. In the case where no service company is used, the office will deal with the employer only.

B. Any firm desiring to become qualified as a service company for individual self-insurers shall make application to the office on such forms as may be prescribed and the application must be approved before any contract for servicing shall be recognized as fulfilling Subsection A of this Section.

C. Any firm making application to qualify as a service company shall provide proof that it meets the following conditions before approval may be granted:

1. The owners of the firm, including members of a copartnership and the officers of the corporation, shall be persons of good moral character with reputations for honesty and fair dealings;

2. The firm has a sufficient number of experienced and qualified claims personnel, including at least one resident adjuster with check or draft authority;

3. The firm has a sufficient number of experienced and qualified personnel in the areas of loss control and safety engineering;

4. The firm has a sufficient number of experienced and qualified personnel in the area of underwriting. In this context, underwriting includes, but is not limited to the overall planning and coordinating of a self-insurer program, the ability to advise or assist in the procurement of bonds and excess insurance, the ability to provide summary data regarding the self-insurer's costs of accidents including the frequency and distribution by type and cause, and the skill to make recommendations to the self-insurer regarding the correction of any deficiencies that arise in the self-insurer program; and

5. The application for the privilege of being a service company as defined herein shall be accompanied by a remittance in the amount of \$200, payable to the Louisiana Office of Worker's Compensation. This fee will not be refunded, regardless of the disposition of the application.

D. In support of its application the firm shall submit summary information concerning its organization and resumés on all employees with administrative or professional capacity sufficient to establish compliance with Subsection C of this Section.

E. Upon compliance to the satisfaction of the office with the above provisions, a certificate of approval as a recognized and authorized service organization shall be issued to the applicant. Failure to comply with any of the foregoing rules or any order of the office within the time prescribed shall be considered good cause for withdrawal of the certificate of approval. The office shall give prior written notice of such withdrawal. The service company shall have 15 days from the date of mailing to request a hearing. Failure to request a hearing within the time prescribed shall result in the withdrawal becoming effective 30 days from the date of mailing of the original notice. In no event shall the withdrawal of the certificate of approval be effective prior to the date that the hearing on the question is scheduled. Such notice shall be served personally or by certified or registered mail upon all interested parties.

F. Each service company shall file immediately upon entering into a contract or agreement for servicing, notice of this contract or agreement with the Office of Worker's Compensation Administration. It shall be the responsibility of the individual self-insurer to obtain the written permission of the Office of Worker's Compensation Administration before changing its method of fulfilling its servicing requirements from those which were previously approved by the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1717. Revocation or Termination of the Self-Insurer Privilege

A. Failure to comply with any of the rules or with any order of the Office of Worker's Compensation Administration within the time prescribed may be considered good cause for revocation or termination of self-insurer privilege, within the meaning of Louisiana statutes. Noncompliance with the pro-

visions of the Worker's Compensation Act, in particular those relating to time and method of compensation payments, the furnishing of medical treatment and filing of accident and compensation reports and failure to pay any assessment, may likewise be deemed good cause. The office shall give written notice of such revocation or termination to the employer and/or his agent(s). The employer shall have 15 days from the date of mailing of the notice to request a hearing on the revocation or termination. Failure to request a hearing within the time prescribed shall result in the revocation or termination becoming effective 30 days from the date of mailing of the original notice. In no event shall any revocation or termination become effective prior to the date that a hearing on the question is scheduled. Such notice shall be served personally or by registered mail upon all interested parties.

B. It will be necessary for a self-insurer to notify the office if the status of the self-insurer is materially changed (individual ownership to partnership or to corporation, merger, etc.) at which time, the new entity shall be required to qualify. In the event there is a change in majority ownership of a self-insurer, the self-insurer privilege granted to an individual self-insurer shall be at the discretion of the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1719. Enforcement by Office of Worker's Compensation of Order of Compliance; Order of Denial; or Order of Termination of Self-Insured Status

If the Office of Worker's Compensation has probable cause to believe that an order denying or terminating self-insurer status is being violated or that an employer who is approved or has been previously approved as a self-insurer is liquidating or may be about to liquidate and distribute its assets to its stockholders or to its members without providing for its obligation as a self-insurer to pay or arrange for the payment of compensation and benefits as prescribed for in the Act, the office may cause an action to be filed in the Court of East Baton Rouge Parish or in the parish in which such person does business to enjoin and restrain such person from engaging in such method, act or practice; in addition to the other penalties it may assess according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168, 1169, 1170, and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1721. Tenure of Authority

Certificates of authority granting the privilege of being a self-insurer for worker's compensation purposes shall expire on July 1 of each year or two months after the annual report is due for fiscal year-end filers. At the time of renewal, the self-insurer must furnish or have on file with the office, an acceptable financial statement for its current fiscal year and must fully comply with the law and the rules of this office. Certificates of approval for service companies must be renewed on an annual basis. Any information submitted by an employer in its application to become a self-insurer or in its request for renewal of that authority will be treated with strict confidence by the office. Any information submitted by a service company in its application for approval or in its re-

quest for renewal of that approval will be treated with strict confidence by the office except that the name, address, and status of an employer that is self-insured may be communicated effective September 1, 1991 pursuant to amendments to R.S. 23:1168.A.(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1723. Individual Self-Insurer - Application

A. Each employer desiring to become a self-insurer individually, as contemplated by Louisiana statutes, shall make application to the office for such privilege on a form prescribed by the office, and this application shall be filed with the office at least 60 days prior to the desired effective date. The application shall contain answers to all questions propounded and shall be under oath.

B. Before considering the application, the office will require:

1. Financial statement of a current date showing a net worth of not less than \$750,000 and a current ratio of more than 1.5 to 1, and a working capital of an amount establishing financial strength and liquidity of the business to pay normal compensation claims promptly. However, companies qualified to be self-insured prior to the implementation of these rules who do not meet the requirement of a net worth of \$750,000 may nonetheless qualify for certification upon a showing that they meet all other requirements of these rules and that they have been continually operating as an approved self-insurer. The requirement for more than 1.5 to 1 current ratio may be waived in the case of a public utility or in those instances where generally recognized accounting principles peculiar to a particular industry make this requirement unreasonable. In no event shall the net worth be less than three times the annual loss fund, or in the event that aggregate excess insurance is not maintained, then the net worth shall be at least three times the self-insurer's annual standard premium. Financial statements dated six months or more prior to the date of application must be accompanied by an affidavit stating that there has been no material lessening of net worth nor significant deterioration of current ratio since the date of the statement.

2. An employer going through or recently acquired through a highly leveraged buy out is not eligible to self-insure until the company has a well established and acceptable financial capacity. Judgement of the company's financial capacity will be based upon financial ratio analysis. This type of company must operate on an insured basis until the financial status is fully known.

3. In considering the financial strength and liquidity of the business to pay normal compensation claims, the office will take into consideration contracts or policies of excess insurance in accordance with §1711.

4. The determination of a company's financial strength will also be based upon a financial ratio analysis and the trends in operating and net income. A number of successive years operating net losses experience by a company may cause the Office of Worker's Compensation to deem that company unable to assume the responsibility of self-insuring.

5. In addition, a company must have been in business for at least three years unless it is part of an established

operation that is able to guarantee the financial stability of the concern.

6. Each employer shall execute and file with the office an agreement, which shall be part of his application, whereby he agrees (a) to fully discharge by cash payment all amounts required to be paid by the provisions of the Act, and (b) to deposit with the office acceptable securities or corporate surety bond to secure guarantee of payment of compensation liabilities.

7. Each individual self-insurer shall satisfy the office that it has complied with the provisions of §1713(A) before approval for self-insurer status may be granted by the office. In addition, the office may require periodic proof that the self-insurer is complying with these standards on a continuing basis.

8. The application for the privilege or the renewal of the privilege of being a self-insurer shall be accompanied by a remittance in the amount of \$100, payable to the Louisiana Office of Worker's Compensation. This fee will not be refunded, regardless of the disposition of the application.

9. An investigation and study of the financial and other capabilities of the individual applicant to meet its obligation under the Act will be conducted by the self-insurer department of the office. The administrator of the self-insurer department of the office will submit an evaluation report to the office, after which formal approval for self-insurer status may be granted by the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1725. Security Requirements

A. Pursuant to R.S. 23:1168, each individually self-insured employer shall deposit with the office acceptable securities or post a surety bond issued by a corporate surety authorized to do business in the state of Louisiana and qualified as herein provided or make such other provision as may be approved by the office in such amount as may be determined by the office in accordance with the following rules:

1. In every case where an application is favorably considered, the office will then decide the amount of acceptable securities or surety bond which will be required; provided, however, that in no case shall the amount of securities or surety bond be less than the greater of:

a. \$100,000; or

b. the average worker's compensation losses incurred over the most recent three-year period multiplied by 110 percent; or

c. the total amount of unpaid worker's compensation reserves at the time of application multiplied by 110 percent.

A majority-owned subsidiary of a parent company, duly admitted as a self-insurer, may not be required to post securities or surety bond, provided the parent company, by resolution, guarantees payment of the liabilities of the subsidiary.

2. The minimum excess insurance requirements that an individually self-insured employer shall maintain shall be determined by the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation,

LR 17: (October 1991).

§1727. Forfeiture of Security

A. An injured worker or group of injured workers can apply to the director for the payment of benefits pursuant to R.S. 23:1168(D) if a self-insured employer has failed to pay benefits for undisputed claims.

B. Upon default, the office shall deposit the proceeds from the security or the bond into an interest bearing account. The interest derived therefrom shall be used to offset the administration of claims. The office may thereafter contract for the administration of claims from the account.

C. In the event the director, pursuant to 23:1168(D), provides for pro rata distribution of security proceeds to claimants or issues an order or decision which may be adverse to a claimant, he may, within 60 days of the order or decision, appeal to the district courts of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1729. Financial Classes, Security Amounts, and Waiver of Security

A. Each self-insurer will be classified according to its net worth as shown on its most recent year-ended financial statement submitted to our office. The following classifications will be established and known as Financial Classes (FC):

1. An employer whose net worth is greater than or equal to \$750,000 but less than \$5,000,000 shall be in Financial Class I (FC I).

2. An employer whose net worth is greater than or equal to \$5,000,000 but is less than \$50,000,000, shall be in Financial Class II (FC II).

3. An employer whose net worth is greater than or equal to \$50,000,000 but is less than \$250,000,000, shall be in Financial Class III (FC III).

4. An employer whose net worth is greater than or equal to \$250,000,000, shall be in Financial Class IV (FC IV).

B. The bond or security in FC IV, deposit requirement of a self-insurer may only be waived as follows:

1. in FC IV, if a satisfactory certified audit is submitted and the debt/equity ratio of the company is below 3:1, or

2. if applicant is a municipality or other political subdivision which has maintained a bond rating of not less than Baa (Moody's) on all outstanding bond issues and a continuously maintained unrestricted fund balance of not less than \$5,000,000.

C. The security required by the Office of Worker's Compensation will be the greater of \$100,000 or the average of the most recent three years of worker's compensation losses incurred. In no event shall this calculated amount be less than the worker's compensation outstanding reserves. In the event that the open worker's compensation reserves are greater than the average worker's compensation losses incurred, the amount of the security required will be the amount of the open reserves.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

§1731. Appeals

A. A request for hearing pursuant to §1713(E) or §1715(A) or an application for appeal from an adverse discretionary decision made by the office may be made to the director of the Office of Worker's Compensation by an applicant, self-insurer or service company.

B. Requests for hearings or applications for appeals must be in writing and filed within 30 days of the notice of the decision or, if no notice is given, within 30 days from becoming aware of or the date the aggrieved party should have been aware of the adverse decision. The appeal must be addressed to the Director of the Office of Worker's Compensation and mailed to: Box 94040, Baton Rouge, LA 70804 or hand delivered to the office at 1001 North 23rd Street, Baton Rouge, LA. Appeals may not be supplemented or amended after the lapse of 30 days. An appellant has the right to file a written appeal or have the appeal heard orally. Requests for an oral hearing must be made within the 30-day time period to file the appeal.

C. If no request for an oral hearing is made, then the appellant may submit documentation and/or written memorandum to support the appeal at least 15 days prior to the review of the appeal. Appellant will be notified at least 30 days prior to the date of the review by the director or the appeal committee appointed by the director. The director or the appeal committee will review all the evidence submitted and render a decision.

D. If the appellant requests an oral hearing, then appellant will be given at least 30 days prior notice of the hearing. The director may appoint a hearing officer to hear the appeal of the appellant. All hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act R.S. 49:955 et seq. On the day of the oral hearing appellant and appellee shall be prepared to start the hearing at the time specified in the notice of hearing. The hearing may be continued for good cause provided a written request for extension is received at the Office of Worker's Compensation at least seven days prior to the date of the hearing.

E. If, after the review of the appeal committee or after a hearing held before the hearing officer or the director, a decision adverse to the appellant is made, then appellant, within 30 days of the date the order or decision is signed, may appeal this administrative decision to the district courts of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (October 1991).

Stephen Cavanaugh
Assistant Secretary

RULE

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

Under, the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S.

30:2074(B)(1), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have amended the Water Quality Regulations, LAC 33:IX.703, 713, 1109, 1113 and 1115, (Log No. WP09).

In Chapter 7, §703, the scope is modified to include chlorine-bleaching pulp and paper mill dischargers. Subsequently, §713 is added that states the applicability, definition, and effluent limitations for chlorine-bleaching pulp and paper mill dischargers. In Chapter 11, the addition of 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) (dioxin) numerical criteria to §1113.C.6 Numerical Criteria, Table 1 (No. 46) is necessary due to its presence in fish tissues and potential threat to water uses. Consequently, this revision will result in the following numbers in Table 1 to be renumbered No. 47-55 accordingly. The addition of the dioxin numerical criterion is proposed in order to comply with federal regulations and establish a Louisiana-specific criterion. See *Federal Register* published April 17, 1990, 55 FR 14350.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 7. Effluent Standards

§703. Scope

A. The following categories and classes of discharges are covered by this Chapter:

Sand and Gravel Extraction	LAC 33.IX.705
Sugar Processing	LAC 33.IX.707
Exploration for and Production of Oil and Natural Gas	LAC 33.IX.708
Miscellaneous Small Dischargers	LAC 33.IX.709
Secondary Treatment for Sanitary Sewage	LAC 33.IX.711
Chlorine-bleaching Pulp and Paper Mill Dischargers	LAC 33.IX.713

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended LR 17: (October 1991).

§713. Chlorine-bleaching Pulp and Paper Mill Dischargers

A. Applicability

The effluent limitations and other provisions of this Section are applicable to discharges of wastewater associated with the production activities of bleached kraft pulp and paper mills.

B. Definitions

Chlorine-bleaching Pulp and Paper Mill Dischargers-Pulp and paper mills utilizing caustic sulfide reagents to process wood chips under high heat and pressure, producing brown paper and subsequently adding chlorine or chlorine compounds to produce bleached white paper.

C. Effluent Guidelines

The following effluent limitations establish the quantity or quality of pollutants or pollutant properties that may be discharged by a facility subject to this Section after applying to process wastes with the treatment technology currently available. The relaxation of effluent limits based upon state water quality standards or best professional judgment shall be prohibited.

Pollutant or Pollutant Property	Concentration in pg/L (ppq)	
	Daily Average	Daily Maximum
2,3,7,8-Tetrachlorodibenzo-p-dioxin 2,3,7,8-TCDD)	NA	20

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 17: (October 1991).

Chapter 11. Louisiana Surface Water Quality Standards

§1109. Policy

Water quality standards policies concerned with the protection and enhancement of water quality in the state are discussed in this Section. Policy statements on antidegradation, water use, exceptions, errors, severability, revisions to standards, and sample collection and analytical procedures are described.

F. Water Quality Standards Revision Process

1. It is the position of the state of Louisiana that the standards contained herein are those that are reasonable on the basis of the actual or potential quality of the state's waters, present and future water uses, and the best practicable wastewater treatment under any conditions. However, standards are not fixed for all time, but are subject to future revision. The nature of future revisions of these standards will be strongly influenced by many factors. Among these are the following:

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 4:302 (August 1978), amended LR 10:745 (October 1984), LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17: (October 1991).

§1113. Criteria

C. Numerical Criteria

Numerical criteria identified in the Numerical Criteria Tables apply to the specified water bodies, and to their tributaries, distributaries, and interconnected streams and water bodies if they are not specifically named therein, unless it can be shown through a use attainability analysis that unique chemical, physical, and/or biological conditions preclude the attainment of the criteria. In those cases, natural background levels of these conditions may be used to establish site-specific water quality criteria. Those water bodies officially approved and designated by the state and EPA as intermittent streams, man-made watercourses, or naturally dystrophic waters may be excluded from some or all numerical

criteria during specified seasonal periods as defined in LAC 33:IX.1123. Numerical criteria specifically apply to water quality conditions of state surface waters attributed to human activities or waste discharges as opposed to naturally occurring conditions.

6. Toxic Substances

Numerical criteria for specific toxic substances are listed in Table 1.

c. Criteria for human health are derived using EPA guidelines, procedures, and equations for both water bodies used as drinking water supplies and those not used as drinking water supplies are developed to protect that water supply for human consumption, including protection against taste and odor effects, and to protect it for primary and secondary contact recreation and to prevent contamination of fish and aquatic life consumed by humans. Criteria for water bodies not designated as drinking water supplies are developed to protect them for primary and secondary contact recreation and to prevent contamination of fish and aquatic life consumed by humans. In some cases, the maximum contaminant level (MCL) from the National Drinking Water Regulations, when more restrictive, is used in setting criteria. For those toxic substances that are suspected or proven carcinogens, an incremental cancer risk level of 10^{-6} (1 in 1,000,000) is used in deriving criteria, with the exception of 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD), in which case 10^{-5} (1 in 100,000) is used to derive the criteria.

f. A variance to statewide numerical criteria for toxic substances may be allowed to prevent the inappropriate application of toxic criteria to a specific water body. The variance provides a period of time during which issues concerning the appropriateness of the criteria may be resolved. A variance is temporary and shall last no more than three years. Any person may request that the office grant a variance. The office will approve or disapprove the variance only after appropriate public participation and EPA review and approval. Variances to toxic substances criteria are allowed only when at least one of the reasons listed below can be reasonably expected to cause non-attainment of water quality standards.

TABLE 1

NUMERICAL CRITERIA FOR SPECIFIC TOXIC SUBSTANCES

(In micrograms per liter (µg/L) or parts per billion (ppb) unless designated otherwise)

Toxic Substance	Aquatic Life Protection				Human Health Protection	
	Fresh Water		Marine Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic		

(TABLE 1 CONTINUED)

NUMERICAL CRITERIA FOR SPECIFIC TOXIC SUBSTANCES

(In micrograms per liter (µg/L) or parts per billion (ppb) unless designated otherwise)

Toxic Substance	Aquatic Life Protection				Human Health Protection	
	Fresh Water		Marine Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic		
	Other Organics					
46. 2,3,7,8-Tetrachloro-dibenzo-p-dioxin (2,3,7,8 TCDD) ³	--	--	--	--	0.71 ppq ³	0.72 ppq
	Metals					
47. Arsenic	360	190	69.00	36.00	50.0	--
48. Chromium III (Tri) ⁷	(980, 1700, 3100)	(120, 210, 370)	515.00	103.00	50.0	--
49. Chromium VI (Hex)	16	11	1.10 mg/L	50.00	50.0	--
50. Zinc ⁷	(65, 120, 210)	(59, 110, 190)	95.00	86.00	5.0 mg/L	--
51. Cadmium ⁷	(15.4, 33.7, 73.6)	(0.66, 1.13, 2.0)	45.62	10.00	10.0	--
52. Copper ⁷	(9.9, 19.2, 36.9)	(7.1, 12.8, 23.1)	4.37	4.37	1.0 mg/L	--
53. Lead ⁷	(34, 82, 200)	(1.3, 3.2, 7.7)	220.00	8.50	50.0	--
54. Mercury	2.4	0.012	2.10	0.025	2.0	--
55. Nickel ⁷	(790, 1400, 2500)	(88, 160, 280)	75.00	8.30	--	--

¹ ppq = parts per quadrillion

³ Advances in scientific knowledge concerning the toxicity, cancer potency, metabolism, or exposure pathways of toxic pollutants that affect the assumptions on which existing criteria are based may necessitate a revision of dioxin numerical criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 4:302 (August 1978), amended LR 10:745 (October 1984), LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:____ (October 1991).

§1115. Application of Standards

D. Mixing Zones

11. In those cases where unique site-specific conditions preclude the application of the critical flow requirements for Category 3 water bodies as stated in LAC

33:IX.1115.D.7 under Critical flow, the office may on a case-by-case basis approve an alternative critical flow when determining 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) permitted effluent concentrations. Any flow specification shall be protective of designated uses.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 4:302 (August 1978), amended LR 10:745 (October 1984), LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17: (October 1991).

J. Terry Ryder
Assistant Secretary

RULE

Office of Governor Division of Administration State Land Office

Under the authority of R.S. 50:171 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the commissioner of administration has adopted LAC 43:XXVII.Chapters 1-19, pertaining to Standards for a Statewide Land Information Mapping and Map Records System of all lands, private and public, within Louisiana.

These new rules and regulations establish standards for the development of accurate, complete and compatible geographic base map products which form the framework and foundation to facilitate subsequent land parcel mapping activities. Major topics addressed under these standards include uniform requirements for map accuracy, ground control densification, aerial photography, photo laboratory procedures, analytic aerial triangulation, digital mapping, geographic base map preparation, land parcel mapping, associated relational data base development, and standardized map feature elements. These standards outline the orderly development of each major phase of work to be accomplished in connection with the implementation of a Land Information System and establish minimum criteria necessary for acceptable completion of each phase.

H. Glen Kent, Jr.
Public Lands Administrator

RULE

Department of Health and Hospitals Board of Chiropractic Examiners

Pursuant to R.S. 49:951, et seq., the Board of Chiropractic Examiners has amended rules relative to advertising practices, patient billing, and the general practice of chiropractic.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXVII. Chiropractors

Chapter 3. Professional Conduct

§306. Itemized Patient Billing

A. When a chiropractic physician licensed under this Chapter renders professional services to a patient, the chiropractic physician shall submit to the patient, concurrent with the submission to the patient's insurance company or to the

administrative agency for any federal or state or municipal health program under which the patient is entitled to benefits; an itemized statement of the specific services rendered and the charge for each. This information shall be given to the patient within 30 days or the next regular billing cycle of the doctor, whichever occurs first. This rule will apply to any doctor who:

1. Takes assignment as full payment from the patient, and
2. Offers any discount in connection with the diagnosis and treatment or agrees to accept insurance payment for full settlement of the patient's bill.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2803E.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15: (November 1989), amended LR 17: (October 1991).

§307. Advertising Practices

* * *

1. Computer generated, or live, unsolicited, telephone canvassing, to prospective new patients shall be (is) prohibited.

2. Cash Payments for patient referrals is prohibited.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816 (C).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:51 (February 1976), amended LR 5:174 (July 1979), LR 13:343 (June 1987), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:963 (November 1989), amended LR 17: (October 1991).

Chapter 7. Peer Review Committee

§702. Guidelines

For the purpose of claims review, this board authorizes the use of The Chiropractic Manual, 2nd Edition as a reference for assessing the appropriateness of chiropractic health care. Recognizing that it is impossible to set forth specific parameters of care appropriate for each individual case, the board intends this manual to serve only as a general guide for standards of care within the chiropractic profession. Specifically, these guidelines are not meant to provide absolute "cut-off" points for treatment. In assessing appropriateness of care, it is imperative that the reviewer remain sensitive to the normal variants in a chiropractic practice and the necessity for treatment tailored to the specific needs of each individual patient. The level and frequency of treatment implemented should be in accordance with the physical and analytical findings substantiated by the appropriate reports and diagnostic information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804 G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 17: (October 1991).

§703. Procedure for Review

* * *

B. The review will be conducted upon request by any party as defined in Section 701(F). Participation will be made available to non-requesting party or parties. Participation by the non-requesting party or parties is not mandatory.

* * *

E. Appeals Process

An appeal of any decision rendered by the Peer Review Committee shall, at the option of the person appealing, either be:

1. Submitted to the members of Board of Examiners for review.

a. Any person aggrieved by a decision of the Peer Review Committee shall submit to the board within 10 days of receipt of notice of the ruling of the Peer Review Committee a notice of intent to appeal. All notices shall be forwarded via certified mail.

b. Upon receipt of the notice of appeal, the board shall notify the opposing party of appeal and schedule a hearing date.

c. The Peer Review Committee will then transfer the record to the board.

d. The appealing party may submit additional evidence or material within 20 days of the hearing and the opposing party may reply within 10 days of the scheduled hearing.

e. The parties may present oral argument to the board at the appeal hearing. Each party will be allowed 20 minutes.

f. The decision of the Board of Chiropractic Examiners shall be final.

2. Placed in Binding Arbitration

a. Arbitration shall be conducted by a committee of three chiropractors: one chosen by the treating chiropractor, one by the insurer, patient, or whoever constitutes the opposite party in dispute, and the third chiropractor chosen by the originally selected two. All parties involved shall agree in advance to abide by the decision of the arbitration committee.

b. The aggrieved party shall notify the board of his intent to appeal by binding arbitration within 10 days of receipt of notice of the ruling of the Peer Review Committee. All notices shall be forwarded via certified mail.

c. The board will schedule the appointment of arbitrators giving the appealing and opposing parties 25 days to select an arbitrator, then giving the two arbitrators an additional 10 days to select the third arbitrator.

d. The Arbitration Panel will schedule a hearing within 60 days of the formation of the panel.

e. The Peer Review Committee will forward the record to the arbitration committee.

f. The appealing party may submit additional evidence or material within 20 days of the hearing and the opposing Party may reply within 10 days of the scheduled hearing.

g. The parties may present oral argument to the Arbitration Committee at the appeal hearing. Each party will be allowed 20 minutes.

h. The decisions of the Arbitration Panel shall be final.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804 G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989), amended LR 17: (October 1991).

Dr. J. Michael Flynn, D.C.
Board President

RULE

Department of Health and Hospitals Board of Examiners for Nursing Home Administrators

In accordance with the provisions of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950, the Board of Examiners for Nursing Home Administrators hereby amends its rules and regulations governing nursing home administrators, LAC 46:XLIX.Chapters 1 through 17.

Copies of the rules may be obtained through the Office of State Register, 1051 Riverside North, Baton Rouge, LA or through the Board of Examiners for Nursing Home Administrators, 4560 North Boulevard, Suite 115A, Baton Rouge, LA.

Winborn E. Davis
Executive Director

RULE

Department of Health and Hospitals Office of Public Health

Section 301 (a) of the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Eliminating System (NPDES) permit. The United States Environmental Protection Agency has issued a draft general NPDES permit (LAG5550200) for the state of Louisiana for privately owned facilities with a design flow of less than 2,500 gallons per day. Whereas Chapter XIII of the Louisiana State Sanitary Code regulates the design, operation, and maintenance of individual sewage systems, and the provisions of the above noted general permit are applicable to individual sewage systems, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has made the following changes/additions to Chapter XIII of the Louisiana State Sanitary Code in order to provide regulatory conformity:

CHAPTER XIII SEWAGE DISPOSAL

Subpart A - Definitions

Add:

Daily Maximum means the highest allowable daily concentration during the calendar month.

Grab Sample means an individual sample collected in less than 15 minutes.

Individual Sewage System Effluent Limitations means a sewage effluent water quality standard which prescribes a maximum 30-day average concentration of 30 milligrams per liter (mg/l) and a daily maximum concentration of 45 mg/l for the parameters of biochemical oxygen demand (five-day) and total suspended solids. The daily maximum and the 30-day average concentrations shall be based on grab sample(s) analysis results. Sample analysis shall be done in accordance with "Standard Methods for the Examination of Water and Wastewater."

30-Day Average is the arithmetic mean of the daily values for all effluent samples collected during a calendar month.

Change to read:

Secondary Treatment Standard means a sewage effluent water quality standard which prescribes a maximum 30-day average concentration of biochemical oxygen demand (five-day) of 30 milligrams per liter (mg/l), a maximum seven-day average concentration of biochemical oxygen demand (five-day) of 45 mg/l, and a maximum daily average concentration of biochemical oxygen demand (five-day) of 60 mg/l. The daily average concentration shall be based on at least three effluent portions collected at time intervals no shorter than one hour each and combined in a flow-weighted composite. The 30-day average, seven-day average, and the daily average are the arithmetic means of the values for all effluent samples collected in each said period.

Subpart D - Individual Sewage Systems

Change to read:

13:015 Maintenance and Operation: Individual sewage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with the individual sewage system effluent limitations and to avoid creating or contributing to a nuisance to the public.

Add:

13:019-1(9) for individual lots or sites, regardless of size, when the installation of an individual sewage system is proposed in order to renovate or replace a preexisting inadequate or malfunctioning individual sewage system. Such installation may be allowed when, in the opinion of the state health officer, a public health hazard or nuisance will not result. This provision shall apply to the renovation or replacement of preexisting systems only and shall not be utilized to circumvent other requirements, particularly those relative to minimum lot size for new residences and subdivision development, of this Code.

APPENDIX A
Regulations Controlling the Design
and Construction of
Individual Sewage Systems
I. Septic Tanks

Add:

1.22 Abandoned septic tanks (tanks no longer in ac-

tive use) shall be pumped out by a licensed sewage hauler, then removed or the cover discarded and the tank filled with soil to natural grade.

III. Absorption Trenches

Change 3.15 to read:

Field pipes must consist of perforated non-metallic pipe. In every case, the minimum acceptable diameter is four inches. Although the trench bottom is level, the field pipes must be laid on a slope between two to three inches per 100 feet to provide even distribution of the liquid throughout the trench.

Change 3.16 to read:

The field pipe must be surrounded by clean, graded gravel or rock, broken, hard-burned clay brick or other approved material. The bed material may range in size from one-half inch to 2.5 inches. The gravel must extend from at least two inches above the top of the pipe to at least six inches below the bottom of the pipe. The top of the stone should be covered with either untreated building paper, a two-inch layer of hay or straw, burlap, or similar pervious material to prevent the gravel from becoming clogged by the earth backfill (see Figure 4).

IV. Oxidation Ponds

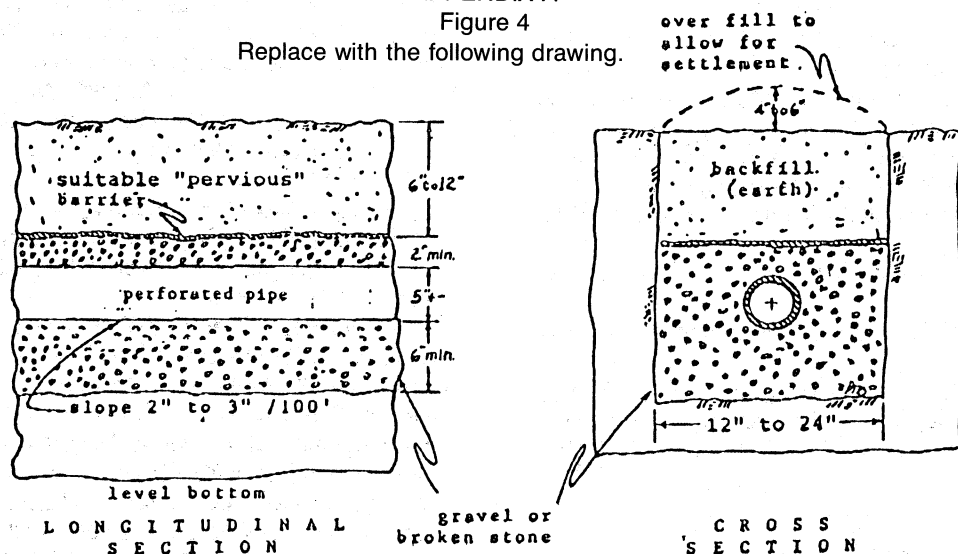
Change to read:

4.9 The pond shall be enclosed by a suitable non-climbable fence to keep out children, pets and livestock. An open type fence (woven wire) is preferable because it will not restrict sunlight and air which are necessary for the treatment. The fence shall be at least five feet in height and be provided with a locked gate.

Add:

4.10 Abandoned oxidation ponds (ponds no longer in active use) shall be pumped out by a licensed sewage hauler, then filled with soil to natural grade.

APPENDIX A
Figure 4
Replace with the following drawing.



ABSORPTION TRENCH AND LATERAL DETAILS

July 1991

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

J. Christopher Pilley
Secretary

RULE

**Department of Health and Hospitals
Office of the Secretary**

The Department of Health and Hospital (DHH) is applying for Block Grant Federal Funding for FY 1991-92 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register* Vol. 47, No. 129, Tuesday, July 6, 1982, pages 29472-29493. DHH will continue to administer programs funded under the Block Grants in accordance with provisions set forth in Public Law 97-35 and the federal regulations.

The Block Grants and the Offices responsible for program administration are as follows:

1. Alcohol Drug Abuse and Mental Health Services - Office of Human Services Division of Mental Health and Division of Alcohol and Drug Abuse. Inquiries and comments may be addressed to Jerry Vincent, Assistant Secretary, Office of Human Services, Box 4049, Baton Rouge, LA 70821. The application is available for review at any mental health facility.

2. Maternal and Child Health Services - Office of Public Health. Inquiries and comments may be addressed to Joel L. Nitzkin, MD, Assistant Secretary, Office of Public Health, Box 60630, New Orleans, LA 70160. The application is available for review at any regional OPH facility.

3. Preventive Health and Health Services - Office of Public Health. Inquiries and comments may be addressed to Joel L. Nitzkin, MD, Assistant Secretary, Office of Public Health, Box 60630, New Orleans, LA 70160. The application is available for review at any regional OPH facility.

Copies of these Block Grants may be obtained through the offices listed above or through the Office of the State Register, 1051 Riverside North, Baton Rouge, LA.

J. Christopher Pilley
Secretary

RULE

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

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 32:414, R.S. 32:667 and R.S. 32:668, the Department of Public Safety and Corrections, Office of Motor Vehicles, amends the following rule.

**Title 55
PUBLIC SAFETY
Part III. Motor Vehicles**

**Chapter 2. Administrative Procedure
§201. Suspension, Revocation, or Cancellation of License, Administrative Hearings**

E. Assignment of Hearing; Discovery; Expert Witnesses

1. Each hearing shall be assigned for a specific time, date and place to an individual administrative law judge.

2. Except for implied consent cases, discovery may be obtained by written agreement between the parties, provided that such discovery does not interfere with or postpone a scheduled hearing date. Due to the time constraints placed by law on suspension of driver's licenses, discovery in implied consent hearings will be confined to inspection or copying of the documents in the prima facie case presented by the state. Any interested person may inspect or copy any documents in the case file after it has been supplied to the presiding administrative law judge. Otherwise, documents may be inspected or copied by request made to any other section within the department upon compliance with the rules of that section. Copies may be made by means of any copying device supplied by the person desiring copies.

3. Expert witnesses may be subpoenaed at the request of any party upon receipt of a money order, cashier's check or attorney check, made payable in the name of each expert witness in whatever amount has been agreed to between the party requesting the subpoena and the witness. The request to subpoena the expert witness should accompany the request for the hearing, but in any case must be made in writing addressed to the Administrative Hearing Section, postmarked or received at least 15 days prior to the date fixed for hearing, and must provide the full name and address of the witness to whom the subpoena is to be directed, plus a summary of the opinion testimony expected to be adduced.

4. The administrative law judge shall evaluate the qualifications of the witness prior to being accepted as an expert and prior to any testimony being taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:414, R.S. 32:667 and R.S. 32:668.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1095 (December 1989), amended LR 17: (October 1991).

Marlin A. Flores
Deputy Secretary

RULE

**Department of Public Safety and Corrections
Office of State Fire Marshal**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1651, et seq., notice is hereby given that the Office of State Fire Marshal adopted the following rules and amend the regulations

of those businesses which engage in the installation and servicing of portable fire extinguisher fire suppression systems, fire detection and alarm systems. The text of the amendments are as follows:

**Title 55
PUBLIC SAFETY
Part V. Fire Protection**

Chapter 30. Fire Extinguisher and Fire Detection and Fire Alarm System Rules

§3011. National Institute for the Certification in Engineering Technologies

A. Due to the time constraints inherent in becoming certified by the National Institute for the Certification in Engineering Technologies (NICET), at Level III, in the appropriate discipline, the Office of State Fire Marshal adopts the following schedule of compliance.

1. Each certified firm or each firm seeking certification shall have at least one employee who is NICET Level II certified in the appropriate discipline on or before January 1, 1993.

2. Each certified firm or each firm seeking certification shall have at least one employee who is NICET Level III certified in the appropriate discipline on or before January 1, 1996.

C. No firm engaged exclusively in the business of the installation or servicing of portable fire extinguishers (Class A) or pre-engineered fire suppression systems (Class B and B-1) or the installation and servicing of fire detection and alarm systems in small business (Class D-1) or hydrostatic testing (Class E) shall be compelled to comply with the NICET requirements described above.

D. In lieu of the NICET CERTIFICATION requirements as detailed above, the fire marshal shall have the authority to determine that an equivalent level of expertise exists based upon an applicant's experience, training or other testing and certifications offered by industry. If the fire marshal determines that equivalent expertise is achieved, the fire marshal may grant an extension of time within which the applicant must obtain the required NICET Level III certification.

§3013. Definitions

The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise:

F. 1. Class "B" Certificate - Authorizes a firm to engage in the business of certifying, installing or servicing pre-engineered fixed fire extinguisher systems and those business activities specifically authorized by a Class "B-1" Certificate.

2. Class "B-1" Certificate - Authorizes a firm to engage in the business of certifying, installing or servicing pre-engineered fixed fire extinguisher systems containing wet or dry chemical agents within a kitchen ventilation system.

H. 1. Class "D" Certificate - Authorizes a firm to engage in the business of planning, installing, supervising and certifying fire detection and alarm systems and those business activities specifically authorized by a Class "D-1" Certificate.

2. Class "D-1" Certificate - Authorizes a firm to engage in the business of planning, installing, supervising and

certifying fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire alarm and detection system.

§3017. Licenses

B. Types of Licenses. Each license shall be identified by the type, which indicates the authorized act or acts which may be performed by the licensee and are defined as follows:

4. Class "B-1" Installer's License authorizes the person to install pre-engineered fixed extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

5. Class "B-1" Technician's License authorizes the person to plan, install, service, supervise and certify pre-engineered fixed fire extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

6. Class "C" Installer's License authorizes the person to install engineered fixed fire extinguishing systems.

7. Class "C" Technician's License authorizes the person to plan, install, service, supervise and certify engineered fixed fire extinguishing systems.

8. Class "D" Installer's License authorizes the person to install fire detection and alarm systems.

9. Class "D" Technician's License authorizes a person to plan, install, supervise and certify fire detection and alarm systems.

10. Class "E" Hydrostatic Tester's License authorizes the person to perform hydrostatic testing.

11. Class "D-1" Installer's License authorizes the person to install fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire detection and alarm system.

12. Class "D-1" Technician's License authorizes the person to plan, install, service, supervise and certify fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire detection and alarm system.

§3023. Applications for Certificates of Registration

B. The application for Certificates of Registration shall:

6. be accompanied by:

c. A current certificate of insurance issued to the Office of State Fire Marshal as required by R.S. 40:1654. The minimum amount of liability insurance shall be determined by the Class of Certification and shall be as follows:

i. Class A Certificate	(portables)	\$ 300,000
ii. Class B Certificate	(pre-engineered)	\$ 500,000
iii. Class B-1 Certificate	(hood) kitchen	\$ 500,000
iv. Class C Certificate	(engineered)	\$ 1,000,000
v. Class D Certificate	(alarm)	\$ 500,000
vi. Class D-1 Certificate	(small alarm)	\$ 300,000
vii. Class E Certificate	(hydrostatic)	\$ 500,000

§3031. Fees-Specific Information

A. Certificates of Registration Fees

1. Original (Initial) Application Fees: Except for the Class E Certificate of Registration, which is \$50, the first Class of Certification selected is \$450, while each additional

Class of Certification is \$100 per additional class. Note: regardless of how many classes you originally desire, Class E Certification will remain \$50.

c. Original Hydrostatic Testing Certification Fees (R.S. 40:1653(E)) \$50

2. Renewal Fees

a. The renewal fees accessed for a timely application for a certification of registration shall be as follows:

- i. Class A Certificate (portables) \$ 150
- ii. Class B Certificate (pre-engineered) \$ 100
- iii. Class B-1 Certificate (hood) kitchen \$ 50
- iv. Class C Certificate (engineered) \$ 100
- v. Class D Certificate (alarm) \$ 100
- vi. Class D-1 Certificate (small alarm) \$ 50
- vii. Class E Certificate (hydrostatic) \$ 50

b. A penalty shall be accessed in accordance with R.S. 40:1657(E) for the untimely renewal of a certificate of registration.

c. Repealed.

C. Fees for All Classes of Licenses Except Class E

E. Fees for Class E Licenses

- 1. Original (Initial) license fee \$25
- 2. Renewal license fee \$25

V.J. Bella
State Fire Marshal

RULE

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

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III., Subpart 5. Job Opportunities and Basic Skills Training Program.

This rule is mandated by federal regulations at 45 CFR 251.4 and 45 CFR 251.5 concerning Program Participant Employment Protection.

**Title 67
DEPARTMENT OF SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Job Opportunities and
Basic Skills Training Program**

**Chapter 29. Organization
Subchapter A. Designation and Authority of State Agency
§2901. Implementation**

C. Program Administration

2. Responsibilities of Office of Eligibility Determinations

c. Louisiana will implement a grievance procedure, as mandated by federal regulations at 45 CFR 251.4, for resolving displacement complaints by regular employees or their representatives relating to Project Independence partici-

pants. Also, a grievance procedure will be implemented in accordance with federal regulations at 45 CFR 251.5 for resolving complaints by or on behalf of Project Independence participants in a work-related program or activity. This grievance procedure will hear complaints relating to on-the-job working conditions, worker's compensation coverage and wage rates used to calculate the hours of participation required of participants in the Community Work Experience Program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 45 CFR 250.33, R.S. 460.3(A)(3), 45 CFR 251.4 and 45 CFR 251.5.

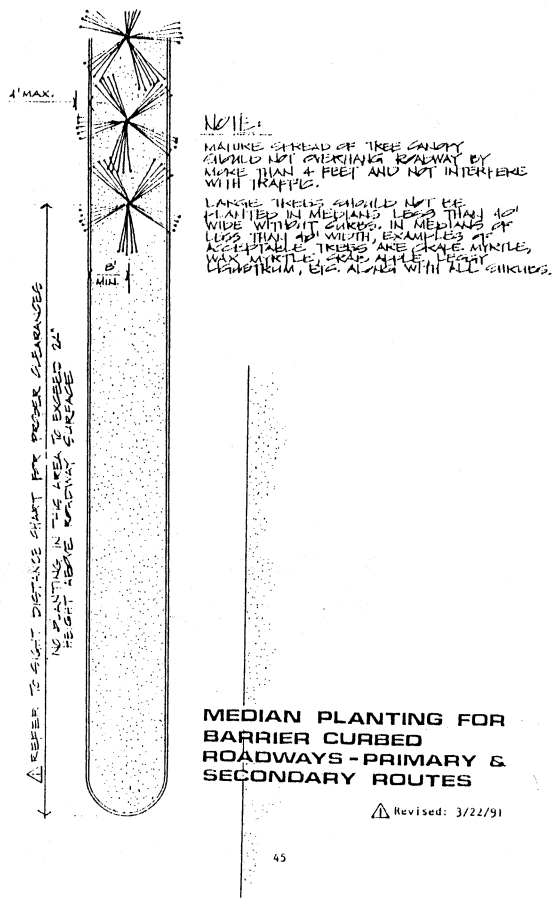
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations in LR 16:626 (July 1990), LR 16:1064 (December 1990), amended LR 17: (October 1991).

May Nelson
Secretary

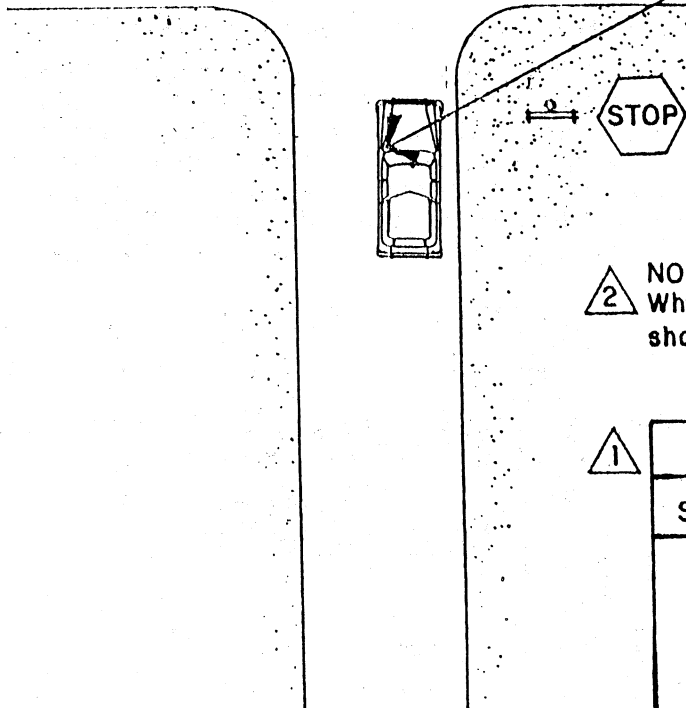
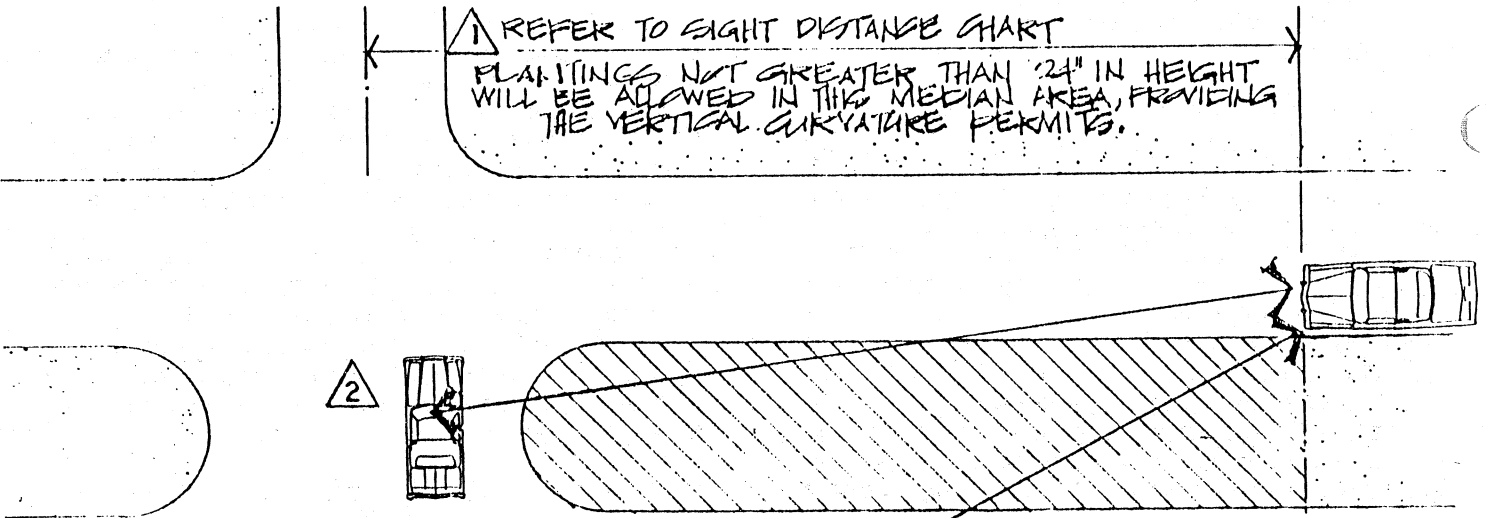
RULE

Department of Transportation and Development

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Department of Transportation and Development amended its rule entitled "Policy for Roadside Vegetation Management", pages 45 and 47, in accordance with the provisions of Act 682 of the 1989 Regular Session.



1 REFER TO SIGHT DISTANCE CHART
 PLANTINGS NOT GREATER THAN 24" IN HEIGHT
 WILL BE ALLOWED IN THIS MEDIAN AREA, PROVIDED
 THE VERTICAL CURVATURE PERMITS.



NOTE:
 2 When the median width is greater than 30', it shall be treated as two intersections.

1

SIGHT DISTANCES FOR INTERSECTIONS	
Speed (MPH)	Distance (Ft.)
30	300
40	400
50	500
55	550

Source - Transportation Engineers Handbook, 1982
 Edition (Table 19-8)

SIGHT DISTANCE REQUIREMENTS AT TYPICAL INTERSECTION

1 Revised: 3/22/91

2 Revised: 5/7/91

Joseph L. Wax
 Deputy Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with R.S. 49:950 et seq. the Wildlife and Fisheries Commission hereby adopts the following rule.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§153. Bowfin Minimum Size Regulation

The Louisiana Wildlife and Fisheries Commission hereby:

A. establishes a statewide 22" minimum size limit on bowfin (*Amia calva*) harvested for commercial purposes;

B. prohibits commercial fishermen, while on the water, from possessing bowfin eggs that are not naturally connected to a whole fish.

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

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17: (October 1991).

James H. Jenkins, Jr.
Chairman

1. An applicant who is admitted to and takes an examination other than a written examination may be allowed to test up to three times in any 12-month period provided at least four weeks have lapsed from the date he last took the examination.

EXPLANATION

For purposes of test security, major test publishers recommend only one administration per lifetime and certainly not more than one per year. Our current rules allow all applicants to test up to three times in a 12-month period, thus causing additional test exposure.

This proposal would limit testing to basically once per year (except the typing test), less two months to assure applicants could always keep a current active score for the job they are seeking.

The typing test is divided into two equal parts; the written portion and the skills (typing) portion. Currently, both parts must be taken as one test. We eventually wish to separate the two parts, administering the skills part of the test, and scoring that part before the candidate applies to take the remainder of the exam (the written part). Until this separation occurs, however, we intend to allow typists to continue to test three times per year.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to the director of Civil Service at Box 94111, Baton Rouge, LA 70804-9111.

Herbert L. Sumrall
Director

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

The Civil Service Commission will hold a public hearing on Wednesday, November 6, 1991, to consider a proposed amendment to Civil Service Rule 7.4. The hearing will begin at 8 a.m. in the Commission Hearing room in the DOTD Annex Building at 1201 Capitol Access Road, Baton Rouge, LA.

The proposed amendment to be heard at the meeting is as follows:

AMEND RULE 7.4(d)

7.4 Admission to Examinations

(a) - (c)

(d) An applicant who is admitted to and takes an examination shall not be admitted to take the same examination again for any job until a period of at least 10 months has elapsed from the date he last took the examination. The applicant's official grade shall be the one obtained on his most recent examination.

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

The Civil Service Commission will hold a public hearing on Wednesday, November 6, 1991, to consider proposed changes to Civil Service Rules. The hearing will begin at 8 a.m. in the Commission Hearing Room in the DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

The following are proposed amendments to be considered at the meeting:

AMEND RULE 6.25(c)

6.25 Caps on Accumulation of Compensatory Leave.

(a) - (b) . . .

(c) Compensatory leave earned hour for hour at and above GS 18 in the General Schedule and MS 62 in the Medical Schedule may be accrued in excess of 360 hours, but not more than 360 hours may be carried forward at the end of each calendar year.

Compensatory leave earned hour for hour at and below GS 17 in the General Schedule and MS 61 in the Medical Schedule may be accrued in excess of the following limitations, but

1. not more than 240 hours may be carried forward after December 31, 1992.

2. not more than 120 hours may be carried forward after December 31, 1993.

3. no compensatory leave may be carried forward after December 31, 1994.

Compensatory leave earned hour for hour at and below GS 17 in the General Schedule and MS 61 in the Medical Schedule shall be paid at the regular hourly rate for all hours over the above limitations. Transfer, cancellation and crediting of compensatory leave is provided for under the provisions of Rule 11.29.

EXPLANATION

This amendment would prevent the loss of compensatory leave earned in excess of 360 hours at the end of each calendar year under the present rule for employees at and below GS 17 in the General Schedule and MS 61 in the Medical Schedule.

AMEND RULE 11.29(e)

11.29 Compensatory Leave.

(a) - (e) . . .

1. . . .

2. (a) All unused compensatory leave earned hour for hour at and above GS 18 in the General Schedule and MS 62 in the Medical Schedule may be paid upon his separation or transfer from the department in which he earned it at the final regular rate received by the employee, excluding premium pay, shift differential and non-cash compensation.

(b) All unused compensatory leave earned hour for hour at and below GS 17 in the General Schedule and MS 61 in the Medical Schedule shall be paid upon his separation or transfer from the department in which he earned it at the final regular rate received by the employee, excluding premium pay, shift differential and non-cash compensation.

3. All unused compensatory leave earned hour for hour at and above GS 18 in the General Schedule and MS 62 in the Medical Schedule, if not paid to the employee upon separation shall be cancelled upon his separation or transfer from the department in which he earned it. Such leave shall not be recredited to him upon his reemployment in that or any other department.

EXPLANATION

This amendment would prevent the loss of compensatory leave when an employee at and below GS 17 in the General Schedule and MS 61 in the Medical Schedule separates or transfers from the department in which it was earned.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to the Director of Civil Service at Box 94111, Baton Rouge, LA 70804-9111.

Herbert L. Sumrall
Director

NOTICE OF INTENT

Department of Economic Development Economic Development Corporation

In accordance with R.S. 47:4311-4319 and the Administrative Procedure Act, the Department of Economic Development, Economic Development Corporation, hereby gives notice of its intent to amend LAC 13:1.Chapter 13 regarding Restoration Tax Abatement.

Title 13 ECONOMIC DEVELOPMENT Part I. Commerce and Industry Subpart 1. Finance

Chapter 13. Restoration Tax Abatement

§1301. General

A. Intent of Law. To encourage the expansion, restoration, improvement, and development of existing commercial structures and owner-occupied residences in downtown, historic, and economic development districts. To provide for the development and improvement of local communities, encourage the fullest use of underutilized resources, and enhancement of the tax base.

B. Program Description. The Restoration Tax Abatement Program provides to commercial property owners and homeowners who expand, restore, improve or develop an existing structure in a downtown development district, economic development district or historic district (the "project"), the right for five years after completion of the work, to pay ad valorem taxes based on the assessed valuation of the property for the year prior to the commencement of the project.

1. The application is subject to approval by the local governing authority, the State Board of Commerce and Industry, and the governor. Assessment of the improvements, made by the project to the property, is deferred for five years by a contract entered into with the Board of Commerce and Industry. The contract may be eligible for renewal, subject to the same conditions, for an additional five years. The tax abatement is now available if property taxes have been paid on the improvements made by the project. If the property is sold, the contract may be transferred, subject to local government and board approval.

2. The program is administered by the Louisiana Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division. For more information contact the Restoration Tax Abatement Program Administrator, Box 94185, Baton Rouge, Louisiana 70804-9185. Telephone 504/342-5398.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

§1303. Time Limits for Filing Application

A. The applicant shall submit an "Advance Notification" on the prescribed form prior to the beginning of construction. An advance notification fee of \$100 shall be submitted with the advance notification form. The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins.

B. Application for tax exemption should be filed with the Office of Commerce and Industry, Box 94185, Baton Rouge, Louisiana 70804-9185 on the form prescribed prior to the beginning of construction. Failure to file an application prior to construction may result in the application being denied.

C. An application fee (effective May 4, 1988) shall be submitted with the application based on the following:

1. 0.2 percent of the estimated total five-year property tax exemption;

2. minimum application fee is \$200, maximum application fee is \$5000;

3. please make checks payable to: Louisiana Office of Commerce and Industry.

D. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications, applications, or affidavits of final cost which have been accepted, may not be refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

§1305. Application Requirements

A. The application must be complete (any exceptions must be authorized by C and I staff). All sections of the application form RTA1 must be filled in. Under Section 5, submit at least a one paragraph detailed description of the project with some historical overview, if applicable. For "ESTIMATED NO. OF JOBS," list only the net new permanent jobs which will be created as a result of the project being applied for; do not list permanent jobs which existed prior to the beginning of the project. In addition all applicable addendum documentation, listed under "Project Documentation," must be received. The application will be returned to the applicant if the required information is not received.

B. The expansion, restoration, improvement or development must be made to an existing structure and must be located in a downtown development district, economic development district or historic district.

C. If the construction period is longer than two years, the project must be divided into two-year phases, and a separate application must be filed for each two-year increment. A separate application must be filed for each structure being restored, renovated, improved or developed. Exceptions to this Paragraph must be approved in advance by the authorized representative of the board, and approved by the board.

D. The expansion, restoration, improvement or development of a certified historic structure shall also be required to meet the National Park Service requirements for restoration projects known as the secretary of the Interior's "Standards for Rehabilitating Historic Structures"; and, as interpreted by the Louisiana Department of Culture, Recreation, and Tourism, Division of Historic Preservation. As used in this Subsection, the phrase "certified historic structure" means any building including its structural components, which:

(1) is listed on the National Register of Historic Places;

or

(2) is located in a registered historic district and is listed as a contributing element of that district in the National Register records under authority of the Secretary of the Interior.

E. The Board of Commerce and Industry will not consider for tax exemption any expansion, restoration, improvement or development project if substantial completion of a commercial project occurred prior to October 15, 1982. For an owner-occupied residence, construction must not have

been started prior to September 7, 1990.

F. Pursuant to R.S. 47:4315(A)(4), under no circumstances will the Board of Commerce and Industry consider an application for abatement on any project for expansion, restoration, improvement or development once ad valorem taxes have been paid on the basis of an assessed valuation which reflects the improvements made by the project.

G. When the expansion, restoration, improvement, or development is to be made to an owner-occupied residence, a contract of exemption shall not be available unless a minimum rehabilitation cost equal to or greater than 25 percent of the assessed valuation of the improvements located on the property for the year prior to the commencement of the expansion, restoration, improvement, or development of the owner-occupied residence is incurred by the owner and such expansion, restoration, improvement, or development is completed within a 24-month period. "Owner-occupied residence" means any structure occupied by the owner and used principally for residential use including condominium units, duplexes, and other multiple residence structures. Owner-occupied residence projects shall not have been started prior to September 1, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

§1307. Project Documentation

A. Application is to be filed with the Office of Commerce and Industry. Please return four application forms (RTA1) completed, signed and notarized. The application should include a complete description of the project. Attach additional pages if necessary. In addition, two complete sets of the addendum documentation, Paragraphs 1-6 and either Paragraphs 7 or 8 of Subsection B are required for all projects. For projects involving owner-occupied residences Paragraphs 9 and 10 must also be included. The Office of Commerce and Industry may request additional information.

B. The following addendum documentation must be submitted with the application: (Please denote each document with one of the numbers below)

1. Proof of Ownership: Act of sale or option to acquire the property.

2. A legal property description (suitable for insertion into the exemption contract - retype if necessary), a plot map; a copy of the building permit issued for the project.

3. Picture of the structure before beginning the project and a rendering of the structure as it will appear after completion of the project.

4. Names and addresses of all owners (the general partner(s) or, the principal stockholders of the corporation).

5. The assessed value of the structure only (improvements) and the taxes paid on the structure only.

6. A copy of the tax invoice for the year prior to commencement of the project from the Parish Assessor.

7. Certification from the local governing authority that the structure is in a downtown development district, an historic district, or an economic development district specifically designated as such for this program.

8. If the project is a 'certified historic structure' as defined in §1305 (B), Certification from the Louisiana Department of Culture, Recreation, and Tourism, Division of Historic Preservation that the project meets the National Park Service

requirements for restoration projects known as The Secretary of the Interior's "Standards for Rehabilitating Historic Structures." This is mandatory if the project is located in downtown New Orleans or downtown Shreveport.

9. A statement certifying that the minimum rehabilitation cost incurred to the owner-occupied residence project will be equal to or greater than 25 percent of the assessed valuation of the improvements located on the property prior to the commencement of the expansion, restoration, improvement, or development; and

10. A statement certifying that the owner-occupied residence project will be completed within a 24-month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

§1309. Local Governing Authority Certification and Approval

A. R.S. 47:4314(B), requires the exemption to be certified and approved by each local governing authority which is defined in R.S. 47:4313(5):

"'Local governing authority' means the governing authority of the parish in which the downtown, historic, or economic development district is located unless the district is located within a municipality, in which case 'local governing authority' shall mean the governing authority of the municipality. If the district is located partly in a municipality, 'local governing authority' shall mean the governing authority of the parish and the governing authority of the municipality."

B. Upon receipt of the application, the local governing authority shall notify each tax recipient body affected by the contract for a limited exemption and shall make available to each body the application and all supporting documents.

C. The parish or municipal governing authority shall certify that the property on which the expansion, restoration, improvement or development is being made is located within an established downtown, historic, or economic development district, whether established by a local governing authority or in accordance with law. This certification shall be submitted to the Office of Commerce and Industry with its decision to approve or disapprove.

D. The local governing authority shall determine whether the applicant's land usage meets the definition of "commercial property" based on their zoning ordinance, land use plan, downtown or economic revitalization plan, or any other development code and shall certify that the property meets their criteria. This certification shall be submitted to the Office of Commerce and Industry along with their recommendation.

E. Before notifying the board of its approval or disapproval of the application, the local governing authority shall conduct a public hearing. Notice of the time and place of the hearing shall be published at least twice in the official journal of the local governing authority, and at least 10 days shall elapse between the first publication and the date of the hearing. Each affected tax recipient body shall be given written notice of the hearing at least 10 days prior to such hearing. After such hearing, the local governing authority shall deter-

mine whether to approve or disapprove the application.

F. The local governing authority shall, within 60 days after receipt of the application from the Office of Commerce and Industry, file with the department a statement of its decision to approve or disapprove the application, the reasons therefor, and any supporting documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

§1311. Effective Date of Contract

A. The owner of the existing structure or structures, shall carefully document the beginning date of the effective use of the structure, and also document the date that construction is essentially complete. The contractee must file that information with the Office of Commerce and Industry on the prescribed Project Completion Report within 30 days following the last day of the month after effective use of the structure has begun or construction is essentially completed, whichever occurs first. The Office of Commerce and Industry will indicate with a return of a copy of that report the effective date of the tax exemption contract, which shall be December 31 of the year in which effective use of the structure began or construction was essentially complete, whichever was sooner.

B. As the assessment date for Orleans Parish is August 1, the effective date of contract for a structure located in Orleans Parish shall be July 31 of the applicable year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

§1313. Affidavit of Final Cost

Within six months after construction has been completed, an affidavit of final cost showing complete cost of the exempted project shall be filed on the prescribed form together with a fee of \$100 for the inspection which will be conducted by the Office of Commerce and Industry. (Make check payable to the Office of Commerce and Industry.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

§1315. Reports to Parish Assessor

The property owner agrees to file annually with the assessor of the parish in which the structure is located any taxpayer's report required by law on forms furnished by the assessor in order that the exempted property, may be separately listed on the assessment rolls. Notwithstanding the fact, taxes will be collected on the exempt property during the period of exemption at the assessed valuation of the property the year prior to the commencement of the expansion, restoration, improvement, or development of the property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

§1317. Contract can be Transferred

If the property for which the limited exemption has been granted is sold the limited exemption may be transferred for the remainder of its term to the new owner, provided such transfer is approved by the local governing authority, the Board of Commerce and Industry, and the governor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

§1319. Violation of Rules or Documents

On the board's initiative or whenever a written complaint or violation of terms of the tax exemption rules or contract is received, the assistant secretary of the Office of Commerce and Industry shall cause to be made a full investigation on behalf of the board, and he shall have full authority for such investigation including, but not exclusively, authority to call for reports or other pertinent records or other information from the contractee. If the investigation substantiates a violation, he may present the subject contract to the board for formal cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

§1321. Contract Renewal

A. Effective January 1, 1991, contracts may be renewed, subject to the same conditions, for an additional five years extending such right for a total of 10 years from completion of the work.

B. In order to be eligible for renewal of an existing contract the Project Completion Report and affidavit of final cost, contract addendum documents, must have been filed for the original contract; taxes cannot have been paid on the improvements pursuant to R.S. 47:4315(A)(4); and a renewal application form must be submitted. The following documentation should be submitted:

1. three copies of the application, form RTA1, marked "RENEWAL," containing current data;

2. a written, notarized certification (three copies) from the applicant, referencing the original application/contract number, that "taxes have not been paid on improvements exempted under contract number (number), for (owner name), pursuant to R.S. 47:4315, Paragraph (A)(4) and the Restoration Tax Abatement Program rules."

3. a renewal fee check for \$50, payable to the Office of Commerce and Industry.

C. The same approval process, as used for the original application and contract, will be followed for renewal contracts. Applications must first be filed with the Office of Commerce and Industry. They will then be sent to the local governing authority for approval. If approved by the local governing authority, the application will be submitted to the Board of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 18:

Comments will be accepted orally or in writing through the close of business at 4:45 p.m., November 30, 1991 by

contacting Robert G. Berling, Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804, 504-342-5398.

R. Paul Adams
Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Restoration Tax Abatement Program

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

The Restoration Tax Abatement Program rules have been rewritten. New rules have been added to incorporate legislative changes and additions to Article III, Section 21(H) of the Constitution and R.S. 47:4311-4319.

Some minimal implementation costs will be incurred at the state and local level. No estimate is available. The proposed rule changes are the result of legislative changes to an existing program. The changes will impact only certain local governments currently using the program.

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

The state, and in some cases local governments, collect application fees to offset administration costs. Department of Economic Development application fees are estimated at \$950 for FY 91/92; \$300 for FY 92/93; and \$450 by FY 93/94. Local ad valorem property taxes will remain exempted for a second five-year period for contract approved for renewal. Exemptions of local ad valorem property taxes are estimated at \$3,257,864 for FY 91/92; \$966,653 for FY 92/93; and \$1,229,228 for FY 93/94. No estimates are available on the number or impact resulting from "owner-occupied residences" that will be received.

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

Act 1104, of the 1990 Legislative Session, a Constitutional Amendment to provide for a five-year extension of the exemption. The Constitutional Amendment was approved by voters on October 6, 1990 and became effective January 1, 1991.

Act 503, of 1990, adds a provision for owner-occupied residence projects "...must be greater than 25 percent of the assessed valuation of the improvements located on the property; and, must be completed within a 24-month period."

Act 237 of the 1991 Regular Session revised R.S. 47:4315(A)(2) to provide for review and approval by the Department of Culture, Recreation, and Tourism, Division of Historic Preservation of work to be done on historic structures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Restoration Tax Abatement Program provides to commercial property owners and homeowners who expand, restore, improve or develop an existing structure in a downtown development district, economic development district or historic district, the right for five years after

completion of the work, to pay ad valorem taxes based on the assessed valuation of the property for the year prior to the commencement of the project.

R. Paul Adams
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development State Licensing Board for Contractors

At its meeting on August 15, 1991, the State Licensing Board for Contractors made a motion which unanimously passed to amend the rule below to comply with Section 2157, Paragraph D, of R. S. 37:2150 - 2164, the Contractors' Licensing Law.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXIX. Contractors

Chapter 11. Bidding

§1107. Federal Projects

A. 1. A license shall not be required to bid on any projects funded in part by the federal government designated for a particular project by an agency of the federal government where a federal regulation or law prohibits such requirement, provided said agency presents specific evidence of a federal regulation or law prohibiting same in the bid documents. Should the agency fail to present such evidence, the bidder shall be required to have a license before bidding. Any successful bidder on any exempt project funded in part by the federal government shall submit an application for a license completed in its entirety and pay the fee prior to commencement of work on federal jobs. After meeting said requirements, a letter shall be issued to said successful bidder authorizing the commencement of work in accordance with R. S. 37:2157 (D). Thereafter, the application shall be presented to the board at its next regular meeting and following compliance with all remaining requirements including delay periods, a license shall be issued.

B. 1. There are excepted as provided in R.S. 37:2157(B), any public utility providing gas, electric, or telephone service which is subject to regulation by the Louisiana Public Service Commission or the Council of the city of New Orleans, or to any work performed by such utility in furnishing its authorized service.

2. Any contractor bidding or performing work for the public utilities set forth above shall comply with all the provisions of the contractors' licensing law and the rules and regulations promulgated thereunder.

Comments regarding the proposed rule change should be directed in written form to Ms. Joy Evans, State Licensing Board for Contractors, Box 14419, Baton Rouge, LA 70898.

Joy Evans
Assistant to the Board

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: LAC 46:XXIX.1107 Federal Projects

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional cost to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No additional costs involved.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No additional costs involved.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No additional costs involved.

Joy Evans
Assistant to the Board

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Office of Business Development

The Department of Economic Development, Office of Business Development Services, gives notice of its intent to adopt LAC 13:III.Chapter 1 relative to the Regional Economic Development Alliance Program.

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

Interested persons may comment on the proposed rule orally or in writing to Pat Robinson-Sanders, Box 94185, Baton Rouge, LA 70804-9185 until 4:45 p.m., November 29, 1992.

Kirsten A. Nyrop
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Regional Economic Development Alliance (REDA) Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be an initial REDA proposal preparation cost to local organizational entities, some are governmental, such as ports, but most are non-governmental, such as Economic Development Foundations and Chambers of Commerce; however, the cost will be minor since the "Solicitation for Proposal" is a simple, straightforward document. Once the local alliance is funded, the implementation costs are also limited. In fact, no money is provided for administration. All monies are to be used for projects. During FY 1991-92, \$1.5 million plus is allocated for the REDA Program. Additionally, \$204,404 will

be used for administration. The REDA Program will be administered by the senior staff from the former Development Division and now the new Office of Business Development Services. Staff includes a director, supervisor, three field specialists and one secretary. The costs for the first year will be \$1,704,404, for FY 1992-93 \$2,303,058 and FY 1993-94 \$2,385,968.

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

The basic purpose of the REDA Program is to strengthen the economic development efforts of the local EDOs--Economic Development Organizations--in the area of industrial recruitment, business retention, small business and entrepreneurial development and community economic development. Hence, the collection of both local and state revenue collections should increase. However, it is difficult to estimate the exact dollar impact since economic development benefits are long-term.

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

The monies from the FY 1991-92 REDA Program are being allocated to all parishes on an equitable basis using a simple formula which consists of the parish's percentage of the state's population and land area. Several formula variations were developed to determine the most equitable allocation among all parishes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since all areas of the state will be participating in the REDA Program, there will be no internal effect on intra-state competition and employment. The program is designed to affect interstate competition and employment by making Louisiana a more desirable business location for both the existing and relocating companies.

Kirsten A. Nyrop
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

Under the authority of the Louisiana Business and Industrial Development Corporation Act, LSA R.S. 49:950, et seq., the commissioner gives notice that rule making procedures have been initiated to implement the provisions of the Louisiana Business and Industrial Corporations Act (Act 506 of the 1991 Regular Session).

Title X

BANKS AND SAVINGS AND LOANS

Part I. Banks

Chapter 27. Business and Industrial Development Corporations

§2701. Declaration of Policy

It is the declared policy of the Office of Financial Institutions to provide for the licensing and regulation of Louisiana corporations as business and industrial development corporations authorized by Act 506 of the 1991 Louisiana

Legislature, which will aid in the increasing of job opportunities in this state; promote establishment of growth and expansion of business firms in this state; provide a vehicle to offer financing assistance and management assistance to business firms through the small business administration and to more effectively regulate and supervise Louisiana corporations licensed as business and industrial developments corporations to give greater permanence of existence and better assurance of uninterrupted service to business firms in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:

§2703. Definitions

This chapter contains definitions which supplement the definitions provided for in the Louisiana Business and Industrial Development Act, LSA R.S. 51:2386, et seq.

A. *Business and Industrial Development Corporation (BIDCO)* - means a Louisiana corporation organized to help meet the financing assistance and management assistance needs of business firms in the state of Louisiana.

B. *Incorporating Statute* - means the Louisiana Business Corporation Law, LSA R.S. 12:1 et seq, or any other provision of law under which a licensee is incorporated.

C. *Commissioner* - means the commissioner of the office of financial institutions of the Department of Economic Development.

D. *Applicant* - means a Louisiana corporation organized under an incorporating statute which applies to the commissioner for a license.

E. *Application* - an application shall consist of the necessary forms prescribed by the commissioner, submitted in a completed form to the commissioner with all supporting documents requesting that a license be granted.

F. *Person* - means a natural person or legal entity qualified to seek a license as a business and industrial development corporation.

G. *Business Plan* - a narrative providing a general description of the proposed business and industrial development corporation which should include at a minimum a description of the BIDCO's organizational structure; its location; the types of lending and financing it intends to offer and to whom; whether it intends to provide management assistance and if so, to what extent and to whom; and whether the BIDCO will operate as a profit or non-profit corporation.

H. *Institution Affiliated Party* - means a director, officer, employee, agent, controlling person, and other person participating in the affairs of the BIDCO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:

§2705. General Provisions

A. *Application and contents* - the application shall be in such form and contain such information as the commissioner may from time to time prescribe. The commissioner may refuse to accept an application for filing until the applicants have submitted all required information. The application will contain a public section and a confidential section. The public portion of the application shall consist of the com-

ments and information submitted by interested parties in favor of or in opposition to such application, the justification for preliminary approval, statement of purpose, description of the business, management and convenience and needs of the community. After the application is completed to the satisfaction of the commissioner, the application may be accepted for filing and for preliminary approval, if so requested.

B. Books and Records

1. A licensee shall make and keep its records in conformity with generally accepted accounting principles.

2. A licensee shall make and keep all of its records at its main office as identified in its application for a license, unless otherwise provided by the Louisiana Business and Industrial Development Corporation Act or at some other location authorized by prior written approval of the commissioner.

3. All books and records of a BIDCO shall be retained for the periods of time set in the regulation promulgated in Volume 9, No. 10 of the *Louisiana Register*, published October 20, 1983, which is incorporated herein by reference.

C. Commencement of Business - for purposes of this regulation, an applicant shall be deemed to commence business at the time when, the commissioner having issued such applicant a license, the applicant opens for the purpose of transacting business as a BIDCO pursuant to the Louisiana Business and Industrial Development Corporation Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:

§2707. Reports

A. The Board of Directors for each BIDCO licensed by the commissioner shall annually make a report of examination of the financial condition of the BIDCO and its subsidiaries. They may make said examination by employing an independent certified public accountant, their respective accounting firms, or by the use of an in-house auditor and clerical staff. All such audits of a BIDCO must meet the minimum standards promulgated by the Commissioner of Financial Institutions. To meet the minimum auditing standards, the board of directors shall employ the methods of auditing described in the regulation promulgated by the Office of Financial Institutions in Volume 16, No. 1 of the *Louisiana Register* dated January 20, 1990, which is incorporated herein by reference. This report of examination shall be submitted to the commissioner no later than March 31st of the calendar year following the period for which the report was prepared.

B. Election of directors - not more than 30 days after the election of any person as the director of a licensee, such licensee and such director shall file with the commissioner a report containing the following information:

1. name, address and occupation of the new director;

2. title of any office which the director previously held with the licensee and title of any office (other than the office of director) which the director currently holds with the licensee;

3. date of election of the director;

4. Manner of election of the director; (that is, whether by the board or by the shareholders)

5. In case a director is not an incumbent director or executive officer of the licensee, the licensee shall provide:

a. a personal financial statement and confidential re-

sumé on a form prescribed by the commissioner, containing the information called for therein, as of a date within 90 days before the filing of the report and signed by the newly elected director.

b. not more than 10 days after the appointment of any person as the chief executive officer of a licensee and not more than 30 days after the appointment of any person as any other executive officer of a licensee, such licensee and such executive officer shall file with the commissioner a report containing the following information:

i. name and address of the executive officer;

ii. title of the office to which the executive officer was appointed;

iii. a summary of the duties of the office to which the executive officer was appointed;

iv. date of appointment of the executive officer;

v. title of any office which the executive officer previously held with the licensee and title of any office (other than the office to which the executive officer was appointed) which the executive officer currently holds with the licensee;

vi. in case the executive officer was not, immediately before the appointment, an executive officer of the licensee, licensee shall provide a personal financial statement and confidential resumé on the form prescribed by the commissioner, containing the information called for therein, dated as of a date within 90 days before the filing of the report, and signed by the newly appointed executive officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:

§2709. Licensing Procedures, Instructions and Guidelines

A. The application shall contain the following specific information;

1. name of applicant;

2. date of application;

3. address of applicant;

4. Louisiana corporate certification number and certified copies of the articles of incorporation and initial report filed with the Louisiana Secretary of State;

5. a federal tax identification number;

6. phone number, address and zip code;

7. a copy of any by-laws executed by the board of directors;

8. the designation of a correspondent, agent or person responsible for responding to questions relating to the application;

9. a resolution of the board of directors of the applicant corporation authorizing, empowering and directing an officer of the applicant corporation to apply for a license as a BIDCO, and to sign said application;

10. financial statements for all incorporators and initial directors;

11. the justification for preliminary approval, if so requested in the application;

12. description of the BIDCO's business plan, in a narrative form, which shall include, at a minimum, the following;

a. a description of the BIDCO's statement of purpose and organization;

b. types of lending and financing it intends to offer and to whom;

- c. whether it intends to provide management assistance, and if so, to what extent and to whom;
- d. will the BIDCO be a profit or nonprofit corporation;
- e. proforma financial statements for the three consecutive years following the filing of the application, showing future earnings prospects;
- f. a proposed net worth structure as required by R.S. 51:2392(B)(2).

13. a list of all of the directors, officers and controlling persons;

14. biographical information concerning the proposed directors, officers and controlling persons, including personal information, resumé of each person's education, their employment record and prior associations or position with other BIDCO's and in what capacity in or out of Louisiana;

15. other pertinent information required by the commissioner.

B. Denial of License - the commissioner in his sole discretion may deny an application for a license as a Business and Industrial Development Corporation for the following non-exclusive reasons:

a. the applicant is not qualified as a BIDCO concern under R.S. 12:1 et seq.;

b. the applicant is in the process of having its charter revoked or is in litigation or in some other process affecting its further solvency or its status as a chartered organization;

c. the board of management of the applicant does not possess, in the judgement of the commissioner, sufficient competence to manage properly and prudently any funds which may be provided to it by a state funded assistance program;

d. the applicant has not demonstrated that it is fully conversant with the legislative intent of Act 506 of the 1991 regular session, "The Louisiana Business and Industrial Development Corporation Act" and with these regulations developed pursuant to it, and that it is not fully committed to carry out the letter and spirit of said law and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:

§2711. Small Business Administration

A. If an applicant desires to participate in a program of the Small Business Administration, (SBA) and it is indicated that it will have this as a significant portion of its business plan, it will be necessary to obtain SBA's approval before it can be licensed as a BIDCO.

B. When a BIDCO contemplates having at least one-half of its investments in qualified Small Business Administration loans, that shall constitute a significant portion of its business plan for purposes of this regulation.

C. If said approval cannot be obtained prior to the approval of the application for a license as a BIDCO, the commissioner in his sole discretion, may determine that the SBA approval is imminent, and may issue a license prior to final SBA approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:

The proposed rule is being promulgated to implement

the regulations and supervision of Business and Industrial Development Corporations; to state the declared policy of the Office of Financial Institutions with respect to these entities; to define certain terms to be used with respect to Louisiana Business and Industrial Development Corporations; to provide for general provisions; to provide for reports; to establish application and licensing procedures and to provide for participation in programs of the Small Business Administration. These proposed regulations are to become effective on January 20, 1992, or as soon thereafter as is practical upon publication in the *Louisiana Register*. A public hearing will be held on November 27, 1991, at 10 a.m. at the Office of Financial Institutions, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed regulations.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than November 29, 1991, at 4:30 p.m. to Gary L. Newport, Senior Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095.

Larry L. Murray
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Business and Industrial Development Corporations (BIDCOs)

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

The estimated implementation cost for this rule is \$3,476 for FY 91/92, \$2,825 for FY 92/93 and \$3,520 for FY 93/94. The agency anticipates no new hardware, employee costs, or professional services will be required to implement this rule. The similarity between BIDCOs and other financial services entities regulated by this agency will allow it to utilize existing personnel and equipment in the implementation process.

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

The agency anticipates an increase of \$10,000 in fiscal year 91/92; \$6,200 in fiscal year 92/93 and \$8,600 in fiscal year 93/94. There will be no impact on the revenue of local governmental units. Source of revenue will be derived from the licensing and annual examination fees provided for in the BIDCO legislation passed in the 1991 Regular Session.

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

The only estimated cost anticipated for person or non-governmental groups directly affected by this regulation will be those associated with the preparation of an application for licensing for a Business and Development Corporation. The economic benefits derived by BIDCO licensee will result from the fact that they will be making high-risk loans which other financial institutions and venture capital companies do not handle. Therefore the BIDCOs will be able to charge origination fees which are

substantially higher than conventional, commercial and mortgage loan fees and also the interest rate structure will be considerably higher than normal in the commercial and mortgage loans.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

BIDCOs will be making "Mezzanine" loans which are characterized as being loans that conventional financial institutions and capital venture companies do not deal with, simply because they are either too high risk or not profitable enough. Therefore, a BIDCO will be making loans in areas that commercial financial institutions and capital venture companies do not participate. It is for this reason that BIDCOs will not be in direct competition with any other entities.

The effect on employment will be limited in the early stages of development of BIDCOs in Louisiana, but potentially there could be some positive job creation arising from these institutions. It is anticipated that within five to seven years approximately 50-60 new jobs could be generated.

Larry L. Murray
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to R.S. 9:3554(B), notice is hereby given that the Office of Financial Institutions intends to revise and amend its Records Retention Rule for licensed lenders, LAC 10:VII.301, as promulgated in LR 17:588 (June 1991), to clarify and to provide for flexibility as to the types of records required to be kept for the purpose of determining compliance with the provisions of the Louisiana Consumer Credit Law.

Title 10 BANKS AND SAVINGS AND LOANS Part VII. Consumer Credit

Chapter 3. Records Retention

§301. Licensed Lenders

A. Recordkeeping. The following records are to be maintained by each licensed lender at its licensed location in compliance with the provisions of R.S. 9:3554(H) and R.S. 9:3561(A) of the Louisiana Consumer Credit Law.

* * *

9. Evidence of indebtedness or investment. Provide a complete list of the holders of all notes, debentures, or other evidence of indebtedness or investment issued by the licensee, excluding loans from supervised financial institutions or rediscount lenders, but including the following:

* * *

11. Club memberships. As to the sale or financing of any club memberships authorized or allowed under the Louisiana Consumer Credit Law, including but not limited to, thrift and buying clubs, auto clubs or similar consumer benefit club memberships:

a. any written disclosures made to the consumer that

the sale of the club membership is not a factor in the approval of a consumer loan;

b. consumer's specific affirmative written indication of his desire to purchase the club membership after receiving written disclosure of the cost;

c. any written disclosures made to the consumer of the cost of the club membership;

d. copies of all brochures, promotional materials, club membership contracts, or other documents or materials, whether written, videotaped, or in other electronic form, which consumers are offered, shown, given or sign in connection with the offer, sale or financing of club memberships.

B. Period for retention of records. All records must be retained for at least two years after the account is paid in full, or any insurance coverage remaining in force after the account has been paid has lapsed, unless required by law to be retained for a longer period. Records are required to be kept indefinitely during the pendency of an investigation or enforcement proceedings involving alleged violations.

C. Variance. After considering the particular facts and circumstances of an individual licensed lender's recordkeeping procedures, and the public interest in promoting the efficiency and effectiveness of compliance examinations, the commissioner may formally grant a variance to a licensed lender to any requirement in this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554(H) and 9:3561(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:588, amended LR 18.

Interested parties may submit written comments or make written inquiries concerning the rule until 4:30 p.m., November 12, 1991, at the following address: Ann Wise, Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095. She is the person responsible for responding to inquiries concerning the proposed rule.

Larry L. Murray
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Records Retention Rule for Licensed Lenders

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

Costs of \$100 are estimated to be expended in the preparation of the rule by Office of Financial Institutions personnel.

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)

This rule will have a positive economic effect on lenders, as it reduces the number of years for retention of records from 3 to 2 years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Lynda A. Drake
Deputy Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

In accordance with R.S. 49.950 et seq., and pursuant to authority granted by R.S. 6:121(B)(1), notice is hereby given that the commissioner of Financial Institutions intends to adopt a rule for the purpose of establishing a fee or charge and expense reimbursement for exercising regulatory and supervisory authority over individuals and other legal entities licensed to sell checks or money orders in Louisiana.

Notice is hereby given, in compliance with R.S. 6:121(B)(1) that the Office of Financial Institutions, has proposed to establish fees, charges, and expense reimbursement requirements for the examination of sale of checks licensees and their agents engaged in the sale of checks or money orders in Louisiana.

This rule will become effective upon being published in the *Louisiana Register*.

It is anticipated that the fee or charge for examining sale of checks licensees and their agents will generate \$33,700 in revenue and the cost of personnel to perform the examination functions will be the same amount.

RULE

Title 10

BANKS AND SAVINGS AND LOANS

Part I. Banks

Chapter 1. General Provisions

§113. Examinations and Visitations; Fees and Charges

Each individual, partnership, association, or corporation that is licensed to sell checks or money orders in Louisiana shall pay the following fees and charges to the Office of Financial Institutions for examinations and visitations by the Office of Financial Institutions, whether conducted solely by the Office of Financial Institutions or jointly with the regulator of such activity in other jurisdictions and whether conducted in Louisiana or at the licensee's offices outside Louisiana.

A. Thirty dollars per hour for each examiner who participates in the examination or visitation.

B. The actual cost of subsistence, lodging, and transportation for out-of-state examinations, not to exceed the amounts provided for in Division of Administration travel regulations in force at the time of such examination or visitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:

§115. Statement of Anticipated Costs and Proceeds

A. The fees to be imposed by the commissioner will generate approximately \$33,700, which will be offset by the cost of examination personnel of a like amount. Cost and expenditure figures are based on the projected number of hours to perform examinations and visitations of licensees and agents of sellers of checks or money orders.

B. The fees, charges, and expenses shall be paid by the examined licensee within 30 days after the Office of Financial Institutions mails its bill. Failure to pay within the allowed time shall be a basis for initiating proceedings to suspend the license, or the imposition of a penalty assessment of \$50 for each day the fees, charges, and expenses remain unpaid, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:

Interested parties may request copies of the proposed rule, submit written comments or make written inquiries concerning the rule until 4:30 p.m., December 4, 1991, at the following address: Larry L. Murray, Commissioner, Office of Financial Institutions, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809, (504) 925-4660.

Larry L. Murray
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Sellers of Checks and Money Orders

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

The anticipated implementation cost to this agency is \$33,700. These costs are for examinations and actual travel expenses. The cost will be passed on to the individual licensees. Examinations will be performed on all licensees on a continuing basis in accordance with R.S. 6:1044.

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

\$24,100 will be collected for out-of-state licensees. This figure includes hourly fees for examinations and actual travel expenses. \$9,600 will be collected for in-state licensees. This figure includes hourly fees for examinations which will cover all related expenses.

Total: \$33,700 in revenues to be generated.

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

Total cost to licensees is estimated at \$33,700, which will cover the costs of examination fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition and employment.

Lynda A. Drake
Deputy Commissioner

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 XV. Off-Track Wagering

Chapter 123. General Rules

§12357. Other Reports

A. - C. ...

D. Whenever an off-track wagering licensee applies to a city, parish or other governing authority for any change whatsoever in license fees, that licensee shall notify in writing the commission of such application no less than 30 days prior to any public hearing for such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 211-227.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:290 (May 1988), amended LR 18:

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, November 8, 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: Other Reports**

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 the commission and local authorities by requiring an OTB licensee (applying to a municipality for any change in fees), to notify the commission in writing at least 30 days in advance of any public hearing for such application.

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 21. Stewards

§2101. Qualifications for Appointment

To qualify for commission appointment or approval as a steward an individual shall be required to:

A. document five years prior experience as a steward, racing secretary, assistant racing secretary, starter, placing judge, paddock judge, clerk of scales, jockey, trainer or equivalent experience in the racing industry;

B. satisfactorily pass a commission-approved "Stewards Training Program." This requirement may be waived for individuals who have served as a steward for at least two years in a recognized jurisdiction at an extended thoroughbred or quarter horse pari-mutuel race meeting, and who is otherwise qualified to serve as a steward;

C. satisfactorily pass an optical examination conducted not more than 90 days before the appointment, indicating 20-20 vision, corrected, and the ability to distinguish colors;

D. satisfactorily pass a criminal background check;

E. satisfactorily pass a written examination prescribed by the commission. A passing grade for the written exam is 85 on a scale of 100. Applicants must satisfactorily pass the written examination every three years;

F. participate in an oral interview conducted by the executive director or a designee of the executive director;

G. be physically fit to perform the duties of a steward.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:424 (December 1976), repromulgated LR 3:20 (January 1977), LR 4:271 (August 1978), amended LR 18:

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, November 8, 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: Qualifications for Appointment**

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 horsemen, track employees and patrons by establishing strict and specific

minimum qualifications for steward applicants. It is the stewards that oversee all activities on the ground of an operating race track.

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

certification education have been broadened, competition among approved education vendors may heighten; however, the amendments will allow Louisiana vendors to participate in an area of the real estate appraisal industry from which they were previously precluded.

Jane H. Moody
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Real Estate Appraisal Subcommittee**

Notice is hereby given that the Real Estate Appraisal Subcommittee intends to adopt revisions to the existing rules and regulations of the subcommittee, the text of which appears in its entirety in the emergency rule section of this October, 1991 issue of the *Louisiana Register*, specifically LAC 46:LXVII.10307, regarding certification process.

Interested parties may direct inquiries and present their views in writing to the Louisiana Real Estate Appraisal Subcommittee, Stephanie C. Fagan, Office Coordinator, Box 14785, Baton Rouge, LA 70898, through November 20, 1991.

Jane H. Moody
Executive Director

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Notice is hereby given that the Real Estate Commission intends to adopt revisions to the existing rules and regulations of the agency, the text of which appears in the emergency rule section of this October, 1991 issue of the *Louisiana Register*, specifically LAC 46:LXVII, Subpart I, Chapter 34.

Interested parties may direct inquiries and present their views in writing to Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898 through November 20, 1991.

Jane H. Moody
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Basic Education Requirement for
Certification**

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

There are no estimated costs (savings) to state or local governmental units.

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

There are no estimated effects 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)

The amendments serve to expand the sources from which pre-certification education requirements may be obtained. There are economic benefits to directly affected persons and/or non-governmental groups in that acceptable courses which were offered largely out of state will be available in Louisiana. Louisiana real estate educators, who may have been previously ineligible as appraisal education vendors under the narrow margin of the original regulations, may now be considered under the broader requirements contained in the proposed amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

In that sources from which applicants may obtain pre-

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Agency Disclosure**

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

The estimated cost to the agency is approximately \$3,000 for the production of *master* copies of prescribed forms to be distributed to licensees for reproduction as needed.

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)

Licensees will incur the cost of reproducing the prescribed forms as needed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jane H. Moody
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Presidential Election Day

Notice is hereby given that the Board of Elementary and Secondary Education wishes to repeal a rule which was inadvertently submitted to the *Louisiana Register*. By repealing this rule, the former policy which declared general election day a holiday every four years for the presidential election will be reinstated as stated below:

Standard 1.009.16 of Bulletin 741

General election day shall be designated by each school system as a holiday every four years for the presidential election.

Interested persons may comment on the proposed policy change in writing until 4:30 p.m., December 8, 1991 at the following address: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Presidential Election Day

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs/savings to state or local governmental units. By repealing this rule, the former rule which makes presidential election a school holiday will be reinstated, therefore, there will be no disseminating of any material.
- 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 benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Carole Wallin
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Standard 2.099.00 - Bulletin 741

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 following revision to Standard 2.099.00 of Bulletin 741, Louisiana

Handbook for School Administrators.
HIGH SCHOOL GRADUATION REQUIREMENTS
Under Standard 2.099.00, add the following:

* * *

Effective with the 1991-92 freshman class, no students will be allowed to earn more than one Carnegie unit (two classes) of credit for approved remediation courses.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., December 8, 1991 at the following address: Eileen Bickham, 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: Limiting of Remediation Elective Credit

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The only estimated implementation cost is \$100 to revise and print the policy change in Bulletin 741.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

John J. Guilbeau
Acting Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741, Louisiana Handbook for School Administrators - Vocational Education Standards

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 revisions to the Minimum Standards for State Approval in Reimbursed Programs of Education in Bulletin 741. These revisions were adopted as an emergency rule, effective August 22, 1991 and printed in full in the September, 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., December 8, 1991 at the following address: Eileen Bickham, 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: Bulletin 741-Vocational Ed. Standards

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs of \$1,050 to state include printing and distribution of new rules.
- 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)
These rules would impact approximately 1,450 vocational programs at the secondary level by establishing specific standards for program approval.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition nor employment.

C. R. Bell, Jr. John R. Rombach
Acting Assistant Superintendent Legislative Fiscal Officer
for Vocational Education

NOTICE OF INTENT

**Board of Elementary and Secondary Education
Bulletin 1822**

Competency Based Postsecondary Curriculum Outlines

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 following revisions to instructor guides and revisions to Bulletin 1822, Competency Based Postsecondary Curriculum Outlines.

CURRENTLY APPROVED	
TITLE	LENGTH
Emergency Medical Technician - Paramedic	.1350 Hrs., 12 Mos.
Hospitality and Tourism	.....225 Hrs., 2 Mos.
Jewelry Technology	.....2025 Hrs., 18 Mos.
Marine Operations	.....1350 Hrs., 12 Mos.
Ward Clerk	.....338 Hrs., 3 Mos.

RECOMMENDED REVISION	
TITLE	LENGTH
Emergency Medical Technician	1164 Hrs., 12 Mos.
Basic	
Intermediate	
Paramedic	
Hospitality and Tourism	
Airline & Travel Operations	.....975 Hrs., 9 Mos.
Hotel/Motel Operations	.....885 Hrs., 8 Mos.
Meeting and Convention Planning	.....795 Hrs., 7 Mos.
Tour Guide/Escort/Planner	.....840 Hrs., 7 1/2 Mos.
No Change	.....No Change
No Change	.....See Outline
Unit Clerk/Coordinator	.....350 Hrs., 13 Weeks

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., December 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: Amendments to Bulletin 1822, Competency Based Postsecondary Curriculum Outlines**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
In 1983, the Board of Elementary and Secondary Education adopted the implementation of uniform course titles and time requirements. These amendments to this bulletin are updates on title names, course lengths and content. The cost to implement this change would be approximately \$75. This would be for printing and postage to mail out the revisions.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.

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

There will be no costs or economic benefits to the affected groups. We will, however, produce better trained people for business and industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All technical education students will receive the same minimum curriculum from each technical institute attended. If a student transfers from one institute to another, there will be no lost time. The technical institutes will be producing better products as a result of up-to-date curricula.

John Guilbeau
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Classes of Certification and Certificate Types

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 discontinued the certificate types adopted as a result of the Children First Legislation, (Provisional, Provisional-In-Remediation, and Renewable Professional), and reinstated the certificate types issued prior to Children First Legislation, (Types C, B, and A) as stated below.

This action, which supersedes a rule adopted in October, 1990 and printed in full in the July, 1990 issue of the *Louisiana Register* was also adopted as an emergency rule, effective August 22, 1991.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., December 8, 1991 at the following address: Eileen Bickham, 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: Amending certificate types to those in effect prior to 9/1/90

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

The adoption of this policy will cost the Department of Education approximately \$50 (printing and postage) to disseminate the policy.

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

This policy change will have no effect on revenue collections.

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

This action will result in no additional costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

John J. Guilbeau
Acting Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Curriculum Guide for Integrated Algebra/Geometry

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 Curriculum Guide for Integrated Algebra/Geometry.

This document may be seen in its entirety in the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, in the Office of Academic Programs in the Department of Education, or in the Office of the State Register.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., December 8, 1991 at the following address: Eileen Bickham, 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: Integrated Algebra/Geometry Curriculum Guide

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

The minimum estimated cost to the state is \$635,000 to revise, reprint and disseminate curriculum guides; to purchase additional textbooks; inservice teachers in the use of a new guide as required by SBESE ruling; pay for substitute teachers, supply supplementary materials and teaching aids; and reprint and distribute pages of Bulletin 741.

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

Any effect on revenue collections will be long term, since the impact will be determined by revenue collections in the form of taxes on personal earnings.

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

This course is designed to decrease the number of

students failing Algebra and ultimately dropping out of school. The economic benefit will be based upon the amount of state income tax liability for employed citizens versus no tax liability or a negative tax liability for school drop-outs who are on welfare, unemployed, or in prison. This estimate is based upon statistics released by the U.S. Department of Labor showing success in the labor markets linked to education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since this is a new course which replaces existing courses no drastic effect on competition and employment is anticipated. It may provide additional jobs for teachers who have mathematics certification, since it can be used in place of Consumer Mathematics or Business Mathematics to meet graduation requirements. Only secondary mathematics certified teachers can teach Integrated Algebra/Geometry, whereas Business and Consumer Mathematics can be taught by business certified teachers.

John Guilbeau John R. Rombach
Acting Deputy Superintendent Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Louisiana Annual Special Education
Program Plan for FY 91-93

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 federally required amendments to page 21 of the Louisiana Annual Special Education Program Plan for FY 91-93. These amendments were also adopted as an emergency rule, effective August 22, 1991 and printed in the September, 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., December 8, 1991 at the following address: Eileen Bickham, 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: Annual Special Education Program Plan

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

The estimated cost to the state for printing and postage of the proposed change is \$200.

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

There will be no effect on revenue collections.

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

No cost or benefits are estimated from this proposed change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment from this proposed change.

John J. Guilbeau John R. Rombach
Acting Deputy Superintendent Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Temporary Employment Permits

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 following policy on "Temporary Employment Permits," effective through the 1992-93 school year.

A temporary employment permit, valid for one school year, will be granted to those candidates who meet the qualifying scores on the revised NTE in three out of four modules and whose aggregate score is equal to or above the total score on all four modules required for standard certification. All other standard certification requirements must be met. This policy was adopted as an emergency rule, effective August 22, 1991 and printed in the September, 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., December 8, 1991 at the following address: Eileen Bickham, 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: Extension of Policy on Temporary
Employment Permits**

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

The adoption of this policy will cost the Department of Education approximately \$50 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

The extension of this policy will authorize the issuance of a teaching permit to certain individuals who are not yet eligible for a standard teaching certificate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will allow additional individuals to be eligible for employment during the 1991-92 and the 1992-93 school years.

John J. Guilbeau John R. Rombach
Acting Deputy Superintendent Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

LAC 28:I.1523.E. 20

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 LAC 28:I.1523.E. 20 as stated below. Changing the terminology from "shall" to "may" will allow each institute director flexibility in paying for planning time. This amendment was adopted as an emergency rule, effective August 22, 1991 and printed in the September, 1991 issue of the *Louisiana Register*.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 15. Vocational and Vocational-Technical Education**

§1523. Students

* * *

E. Fees for Louisiana Residents

* * *

20. Technical institute directors may allow a maximum of 10 minutes per instructional hour for instructional preparation/administrative purposes. Example: 30-hour course — the institute director may grant five hours (30 hours x 10 minutes = 300 minutes/five hours) for instructional/administrative purposes.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., December 8, 1991 at the following address: Eileen Bickham, 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: Change of Board of Elementary and
Secondary Education Policy**

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

In Fiscal Year 1989-90, 386 extension courses were offered for a total of 31,490 hours. If the maximum amount of time were allowed, this would amount to 5,248 hours. If each director allowed the maximum amount this would cost at \$15 per hour - \$78,720; at \$20 per hour -

\$104,960. It is estimated that we will have a savings because of this change. Instead of the cost being between \$78,720 - \$104,960, it will be between \$34,740 - \$46,320.

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

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

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

The effect on the quality of instruction cannot be determined with the implementation of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment cannot be determined with the implementation of this rule.

John J. Guilbeau John R. Rombach
Acting Deputy Superintendent Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

LAC 28:I.1523.E. 15 and 16

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 LAC 28:I.1523.E. 15 and 16 as stated below. These amendments were adopted as an emergency rule, effective August 22, 1991 and printed in the September, 1991 issue of the *Louisiana Register*.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 15. Vocational and Vocational-Technical Education**

§1523. Students

* * *

E. Fees for Louisiana Residents

* * *

15. Tuition for extension classes for which the instructor's salary is paid by the institute shall not exceed \$2 per hour of classroom instruction with a minimum of \$10.

16. Tuition for extension classes may be above \$2 per instructional hour when approved by the State Board of Elementary and Secondary Education.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., December 8, 1991 at the following address: Eileen Bickham, 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: Tuition for Extension Classes**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Because of the flexibility of this policy, we cannot give an estimate of the cost to implement the change. It depends upon the number of courses taught, the length of the course and the amount charged per hour of instruction by each institute.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Because of the flexibility of this policy, we cannot give an estimate on the effect of revenue collected, but there should be an increase in revenue from this action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The economic benefits to directly affected persons will be a better, well-trained workforce because the institutes will be able to offer upgraded courses for their service area.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition as a result of this action.

John J. Guilbeau John R. Rombach
Acting Deputy Superintendent Legislative Fiscal Officer

NOTICE OF INTENT

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

Guaranteed Fee Refund Termination after 180 Days

The Student Financial Assistance Commission (LAS-FAC) hereby amends its Loan Program Policy and Procedure Manual by substituting "each disbursement" for "first disbursement" in Policy VII H, Section 5; Policy VIII F, Section 4 and Procedure 13 Section D to read as follows:

Guarantee fees on loans that are canceled more than 180 days after the certified date of each disbursement shall be retained by the agency.

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., December 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 Refund Termination After 180 Days**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs are estimated for this revision of a recently promulgated procedure.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The original rule, published as a notice of intent on April 20, 1991 and as a rule on July 20, 1991 could increase revenue by as much as \$200,000 per year. This change in wording from "first disbursement" to "each disbursement" will correct the rule to mean what was intended, making the procedure easier to understand but will not change the revenue collection projection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This revision in wording will allow more expeditious administration by lenders and this agency.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment from this proposed procedure change.

Jack L. Guinn John R. Rombach
Executive Director Legislative Fiscal Officer

NOTICE OF INTENT

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

Opportunity Loan Program

The Student Financial Assistance Commission, Office of Student Financial Assistance announces its intention to adopt the following policies and procedures to implement the Louisiana Opportunity Loan Program (LA-OP). This Louisiana Opportunity Loan Program Policy and Procedure Manual has been developed to govern the program.

This manual establishes the policies and procedures by which the state of Louisiana, Office of Student Financial Assistance, shall make loans to student borrowers under the federally nonsubsidized guaranteed student loan program.

**Louisiana Opportunity Loan Program (LA-OP)
Lender Policy and Procedure Manual**

- I. LA-OP Lender Policies
 - A. Unless otherwise supplemented herein, the provisions of 34 CFR Parts 99, 600, 668, and 682 shall regulate this program.
 - B. Loan funds available to the program shall be allocated to qualifying public and private colleges and universities on the basis of their first-time freshman class enrollment in the Fall of 1990. Eligible institutions and their allocations are attached as an Appendix.
 - C. Interest on loans will be billed to the student while the student is enrolled in school at least half time and must

be paid by the student within 30 days of receipt. Failure of the student to pay accrued interest will result in the student being denied additional loans. Eligibility may be restored by the payment of past due interest.

D. An insurance fee of three percent shall be deducted from each loan disbursement and paid to the Louisiana Student Financial Assistance Commission as the loan guarantor. There shall be no origination or application fees charged to the student.

E. The student must apply for a federal Pell Grant and Stafford Loan and, if eligible, accept the maximum amount offered under these programs before being considered for the LA-OP Loan. If the student is ineligible for a Pell Grant and has only partial eligibility for a Stafford Loan, the LA-OP Loan may substitute for the family contribution up to the maximum annual Stafford limit or the cost of education, whichever is less, provided that such amount is equal to or greater than the minimum loan limit of \$1,000.

F. Students who applied for a federal Stafford Loan to attend a specific institution but who have been denied such aid solely because of the amount of the expected family contribution, should be informed by that institution of the availability of this program and offered the opportunity to be considered for a LA-OP Loan. Beginning in academic year 1992-93, students must complete "OneApp", the state's combined application for federal and state aid, and specifically request a LA-OP Loan to be considered for this program.

II. LA-OP Program Procedures

A. Loan Limits

1. The minimum loan amount that may be certified and disbursed under this program shall be \$1,000.

2. The maximum annual loan amounts for this program shall be consistent with Stafford Loan Limits and are as follows:

FRESHMAN	\$2,625
SOPHOMORE	\$2,625
JUNIOR	\$4,000
SENIOR	\$4,000
GRADUATE and PROFESSIONAL	\$7,500

3. The maximum aggregate loan amount for an undergraduate student shall be \$17,250.

4. The maximum aggregate loan amount for a graduate or professional student shall be \$37,500.

5. The maximum aggregate loan amount for an undergraduate and graduate or professional student shall be \$54,750.

6. A student cannot receive loans from both the Stafford and the Louisiana Opportunity Loan programs that, when combined, exceed the annual and aggregate limits listed above.

7. Loans may not exceed the cost of education minus financial aid, nor be more than the amount certified by the institution.

B. Eligible Borrowers

To be eligible under this program, a borrower must:

1. be a resident of Louisiana as defined herein:

"Any person who has resided in the state of Louisiana continuously during the 12 months immediately prior to the date of application and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile, as demonstrated by compliance with all of the following:

a. if registered to vote, is registered to vote in Louisiana;

b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle; and

d. if earning an income, has complied with state income tax laws and regulations."

2. be a United States citizen, national, or eligible permanent resident of the United States;

3. maintain full-time enrollment at any state public post-secondary institution or any institution that is a member of the Louisiana Association of Independent Colleges and Universities;

4. make satisfactory academic progress as defined by the institution;

5. not be in default on any other student loans nor owe a refund to any financial aid program;

6. apply for and be denied a federal Pell Grant;

7. not be receiving Title IV campus based aid, to include College Work-Study, Perkins Loan, and the Supplemental Educational Opportunity Grant (SEOG);

8. in addition to the requirements established herein, be otherwise eligible for a Stafford Loan as set forth in 34 CFR 682.201, except for qualifying for the payment of federal interest subsidy as set forth in 34 CFR 682.301.

C. Institutions Eligible to Participate

To participate, an institution must:

1. be a state public post-secondary institution or a member institution of the Louisiana Association of Independent Colleges and Universities;

2. have satisfied all the requirements for an eligible and participating institution under Title IV of the Higher Education Act of 1965, as amended; and

3. be an eligible institution as evidenced by a concluded school participation agreement with the Louisiana Student Financial Assistance Commission.

(See the Appendix for the listing of eligible institutions for academic year 1991-92.)

D. Institutional Procedures

1. The institution must certify the student's eligibility to borrow under this program by completing the institutional portion of the Louisiana Opportunity Loan Application and Promissory Note. Certifications may be performed either manually or electronically, depending upon the institution's processing capability.

2. The institution must certify the student's eligibility to borrow and enter the cost of attendance, any other financial aid to include any subsidized Stafford Loan, and the amount of LA-OP Loan eligibility. Expected family contribution (EFC) is not applicable and is therefore omitted.

3. Although the LA-OP Loan is considered in lieu of the EFC in testing for an overaward, a LA-OP Loan may not replace the EFC when determining the student's eligibility for other aid under Title IV of the Higher Education Act.

4. Considering the limited funds available for academic year 1991-92, institutional financial aid directors should apply professional judgment in awarding funds according to the following priorities.

a. Since the purpose of the program is to provide loan funds to students of middle income families, middle income may be interpreted by the Aid Director as an Expected Family Contribution, computed according to Congressional Methodology, that is not greater than one and one-half times the

institution's cost of education for that category of student.

b. Applicants who are not receiving funds under the Stafford Loan Program and who have not previously borrowed for their education.

5. Directors may establish an institutional policy for selecting loan recipients that is based on random selection or any other criteria which ensures fairness to applicants.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., December 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

they would not be denied the opportunity, but could obtain the funds to pay for their educational expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated from this program.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

APPENDIX
LA-OP Lender Policies and Procedures

Eligible Colleges and Universities	First Time Enrollment, Fall 1990	% of Total First Time Enrollment	Funds Allocation* 1991-92 (\$ x \$2,900,000)
Bossier Parish	731	2.48	71,920
Centenary	187	0.64	18,560
Delgado	2,538	8.59	249,110
Dillard	526	1.79	51,910
Grambling	1,250	4.22	122,380
Louisiana College	241	0.82	23,780
LSU-Alexandria	429	1.46	42,340
LSU-Baton Rouge	3,467	11.72	339,880
LSU Sch of Vet Med (67)			
LSU Law Sch (297)			
LSU-Eunice	378	1.28	37,120
LSU-Shreveport	333	1.13	32,770
LSU Mud Center-N.O.	560	1.90	55,100
LSU Mud Center-Shreve	115	0.39	11,310
Louisiana Tech	1,791	6.05	175,450
Loyola	641	2.18	63,220
McNeese	1,295	4.37	126,730
Nicholls	1,171	3.95	114,550
Northeast	1,675	5.66	164,140
Northwestern	1,119	3.78	109,620
Our Lady of Holy Cross	136	0.46	13,340
Southeastern	2,086	7.05	204,450
Southern-Baton Rouge	1,765	5.96	172,840
Southern Law Sch (125)			
Southern-New Orleans	375	1.27	36,830
Southern-Shreveport	154	0.52	15,080
Tulane	2,060	6.96	201,840
Tulane Med Sch (148)			
Tulane Sch of Pub Hlth (117)			
Tulane Law Sch (414)			
INO	1,481	5.00	145,000
JSL	2,519	8.51	246,790
Xavier	548	1.86	53,940
TOTAL	29,571	100.00	\$2,900,000

*Allocations cannot be exceeded prior to January 1, 1992. Funds not committed in the form of certified loans by January 1, 1992 will be available for use by any institution. Upon commitment of the total funds allocated, loans will be rejected by the automated system and returned to the originating institution.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Establishment of Louisiana Opportunity Loan Program

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

It is estimated that first year costs for implementation of this program would be \$3,118,051. FY 92-93 estimated costs are \$10,288,081 and FY 93-94 estimated costs are \$15,391,237.

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

No impact on revenue collections of state or local governmental units is anticipated.

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

Middle income students who need to borrow funds for higher education would benefit from this program in that

NOTICE OF INTENT

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

Reinstatement of Cancelled Loan or Disbursement

The Student Financial Assistance Commission advertises its intention to establish a procedure to reinstate a loan or disbursement that has been cancelled. Procedure 21.0 of the Loan Program Policy and Procedure Manual will be amended to add Subsection B as follows:

B. To reinstate a loan or disbursement, the lender shall:

1. obtain Request for Cancellation Reversal form (available on request from Loan Administration Division);

2. complete the form:

a. identify lender and holder, indicating:

- (1.) lender's name;
- (2.) city where lender is located;
- (3.) Social Security number of borrower;
- (4.) loan number; and
- (5.) full name of borrower.

b. identify each disbursement to be restored:

(1.) actual disbursement date (lender should indicate the scheduled disbursement date in this field);

(2.) amount of each disbursement (before fees are deducted);

(3.) origination fee for disbursement being reversed;

(4.) insurance (or guarantee) fee for disbursement being reversed; and

(5.) actual disbursed amount.

c. complete information indicating current status of

loan:

(1.) loan type;

(2.) present loan status;

(3.) school D.O.E. number;

(4.) school begin date: month, day, year;

(5.) school end date: month, day, year;

(6.) anticipated graduation date: month, day, year;

(7.) holder's (lender/servicer) D.O.E. number;

(8.) effective date out of school (month, day, year);

(9.) original date entered repayment (month, day,

year); and

(10.) current date entered repayment (month, day,

year).

d. enter deferment data.

(1.) deferment begin date;

(2.) deferment end date; and

(3.) deferment type.

e. enter current date.

f. enter legible signature of authorized lending official.

3. pay Cancellation Reversal Fee of \$30 for restoration of one disbursement or maximum of \$60 for restoration of two or more disbursements;

4. pay appropriate guarantee fee for all disbursements being restored (see 2b (4)).

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., December 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: Reinstatement of Cancelled Loan or
Disbursement**

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

The annual costs (approximately \$2,000) associated with implementation of this procedure will be paid from the revenue collected as a fee.

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

Revenue collections (approximately \$2,000 annually) from implementation of this procedure will pay the costs of administration for this service.

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

There will be costs to lenders in reinstating loans, but these should be offset by the elimination of losses that would occur without a guarantee on the loan.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

No impact on competition or employment is anticipated from implementation of this procedure.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Employment and Training
Office of Worker's Compensation**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 and under the authority of R.S. 23:1291C(2), the Louisiana Department of Employment and Training, Office of Worker's Compensation, hereby gives notice of its intent to readopt and repromulgate rules to implement Rehabilitation Services. The purpose of this rule is to coordinate an efficient program to rehabilitate injured employees and to assure timely delivery of the services necessary to restore the occupationally disabled employee to optimum vocational well-being.

PROPOSED RULE

Title 40

LABOR AND EMPLOYMENT

Part 1. Worker's Compensation Administration

Chapter 7. Rehabilitation Services

§701. Purpose

A. The purpose of this section of administrative rule is to implement the provisions of Section 1226 of Subpart B of Chapter 10, Revised Statute 23 and establish guidelines for the rehabilitation of the occupationally disabled employee.

B. The purpose of the Rehabilitation Program is to coordinate and assure the most efficient and timely delivery of the multiple services often necessary to restore the occupationally disabled employee to employment as soon as possible after the injury.

C. There are two major overlapping and interrelated components of the rehabilitation process:

1. vocational restorative services; and
2. re-employment services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§703. Statutory Requirements

A. §1226(A) requires that when an employee has suffered an injury covered by Chapter 10, R.S. 23 which precludes the employee from earning wages equal to wages earned prior to the injury, the employee shall be entitled to prompt rehabilitation services provided by the carrier/employer.

B. §1226(B) requires that in considering the goal of returning a disabled worker to work with a minimum of retraining, the first appropriate option listed therein is to be chosen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§705. Definitions

For purposes of this Section the following definitions apply:

A. *Rehabilitation* - The restoration of an occupationally injured or diseased employee to employment as soon as possible after the injury.

B. *Rehabilitation Services* - Vocational and/or re-employment services necessary to restore an occupationally disabled employee, as nearly as possible, to his/her pre-injury status.

C. *Vocational Restorative Services* - Vocational services needed to restore the occupationally disabled employee to his/her pre-injury employment or if that is not possible to that which he/she enjoyed prior to the occupational injury or disease. Such services include but are not limited to, the following: psychological and vocational evaluations, counseling and training services.

D. *Re-employment Services* - Services used to re-employ the occupationally disabled employee in a suitable, gainful occupation as adjusted by his/her physical and vocational ability at that time.

E. *Evaluation* - Any testing, analysis or assessment of the occupationally disabled employee's physical and/or voca-

tional capabilities used to determine the need for and practicality of rehabilitation services to restore the employee to gainful employment.

F. *Suitable Employment* - Suitable Employment is employment or self-employment, after rehabilitation which is reasonably attainable and which offers an opportunity to restore the individual as soon as practical and nearly as possible to his average earnings at the time of this injury including any sheltered employment, odd-lot or employment while working in pain.

G. *State and Federal Agencies* - Those agencies which provide vocational education paid for with tax money.

H. *Private Agencies* - Companies which provide vocational rehabilitation services for a fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§707. Responsibility to Provide Service

It is the responsibility of the carrier/employer to select a vocational counselor to evaluate and assist the employee in his job placement and/or vocational training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§709. Use of Resources

The carrier/employer may utilize programs provided by state and federal agencies for rehabilitation services when conveniently available or may utilize any public or private agency cooperating with such state and federal agencies. In the absence of such programs, the carrier/employer shall provide rehabilitation services with available private agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§711. Claims

A. A rehabilitation dispute or claim can be filed on form LDET-WC-1005 by the employee, employer or carrier when rehabilitation services are not voluntarily offered or accepted. The hearing officer may consider written vocational rehabilitation evaluations and plans prepared by a private or public rehabilitation provider or counselor and/or may refer the employee to a qualified physician and/or approved facility, individual, institution or organization for the evaluation of the practicality, advisability and necessity of rehabilitation services to restore the employee to suitable gainful employment. Any evaluation ordered by the hearing officer shall be completed in 45 days from the receipt of the referral from the hearing officer, with the expense of such evaluation to be borne by the employer/carrier.

B. If rehabilitation services are deemed practical and advisable, they shall be ordered at the expense of the carrier/employer subject to the reimbursement schedule for rehabilitation services promulgated at the time of the filing of the claim or dispute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§ 713. Adjudication by Hearing Officer

Prior to the hearing officer finding that an occupationally disabled employee is permanently and totally disabled, the hearing officer shall determine whether there is reasonable probability that, with appropriate rehabilitation services which may include training and/or education, the occupationally disabled employee can achieve suitable gainful employment and whether it is in the best interest of such individual to undertake such rehabilitation services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§715. Duration

When it appears that appropriate training and/or education is necessary and desirable to restore the occupationally disabled employee to suitable gainful employment, the employee shall be entitled to 26 weeks of training and/or education and an additional 26 weeks if deemed necessary and proper by the hearing officer. However, no carrier/employer shall be precluded from continuing such rehabilitation beyond such period on a voluntary basis. An occupationally disabled employee must request and begin rehabilitation within two years from the date of termination of temporary total disability as determined by the treating physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§717. Cost of Rehabilitation Services and Supplies

When appropriate training and/or education is deemed necessary, the rehabilitation services provided shall include the cost of training, tuition, books, tools and/or equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§719. Location of Services

If rehabilitation requires residence at or near the facility or institution away from the occupationally disabled employee's customary residence, reasonable costs of his/her board, lodging and travel shall be paid for by the employer/carrier. A retraining program shall be provided at facilities within the state when such facilities are available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§721. Penalty for Refusal

A. Although an occupationally disabled employee is entitled to rehabilitation as a right or benefit, when he/she agrees to a rehabilitation program, dedication to the completion of that program is expected.

B. Demonstration of a lack of responsibility by the occupationally disabled employee in following through with the

rehabilitation plan or refusal to accept rehabilitation as deemed necessary by the hearing officer shall result in a 50 percent reduction in weekly compensation, including supplemental earnings benefits pursuant to R.S. 23:1221(3), for each documented week of the period of refusal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§723. Payment of Temporary Disability

Temporary disability benefits paid pursuant to R.S. 23:1221(1) shall include such period as may be reasonably required for training in the use of artificial members and appliances and shall include such period as the employee may be receiving training or education under a rehabilitation program approved by the hearing officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

§725. Approved List of Rehabilitation Providers

The Office of Worker's Compensation Administration will maintain a current listing of rehabilitation counselors licensed to practice rehabilitation services in the state of Louisiana. This listing will be available upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1226.

HISTORICAL NOTE: Promulgated by the Department of Labor, Officer of Worker's Compensation Administration, LR 11:778 (August 1985), LR 18:

Comments should be forwarded to Stephen W. Cavanaugh, Director of the Louisiana Department of Employment and Training, Box 94040, Baton Rouge, LA 70804-9040. Written comments will be accepted through the close of business on November 25, 1991.

A copy of this rule may be obtained by contacting the Officer of Worker's Compensation at 342-7559.

Stephen W. Cavanaugh
Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Rehabilitation Services

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

This program will not increase the costs of operation of the Office of Worker's Compensation Administration. The rules will be published in the State Register, therefore no mailing or printing cost will occur. There will be no increased cost for salaries or equipment, since no additional personnel or equipment is needed.

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

The rules will be published in the State Register and available to the public at no cost. The Office of Worker's Compensation will not charge a fee for copies of the rules, therefore no revenue will be generated.

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

The rehabilitation rules do not list a fine or penalty for failure to implement or comply with the rules. No person or non-governmental groups will be affected by the publication of the enclosed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

R.S. 23:1226 is a state law that requires employers to provide rehabilitation services for injured employees who cannot earn wages equal to the wages earned prior to the injury. Rehabilitation services can be performed by a public or private agency.

The rehabilitation rules will not impact the competition between rehabilitation providers or increase employment opportunities in the public or private sectors.

Stephen W. Cavanaugh
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Employment and Training Plumbing Board

The Plumbing Board hereby gives notice, pursuant to R.S. 49:950 et seq., the Administrative Procedure Act, of its intent to amend its regulations, as described below, effective on the dates stated. The proposed regulations will clarify the licensing and related fee obligations of restricted master plumbers and will implement the master plumber insurance requirement imposed by Act 759 of the 1991 Regular Session of the Louisiana Legislature.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LV. Plumbers

Chapter 3. Licenses

§307. Renewals

* * *

D. A person who has allowed his previously issued master plumber license, inactive master plumber license or restricted master plumber license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of \$250 per year for each year the license was not renewed up to a limit of four consecutive years. A person who qualifies for issuance of a restricted master plumber license by virtue of R.S. 37:1368(C) or (D), as amended by Act 752 of the 1990 Regular Session, must apply for such license on or before December 31, 1991. A first time application by any such person after December 31, 1991 will be subject to the revival fee provisions. Any person who performs the work of a master plumber without possessing a license issued by the board during any period of lapsed license or prior to applying for a restricted master plumber license as provided herein shall be subject to the special enforcement fee established in §306.G.

§308. Insurance Requirements for Master Plumbers

A. No master plumber or restricted master plumber license shall be issued, renewed, or revived until the appli-

cant has provided proof acceptable to the board that insurance has been issued to the employing entity which is designated in accordance with R.S. 37:1367 by an insurer authorized to do business in this state.

B. The employing entity shall maintain:

1. Worker's compensation insurance as required by law.

2. Motor vehicle bodily injury and property damage liability insurance in the minimum amount required by law.

3. Comprehensive general liability and property damage insurance in a minimum amount of \$100,000, except on plumbing work done in parishes under 30,000 persons in population; on buildings, residences, or structures being no more than 6,000 square feet of interior space, the minimum aggregate amount shall be \$50,000.

C. The provisions of this Section shall not apply to master plumbers applying for and being issued an inactive master plumber license.

D. The certification of insurance shall contain a provision, and the policy so enclosed, that the insurance carrier shall notify the board, in writing; of any change in or cancellation of the insurance policy or policies at least 30 days prior thereto.

E. In the event a master plumber or restricted master plumber changes his designation of an employing entity, the insurance requirements of the Subsection shall remain in effect.

F. A licensed journeyman plumber performing "repairs" as defined in §101(E) and §301(E) shall be subject to the insurance requirements of this Subsection.

G. Any master plumber or restricted master plumber subject to the lesser comprehensive general liability and property damage insurance requirements in parishes described in §308.B.3 on the type of work described therein shall be subject to the greater insurance requirements generally imposed on master plumbers and restricted master plumbers when performing work in all other parishes or on buildings, residences or structures being more than 6,000 square feet of interior space in any parish.

Copies of the proposed regulations can be obtained at the Office of the Plumbing Board, 603 Europe Street, Baton Rouge, LA 70802 or 2714 Canal Street, Suite 512, New Orleans, LA 70119. Interested parties may comment on the proposed regulations at the above addresses no later than 4:30 p.m., October 31, 1991.

Don Traylor
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Rules and Regulations of the State Plumbing Board of Louisiana

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

There will be no additional costs to state or local government. The Plumbing Board has already put in place the administrative mechanisms necessary for processing the applicable license fees and insurance verification papers that will be generated as a result of the proposed rule changes. Local government is not implicated.

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

The proposed revision to §307(D) of the board's rules relative to restricted master plumber licensing may accelerate the filing of applicable license applications. Such filing may result in additional collections of approximately \$1,000 prior to December 31, 1991. The insurance requirements imposed by Act 759 and the resultant amendments to §308 of the board's rules will not affect revenues.

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

The proposed amendments to §307(D) will have a minimal effect on a pool of approximately 50 potential applicants. The proposed amendment to §308 will result in a reduction of business costs to master plumbers, an intended purpose of Act 759.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The §307(D) will have little, if any, effect on competition, since the majority of potential applicants for restricted master plumber licensing have availed themselves of the 1990 law changes. The §308 changes will increase competition for plumbers throughout the state, but in particular for the 29 parishes affected by Act 759 of the 1991 Regular Session.

Don Traylor
Executive Director

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, and accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.4885 (Log AQ39).

The proposed regulations will establish the identical standards as those established by EPA for controlling VOC emissions from magnetic tape coating operations. These regulations also include test methods, provisions for monitoring devices, reporting and recordkeeping requirements. See *Federal Register* dated October 3, 1988, 53 FR 38891, 191.

These proposed regulations are to become effective on January 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on November 25, 1991, at 1:30 p.m. in the Maynard Ketcham Building, 7290 Bluebonnet Blvd., 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, November 26, 1991, at 4:30 p.m., to David Hughes, Enforcement and Reg-

ulatory 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 AQ39. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth 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 Eppler Road, Lafayette, LA 70505.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Standards of Performance for Magnetic Tape Coating Operations AQ 39

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

There are no expected costs, or savings, to state or local governments expected from the implementation of the proposed rule.

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

There is no expected effect on revenue collections of state or local governmental units from the implementation of the proposed rule.

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

There is no expected incremental cost or economic benefits to directly affected persons or governmental groups from the implementation of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EM- PLOYMENT (Summary)

There is no expected effect on competition or employment from the implementation of the proposed rule.

Mike D. McDaniel, Ph.D.
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. 30:2101,

and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection Regulations, LAC 33:XV, (Log NE02).

This proposed revision of the Louisiana Radiation Regulations will establish additional regulations including financial assurance requirements for mitigation, remediation, and decommissioning for licensees possessing specified quantities of radioisotopes with half-lives greater than 120 days. Also, additional regulations will be established for well-logging operations, medical misadministration rules and other regulations for the medical use of radionuclides, and related definitions.

The revision is necessary to maintain compatibility with the U.S. Nuclear Regulatory Commission (NRC).

A public hearing will be held on November 25, 1991, at 1:30 p.m. in the Maynard Ketcham Building, 7290 Bluebonnet Boulevard, 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, November 26, 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 NE02. Copies of the proposed regulations are available for inspection at the Office of the State Register, 1051 Riverside N, Baton Rouge, LA 70804 and also at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth 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 Eppler Road, Lafayette, LA 70505.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Radiation Protection LAC 33:XV, Chapters 1, 3, 7, and 20

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

No implementation costs are anticipated for the Radiation Protection Division. Existing staff can perform the services required by the proposed rule changes.

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

There will not be any effect on revenue collections of state or local governmental agencies as a result of these proposed regulations.

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

Additional costs to the majority of the licensees will be minimal; additional records and wipe testing may be required of approximately 110 nuclear medicine licensees by these proposed regulations. Approximately 20 brachytherapy licensees may have to buy an additional survey meter.

There is only one licensee that may be affected by the decommissioning rule at this time. Depending on the mechanism chosen to fulfill this requirement, the cost may be substantial; however, at this time we have no way to estimate exact amounts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and non-civil service employment.

Paul H. Templet, Ph.D.
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, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.4887 (Log AQ40).

These proposed regulations will establish the identical standards as those established by EPA for controlling VOC emissions from industrial surface coating operations. These regulations also include test methods, reporting and record-keeping requirements. See *Federal Register* dated January 29, 1991, 53 FR 2672, 19.

These proposed regulations are to become effective on January 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

PROPOSED RULE

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

Chapter 31. Standards of Performance for New Stationary Sources

* * *

§4887. Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines (Subpart TTT)

A. Applicability and Designation of Affected Facility

1. The provisions of this Section apply to each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats.

2. This Section applies to any affected facility for which construction, modification, or reconstruction began after January 8, 1986.

B. Definitions

1. As used in this Section, all terms not defined herein shall have the meanings given them in LAC 33:III.3103 and LAC 33:III.111.

Business Machine—a device that uses electronic or mechanical methods to process information, perform calculations, print or copy information, or convert sound into electrical impulses for transmission, such as: products classified as typewriters under SIC Code 3572; products classified as electronic computing devices under SIC Code 3573; products classified as calculating and accounting machines under SIC Code 3574; products classified as telephone and telegraph equipment under SIC Code 3661; products classified as office machines, not elsewhere classified, under SIC Code 3579; and photocopy machines, a subcategory of products classified as photographic equipment under SIC Code 3861.

Coating Operation—the use of a spray booth for the application of a single type of coating (e.g., prime coat); the use of the same spray booth for the application of another type of coating (e.g., texture coat) constitutes a separate coating operation for which compliance determinations are to be performed separately.

Coating Solids Applied—the coating solids that adhere to the surface of the plastic business machine part being coated.

Color Coat—the coat applied to a part that affects the color and gloss of the part, not including the prime coat or texture coat. This definition includes fog coating, but does not include conductive sensitizers or electromagnetic interference/radio frequency interference shielding coatings.

Conductive Sensitizer—a coating applied to a plastic substrate to render it conductive for purposes of electrostatic application of subsequent prime, color, texture, or touch-up coats.

Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding Coating—a conductive plastic substrate to attenuate EMI/RFI signals.

Fog Coating (also known as mist coating and uniforming)—thin coating applied to plastic parts that have molded-in color or texture or both to improve color uniformity.

Nominal One-month Period—either a calendar month, 30-day month, accounting month, or similar monthly time period that is established prior to the performance test (i.e., in a statement submitted with notification of anticipated actual start-up pursuant to LAC 33:III.3113).

Plastic Parts—panels, housings, bases, covers, and other business machine components formed of synthetic polymers.

Prime Coat—the initial coat applied to a part when more than one coating is applied, not including conductive sensitizers or electromagnetic interference/radio frequency interference shielding coatings.

Spray Booth—the structure housing automatic or manual spray application equipment where a coating is applied to plastic parts for business machines.

Texture Coat—the rough coat that is characterized by discrete, raised areas on the exterior surface of the part. This definition does not include conductive sensitizers or EMI/RFI shielding coatings.

Touch-up Coat—the coat applied to correct any imperfections in the finish after color or texture coats have been applied. This definition does not include conductive sensitizers.

ers or EMI/RFI shielding coatings.

Transfer Efficiency—the ratio of the amount of coating solids deposited onto the surface of a plastic business machine part to the total amount of coating solids used.

VOC Emissions—the mass of VOCs emitted from the surface coating of plastic parts for business machines expressed as kilograms of VOCs per liter of coating solids applied (i.e., deposited on the surface).

2. The meanings of symbols used in this Section not defined below are given in LAC 33:III.3103.

D_c = density of each coating as received (kilograms per liter).

D_d = density of each diluent VOC (kilograms per liter).

L_c = the volume of each coating consumed, as received (liters).

L_d = the volume of each diluent VOC added to coatings (liters).

L_s = the volume of coating solids consumed (liters).

M_d = the mass of diluent VOCs consumed (kilograms).

M_o = the mass of VOCs in coatings consumed, as received (kilograms).

N = the volume-weighted average mass of VOC emissions to the atmosphere per unit volume of coating solids applied (kilograms per liter).

T = the transfer efficiency for each type of application equipment used at a coating operation (fraction).

T_{avg} = the volume-weighted average transfer efficiency for a coating operation (fraction).

V_o = the proportion of solids in each coating, as received (fraction by volume).

W_o = the proportion of VOCs in each coating, as received (fraction by weight).

C. Standards for Volatile Organic Compounds

1. Each owner or operator of any affected facility subject to the requirements of this Subsection shall comply with the emission limitations set forth in this Section on and after the date on which the initial performance test, required by LAC 33:III.3115 and LAC 33:III.4887.D, is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after the initial start-up, whichever date comes first. No affected facility shall cause the discharge into the atmosphere in excess of:

a. 1.5 kilograms of VOCs per liter of coating solids applied from prime coating of plastic parts for business machines;

b. 1.5 kilograms of VOCs per liter of coating solids applied from color coating of plastic parts for business machines;

c. 2.3 kilograms of VOCs per liter of coating solids applied from texture coating of plastic parts for business machines; or

d. 2.3 kilograms of VOCs per liter of coating solids applied from touch-up coating of plastic parts for business machines.

2. All VOC emissions that are caused by coatings applied in each affected facility, regardless of the actual point of discharge of emissions into the atmosphere, shall be included in determining compliance with the emission limits in Subsection C.1 of this Section.

D. Performance Tests and Compliance Provisions

1. LAC 33:III.3115.D and LAC 33:III.3115.F do not ap-

ply to the performance test procedures required by this Subsection.

2. The owner or operator of an affected facility shall conduct an initial performance test as required under LAC 33:III.3115 and thereafter shall conduct a performance test each nominal one-month period for each affected facility according to the procedures in this Subsection.

a. The owner or operator shall determine the composition of coatings by analysis of each coating, as received, using Reference Method 24 (LAC 33:III.6083) in the Division's Source Test Manual, from data that have been determined by the coating manufacturer using Reference Method 24 (LAC 33:III.6083), or by other methods approved by the administrative authority*.

b. The owner or operator shall determine the volume of coatings and the mass of VOC used for dilution of coatings from company records during each nominal one-month period. If a common coating distribution system serves more than one affected facility or serves both affected and nonaffected spray booths, the owner or operator shall estimate the volume of coatings used at each facility by using procedures approved by the administrative authority.

i. The owner or operator shall calculate the volume-weighted average mass of VOCs in coatings emitted per unit volume of coating solids applied (N) at each coating operation (i.e., for each type of coating [prime, color, texture, and touch-up] used) during each nominal one-month period for each affected facility. Each one-month calculation is considered a performance test. Except as provided in Subsection D.2.b.iii of this Section, N will be determined by the following procedures:

(a). Calculate the mass of VOCs used ($M_o + M_d$) for each coating operation during each nominal one-month period for each affected facility by the following equation:

$$M_o + M_d = \sum_{i=1}^n L_{ci} D_{ci} W_{oi} + \sum_{j=1}^m L_{dj} D_{dj}$$

where n is the number of coatings of each type used during each nominal one-month period, and m is the number of different diluent VOCs used during each nominal one-month period. ($\sum L_{dj} D_{dj}$ will be 0 if no VOCs are added to the coatings, as received.)

(b). Calculate the total volume of coating solids consumed (L_s) in each nominal one-month period for each coating operation for each affected facility by the following equation:

$$L_s = \sum_{i=1}^n L_{ci} V_{si}$$

where n is the number of coatings of each type used during each nominal one-month period.

(c). Select the appropriate transfer efficiency (T) from Table 1 for each type of coating application equipment used at each coating operation. If the owner or operator can demonstrate to the satisfaction of the administrative authority* that transfer efficiencies other than those shown are appropriate, the administrative authority* will approve their use on a case-by-case basis. Transfer efficiency values for applica-

tion methods not listed below shall be approved by the administrative authority* on a case-by-case basis. An owner or operator must submit sufficient data for the administrative authority* to judge the validity of the transfer efficiency claims.

(d). Where more than one application method is used

$$T_{avg} = \frac{\sum_{i=1}^n \sum_{k=1}^p L_{cik} V_{sik} T_k}{L_s}$$

TABLE 1—TRANSFER EFFICIENCIES

Application Methods	Transfer Efficiency	Type of Coating
Air-atomized spray	0.25	Prime, color, texture, touch-up, and fog coats.
Air-assisted airless spray	0.40	Prime and color coats.
Electrostatic air spray	0.40	Do.

where n is the number of coatings of each type used, and p is the number of application methods used.

(e). Calculate the volume-weighted average mass of VOCs emitted per unit volume of coating solids applied (N) during each nominal one-month period for each coating operation for each affected facility by the following equation:

$$N = \frac{M_o + M_d}{L_s T_{avg}}$$

($T_{avg} = T$ when only one type of coating operation occurs).

ii. Where the volume-weighted average mass of VOCs emitted to the atmosphere per unit volume of coating solids applied (N) is less than or equal to 1.5 kilograms per liter for prime coats, is less than or equal to 1.5 kilograms per liter for color coats, is less than or equal to 2.3 kilograms per liter for texture coats, and is less than or equal to 2.3 kilograms per liter for touch-up coats, the affected facility is in compliance.

iii. If each individual coating used by an affected facility has a VOC content (kg VOC/1 of solids), as received, that when divided by the lowest transfer efficiency at which the coating is applied for each coating operation results in a value equal to or less than 1.5 kilograms per liter for prime and color coats and equal to or less than 2.3 kilograms per liter for texture and touch-up coats, the affected facility is in compliance provided that no VOCs are added to the coatings during distribution or application.

iv. If an affected facility uses add-on controls to control VOC emissions and if the owner or operator can demonstrate to the administrative authority* that the volume-weighted average mass of VOCs emitted to the atmosphere during each nominal one-month period per unit volume of coating solids applied (N) is within each of the applicable limits expressed in Subsection D.2.b.ii of this Section because of this equipment, the affected facility is in compliance. In such cases, compliance will be determined by the administrative

authority* within a single coating operation, the owner or operator shall determine the volume of each coating applied by each method through a means acceptable to the administrative authority and compute the volume-weighted average transfer efficiency by the following equation:

authority* on a case-by-case basis.

E. Reporting and Record Keeping Requirements

1. The reporting requirements of LAC 33:III.3115.A apply only to the initial performance test. Each owner or operator subject to the provisions of this Section shall include the following data in the report of the initial performance test required under LAC 33:III.3115.A:

a. except as provided for in Subsection E.1.b of this Section, the volume-weighted average mass of VOCs emitted to the atmosphere per volume of applied coating solids (N) for the initial nominal one-month period for each coating operation from each affected facility; and

b. for each affected facility where compliance is determined under the provisions of Subsection D.2.b.iii of this Section, a list of the coatings used during the initial nominal one-month period, the VOC content of each coating calculated from data determined using Reference Method 24 (LAC 33:III.6083), and the lowest transfer efficiency at which each coating is applied during the initial nominal one-month period.

2. Following the initial report, each owner or operator shall do the following:

a. Report the volume-weighted average mass of VOCs per unit volume of coating solids applied for each coating operation for each affected facility during each nominal one-month period in which the facility is not in compliance with the applicable emission limits specified in Subsection C of this Section. Reports of noncompliance shall be submitted on a quarterly basis, occurring every three months following the initial report.

b. Submit statements that each affected facility has been in compliance with the applicable emission limits specified in Subsection C of this Section during each nominal one-month period. Statements of compliance shall be submitted on a semiannual basis.

3. These reports shall be postmarked not later than 10 days after the end of the periods specified in Subsections E.2.a and b of this Section.

4. Each owner or operator subject to the provisions of this Section shall maintain at the source, for at least two years, records of all data and calculations used to determine monthly VOC emissions from each coating operation for each affected facility as specified in LAC 33:III.3113.D.

5. Reporting and record keeping requirements for facilities using add-on controls will be determined by the administrative authority on a case-by-case basis.

F. Test Methods and Procedures

1. The reference methods in the Division's Source Test Manual (LAC 33:III.Chapters 60, 61, 63) except as provided under 33:III.3115.B shall be used to determine compliance with Subsection C of this Section as follows:

a. Method 24 (LAC 33:III.6083) for determination of VOC content of each coating, as received; and

b. for Method 24 (LAC 33:III.6083), the sample must be at least a one-liter sample in a one-liter container.

2. Other methods may be used to determine the VOC content of each coating if approved by the administrative authority before testing.

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.

A public hearing will be held on November 25, 1991, at 1:30 p.m. in the Maynard Ketcham Building, 7290 Bluebonnet Blvd., 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, November 26, 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 AQ40.

J. Terry Ryder
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Standards of Performance for Industrial
Surface Coating: Surface Coating of Plastic Parts for
Business Machines AQ 40**

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

There are no expected costs, or savings, to state or local governments expected from the implementation of the proposed rule.

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

There is no expected effect on revenue collections of state or local governmental units from the implementation of the proposed rule.

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

There is no expected incremental cost or economic benefits to directly affected persons or governmental groups from the implementation of the proposed rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

There is no expected effect on competition or employment from the implementation of the proposed rule.

Mike D. McDaniel, Ph.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement
and Administration of Criminal Justice
Louisiana Sentencing Commission**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Sentencing Commission intends to adopt the Louisiana Sentencing Guidelines. These are advisory guidelines relative to felony sentencing in the state. In general, the guidelines recommend the type and duration of sentence to be imposed on persons convicted of felony crimes.

The Louisiana Sentencing Guidelines are intended to provide a uniform sanctioning policy for use by the state judiciary in felony cases, which is consistent, proportional and fair. This is accomplished through a comprehensive set of rules which identify salient factors and provide for their uniform evaluation in determining felony sentences. Basically, the guidelines provide a designated sentence range which is deemed to be appropriate for a typical case arising under the statute of conviction for an offender with a particular criminal history. The typical case has been determined for most felony offenses based on an analysis of the harm to society contemplated under the statute. The offender's history of past criminal convictions is evaluated on the basis of the seriousness of the offender's past convictions, the length of time the offender has remained crime free in the community, the presence of patterned criminal activity as reflected in the conviction record, and the offender's status relative to the criminal justice system at the time of the present offense. A typical case is defined as a case without significant aggravating or mitigating circumstances. In the presence of aggravating or mitigating circumstances, the court is allowed to depart from the recommended sentence range, but must state the aggravating or mitigating factor as well as the factual basis for the factor in the record. In order to further facilitate the sentencing process, the guidelines include a nonexclusive list of significant aggravating or mitigating factors.

In addition to providing designated sentence ranges based upon crime seriousness and criminal history, and rules for departure from the designated sentence range based on aggravating and mitigating factors, the sentencing guidelines also contain policy recommendations relative to:

1. probation revocation;
2. parole eligibility as a factor in sentencing;
3. use of the habitual felony offender provision;
4. the effect of minimum mandatory sentences and statutory maximums on the sentencing guidelines; and
5. concurrent and consecutive sentencing for multiple offenders.

A felony classification system is included as part of the Louisiana Sentencing Guidelines (R.S. 15:325).

The sentencing guidelines are advisory to the sentencing court, and depend upon voluntary compliance for their implementation.

Copies of the proposed sentencing guidelines may be obtained through the Office of the State Register, 1051 Riverside North, Baton Rouge, LA or they may be viewed between the hours of 8 a.m. and 4:30 p.m. at the address set forth below.

Interested persons may submit written comments on the sentencing guidelines until 4:30 p.m., November 15, 1991, to Carle L. Jackson, Director, Louisiana Sentencing Commission, 1885 Wooddale Blvd., Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Louisiana Sentencing Guidelines
LAC 22:III.5301**

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

The only significant cost associated with the implementation of the Louisiana Sentencing Guidelines is the \$11,647.50 necessary to publish the guidelines.

Because the Louisiana Sentencing Guidelines are advisory in nature, it is not possible to determine (without experience with their implementation) their precise effect on felony sentences in general, and the demand for prison space in particular.

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

The Louisiana Sentencing Guidelines should have no effect on the revenue collections of state or local government.

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

The persons directly affected by the Louisiana Sentencing Guidelines are those persons convicted for the violation of a felony crime. There are no known economic costs or benefits to this group associated with the implementation of the guidelines.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Louisiana Sentencing Guidelines will have no effect on competition or employment in the state.

Michael A. Ranatza
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Medical Review Panel**

In accordance with R.S. 40:1299.39 and the Administrative Procedure Act, the Division of Administration, Medical Review Panel, hereby gives notice that it intends to amend its rules to include a change of address.

PROPOSED RULE

Effective February 1, 1992, all medical malpractice claims filed for review by a medical review panel against the state, state agencies and all other state health care providers covered under R.S. 40:1299.39 et seq., are to be submitted to the commissioner of administration, state of Louisiana as follows:

Commissioner of Administration
Medical Review Panel
State of Louisiana
Post Office Box 44336
Baton Rouge, LA 70804-4336

Medical Review Panel correspondence should no longer be sent to Post Office Box 94095.

Interested persons may submit written comments to Commissioner of Administration, Medical Review Panel, State of Louisiana, Box 44336, Baton Rouge, LA 70804-4336.

Victor E. Patrick
State Risk Assistant Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Change of Address

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

There are no costs or savings to state or local governments associated with the proposed change in the regulations.

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

There is no effect 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)

The proposed rule change will have no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Victor E. Patrick
State Risk Assistant Director

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 5. License and Practice of Counseling

§503. Definitions

For purposes of this rule, the following definitions will apply.

A. *Board* - means the Louisiana Licensed Professional Counselors Board of Examiners

B. *Licensed professional counselor* - means any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

C. *Mental health counseling services* - means those acts and behaviors coming within the "practice of mental health counseling" as defined in R.S. 37:1103. However, nothing in these rules shall be construed to authorize any person licensed hereunder to administer or interpret psychological tests or engage in the practice of psychology in accordance with the provisions of R.S. 37:2352(5).

D. *Practice of mental health counseling* - means rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which include but or not limited to:

1. *Mental health counseling* - which means assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers.

2. *Consulting* - which means interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations.

3. *Referral activities* - which means the evaluation of data to identify problems and to determine the advisability of referral to other specialists.

4. *Research activities* - which means reporting, designing, conducting, or consulting on research in counseling with human subjects.

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, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 16:302 (April 1990), LR 18:

Chapter 9. Fees

§901. General

A. The board shall collect the following fees stated in R.S. 37:1106.

- 1. Application, license and seal \$200
- 2. Written examination. \$100
- 3. Renewal of license \$100
- 4. Reissuance for lost or destroyed license \$ 50

B. No part of any fee shall be refundable under any conditions other than failure of the board to hold examinations on the date originally announced. All fees for licensing must be paid to the board by certified check or money order.

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, LR 14:82 (February 1988), amended Board of Examiners of Professional Counselors, LR 15:545 (July 1989), LR 18:

Chapter 13. License; Adjudication

§1301. Denial, Revocation, or Suspension of License

A. Those who may request an investigation and/or hearing by the board are:

- 1. any individual, groups, organizations or general public classified as a client of the mental health counseling profession;
- 2. any licensed professional counselor;
- 3. any state official or an official of a political subdivision of the state.

B. Grounds for Disciplinary Action. R.S. 37:1110: In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for a hearing after reasonable notice.

1. Necessary Conditions for a Hearing

a. The notice shall include:

- i. a statement of the time, place, and nature of the hearing;
- ii. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- iii. a reference to the particular section of the statutes and rules involved;
- iv. a short and plain statement of the matters asserted.

2. If the board or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

3. An opportunity shall be afforded all parties to respond and present evidence in all issues and facts involved and arguments on all issues of law and policies involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

4. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

5. The record in a case of adjudication shall include all pleadings, motions, intermediate rulings; evidence received or considered or a resumé thereof if not transcribed; a statement of matters officially noticed except matters so obvious that a statement of them would serve no useful purpose; offers of proof, objections, and rulings thereon; proposed findings and exceptions; any decision, opinion or report by the officer presiding at the hearing.

6. Hearings may be conducted under this procedure from and after the date the procedure is published, per the above germane section.

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.

1. The grounds upon which a licensed professional counselor may be disciplined are:

a. if the licensed professional counselor has been convicted in a court of competent jurisdiction of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof;

b. if the licensed professional counselor has violated the Code of Ethics adopted by the board in March 1988 and entitled Code of Conduct: Louisiana Licensed Professional Counselors Board of Examiners;

c. if the licensed professional counselor is abusing drugs or alcohol to an extent or in a manner dangerous to any other person or the public or to an extent that said use impairs his ability to perform the work of a licensed professional counselor;

d. if the licensed professional counselor has impersonated another person holding a professional mental health counselor license or allowed another person to use his license;

e. if the licensed professional counselor has used fraud or deception in applying for a license or in taking an examination provided for in the law;

f. if the licensed professional counselor has allowed his name or license issued by the board to be used in connection with any person or persons who perform mental health counseling services outside of the area of their training, experience, or competence;

g. if the licensed professional counselor is legally adjudicated mentally incompetent, the record of such adjudication being conclusive evidence thereof;

h. if the licensed professional counselor has willfully or negligently violated any of the provisions of R.S. 37:1101 to and including 37:1115.

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 confidentially 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 statute 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, sufficient 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.

2. Notice of a Hearing

In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for a hearing after reasonable notice.

a. The notice shall include:

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

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

iii. a reference to the particular section of the statutes and rules involved;

iv. a short and plain statement of the matters asserted.

b. If the board or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

c. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

3. The Format for Adversarial Hearings

a. All adversarial hearings shall be held in Baton Rouge, Louisiana. A certified court reporter shall be present only for adversarial hearings. (The fee will be shared evenly by the board and the licensee.)

b. The board chairperson will ask the licensee if he/she wishes a public or private hearing.

The licensee's answer will be made part of the record.

c. Order of the Hearing

i. opening statement by the board's attorney (15 minutes);

ii. opening statement by licensee's attorney (15 minutes);

iii. presentation of evidence by board's attorney;

iv. cross examination by licensee's attorney;

v. presentation of evidence by licensee's attorney;

vi. cross examination by board's attorney;

vii. presentation of evidence in rebuttal by board's attorney;

viii. cross examination by licensee's attorney;

ix. closing argument by board's attorney (15 minutes);

x. closing argument by licensee's attorney (15 minutes);

xi. final argument in rebuttal by board's attorney (5 minutes).

d. Evidence

i. An assistant attorney general shall assist the board's chair and rule on matters of evidence and procedure.

ii. The board will receive and consider all evidence commonly accepted by reasonable prudent persons in the conduct of their affairs. Immaterial and unduly repetitive evidence may be excluded. To expedite the hearing, evidence may be received in written form as long as neither party is prejudiced.

iii. Notice may be taken of judicially cognizable facts, and the board may take notice of generally recognized technical facts within the specialized knowledge of the board.

iv. The rules of privilege recognized in law shall apply.

v. Any objections to evidence or the ruling on admission thereof shall be made part of the record.

e. Deliberation

i. The board will deliberate in closed session absent the board's counsel;

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

iii. After considering each charge, the board will vote on a resolution to dismiss the charges, suspend or revoke licensee's license. The vote must be four out of seven for a revocation or suspension.

f. Transcript. The testimony taken at the hearing shall be transcribed and retained with the evidence received, by the board, for a period of at least one year from the hearing.

4. Format for Show Cause Hearings (denial of license, and any other nonadversarial appeals)

a. Notification of the hearing shall be issued 30 days in advance by registered mail or personal service.

b. The applicant may bring written documentation and witnesses (limited to two).

c. The order shall be:

i. opening statement by the applicant (5 minutes);

ii. presentation of written documentation and explanation thereof;

iii. witness testimony (limited 15 minutes each witness) (questions of clarification from members of the board);

iv. presentation by the applicant (20 minutes);

v. questions of clarification by members of the board.

d. The board will then deliberate in closed session.

e. The results of this deliberation will be communicated by registered mail or personal service within 15 days of the hearing.

Note: If applicant chooses to have counsel present, counsel's role shall be advisory only. Counsel may not address the board nor question witnesses. Show Cause Hearings shall not have a certified court reporter and shall not be adversarial in nature.

E. Notice of denial, revocation, suspension, or disciplinary action shall be sent to the applicant or licensee by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing. The written notice shall be sent to the person's last known address, but the nonappearance of the person shall not prevent such a hearing. For the purpose of such hearing, the board may subpoena persons, books, and papers, on its own behalf or on the behalf of the

applicant or licensee who may appear by counsel or personally on his own behalf.

F. On the basis of any hearing or upon default of applicant licensee, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision of the board denying, revoking, or suspending the license, shall become final 30 days after receipt of the copy of determination unless within said period the applicant or licensee appeals the decision as provided by R.S. 49:955-965. No such appeal while pending appropriate court action shall supersede such denial, revocation, or suspension. All proceedings and evidence presented at hearings before the board may be admissible during appellate proceedings.

G. Every order and judgment of the board shall take effect immediately on its promulgation unless the board in such order or judgment fixes a probationary period for applicant or licensee. Such order and judgment shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and make public its orders and judgments in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

H. The board is authorized to suspend the license of a licensed professional counselor for a period not exceeding two years. At the end of this period, the board shall reevaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

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, 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 17:778 (August 1991), LR 18:

Interested persons may present their views of the proposed rules in writing at the following address: Licensed Professional Counselors Board of Examiners, 4664 Jamestown Avenue, Suite 125, Baton Rouge, LA 70808-3218.

Peter Emerson, Ed.D.
Board Chair

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Mental Health Counseling**

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

There will be no costs (savings) to 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 state or local governmental units. There will be no difference in collection of fees for the fiscal years ending on June 20, 1992, 1993, 1994.

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 nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition in the private sector.

Peter Emerson, Ed.D.
Board Chair

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Management and Finance
Division of Policy and Program Development**

The Department of Health and Hospitals, Office of Management and Finance, Division of Policy and Program Development, proposes to adopt the following rule in order to implement Act 394 of the 1991 Regular Session of the Louisiana Legislature.

This rule provides a mechanism for financial assistance to small rural hospitals throughout the state in order to expand access to community-based health care for low-income and rural populations now underserved in Louisiana.

Act 394 of 1991 provides for the following: (1) the creation of a Primary Care Advisory Council; (2) grants up to \$75,000 for rural hospitals to increase access to emergency health services; (3) limited start-up funds up to \$150,000 to establish primary care health clinics to serve indigent and low-income persons; (4) physician salary subsidies, up to \$50,000, to match local funds to encourage primary care physicians to practice in health professional shortage areas; (5) matching funds for demonstration projects to establish new primary health services in multi-parish underserved rural areas; and (6) matching funds for federal grants to provide community-based health services to indigent or low-income persons.

PROPOSED RULE

The Department of Health and Hospitals' Division of Policy and Program Development will accept letters of intent from small rural hospitals, as defined herein, on the intended use of up to \$75,000 in State funds. Hospitals that are eligible to apply are public and private acute care hospitals licensed for 60 beds or less which have a service municipality with a population of 20,000 or less.

The purpose of the grants to small rural hospitals is to strengthen the capability of small rural hospitals to provide high quality emergency health services to indigent and low-income persons in rural areas, and the letter of intent should reflect how the funds requested will further this goal. Grant

recipients will be required to maintain an audit trail verifying that any monies received under this grant program were in fact used to enhance emergency room services.

Letters of intent will be processed according to receipt and availability of funds and awards will be issued accordingly.

Interested persons may submit written comments to the following address: Marcia Daigle, Office of Management and Finance, Division of Policy and Program Development, Box 1349, Baton Rouge, LA 70821-1349.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Rural Hospitals Grants**

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

Estimated implementation costs are \$2,850,000 for 38 hospitals to receive a \$75,000 grant in State Fiscal Year 1991-92. Estimated implementation costs for 1992-93 and 1993-94 are \$2,962,488, which allow for a four percent increase over the current year.

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

There will be no estimated effect on revenue collections on governmental units.

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

Small rural hospitals will receive financial assistance to expand access to community-based emergency health care for low-income rural populations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is believed that in many instances the \$75,000 grants will be used to retain health professionals such as registered nurses and doctors in emergency rooms.

J. Christopher Pilley
Secretary

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, is proposing to adopt the following rule in the Medicaid Program.

Medicaid, enacted in 1965 as Title XIX of the Social Security Act, is a cooperative federal state program to provide health care to needy individuals. States must maintain a State Plan for administration of the program which conforms to the requirements of the Medicaid statute and the federal Medicaid regulations. In accordance with 42 U.S.C. 139(a)(17)(B) states are required to consider only income that

is available to the applicant in making a determination if the individual is entitled to benefits under the state's Medicaid (Title XIX) Program. In addition, the federal Medicaid law, Section 1902(a)(10)(C), requires that states determine eligibility according to the same methodology that is applied in determining for Supplemental Security Income. Currently the Social Security Administration does not exclude court-ordered alimony or child support payments from countable income. Therefore, congruous with these federal regulations and interpretations the Louisiana Medicaid Program has also counted such alimony and child support as available to the applicant.

However, recent decisions by the federal courts have reversed DHHS rulings respective to what may be considered available income. In 1987 the United States Court of Appeals, Ninth Circuit Court reversed the U. S. Department of Health and Human Services' disapproval of California's Title XIX State Plan amendment which prevented any of an individual's income that must be paid for alimony and child support from being counted in determining the individual's eligibility for Medi-Cal. In 1991 the United States District Court in Minnesota ordered the Minnesota Medical Assistance Program to discontinue the Department of Human Services Policy of including court-ordered child support payments in the calculations of countable income and enjoined the U. S. Department of Health and Human Services from requiring the Minnesota Medical Assistance program from requiring the inclusion of court-ordered child support payments in the computation of countable income.

PROPOSED RULE

Alimony or court-ordered support payment amounts shall not be considered as available income when determining an individual's eligibility for Medicaid of Louisiana. In addition such court-ordered payments shall not be considered a part of the Medicaid beneficiaries' countable income.

Interested persons may submit written comments to the following address: Carolyn O. 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, November 26, 1991 in the Department of Transportation and Development Auditorium, 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.

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.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Discontinuation of alimony and court-ordered child support payments in the determination of Medicaid eligibility and benefits

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

The estimated implementation cost for administrative expenses for manual and form revisions is \$486 for FY 92. There is no administrative expenditure increase projected for FY 93 and FY 94. The estimated increase for Title XIX services to beneficiaries is unknown.

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

The estimated effect on state revenue collections will be an increase of \$243 in federal matching funds for administrative costs. There is no projected impact on revenues for FY 93 and FY 94. The estimated increase in federal revenue collections by the state for the provision of Title XIX services is unknown at this time.

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

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

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 Louisiana Medicaid Physicians Program.

Concurrent care furnished by two or more physicians has not been allowable under the Medicaid Program. In accordance with the Omnibus Reconciliation Act of 1989, Public Law 101-476, Title XIX eligible children are to be provided all medical services mandated under the Title XIX Program and all discretionary limits are no longer allowed. Therefore the current policy on concurrent care, consultations and same day outpatient visits is being changed for Medicaid eligibles under the age of 21. Upon implementation of this proposed rule and effective with the date of service, concurrent care, consultations and same day outpatient visits are allowed as described below.

A. The following concurrent care services will be allowed if and when a patient is hospitalized on an inpatient basis:

1. medically necessary visits by the admitting or primary care physician;

2. medically necessary visits by the concurrent physician(s). The specialty or subspecialty of the concurrent care physician must be different from that of the admitting or primary care physician and from those of the other concurrent care physicians. The medical necessity of concurrent care is justified when the diagnosis(es) by the treating physician is uncertain, is of a complexity that requires the opinion and expertise of a specialist or is totally unrelated to that of the

treating physician. The medical necessity of concurrent care must be documented.

B. Consultations will be allowed under the following conditions:

1. On an inpatient basis one initial consultation and two follow-up consultations per specialty or subspecialty per recipient per hospitalization shall be allowed. If a third follow-up consultation is needed, an extension must be requested after the follow-up has been performed. Extensions will be reviewed and approved if it is determined the follow-up consultation was medically necessary.

2. On an outpatient basis one initial consultation plus two follow-up consultations per specialty or subspecialty per recipient every 180 days shall be allowed. An additional follow-up may be performed, but will have to be reviewed and approved before reimbursement will be made.

3. The medical necessity of consultative care is justifiable only on the same conditions as described for concurrent care.

C. Same Day Outpatient Visits

1. Same day outpatient visits by different specialties or subspecialties shall be allowed. Additionally, two outpatient visits per day to the same recipient are allowed provided both visits are medically necessary.

2. Only one visit per day per recipient shall be allowed for groups whose members are of the same specialty.

3. If the physician group members have and provide different specialty expertise each specialty service is reimbursable.

PROPOSED RULE

CONCURRENT CARE ON AN INPATIENT BASIS

Concurrent care of hospitalized patients under the age of 21 using hospital visit CPT-4 codes and critical care CPT-4 codes will be allowed if such care is reasonable and necessary for the care of the patient. Concurrent care means that the patient's condition requires the services of more than one physician (primary care provider) and that the condition is such that the medical community is of the consensus that it was reasonable for the patient to receive such care and that a peer review will uphold the standard of care.

A decision that inpatient concurrent care is reasonable and necessary requires that the condition and diagnosis of the patient require the attendance of more than just the primary care physician in order to meet the community standard of treatment. The complexity of care needed is such that the treatment and expertise of a physician specializing in a different area from the primary care physician is required to render treatment.

Inpatient concurrent care will be covered for patients whose conditions require such care, and include:

1. a patient admitted to one of the intensive care units of a hospital; or

2. a patient who is not in a critical care setting, but has a complexity of problems sufficient to be obvious to peer review that such care was medically necessary, unduplicative, and met the test of reasonableness as established by statistical norms of the provider's peer group. Sufficient documentation in the patient's hospital record must be available for review should such a review be necessary to substantiate the need for concurrent care; or

3. a patient who needs care from two or more providers of the same specialty with different subspecialties (for example, pediatricians will be assigned a new specialty code

for claims processing purposes which will reflect their subspecialty). These claims will pend for medical review prior to reimbursement. Medical documentation will be requested and reviewed prior to authorization or denial of payment.

Concurrent care of hospitalized patients is not covered under any of the following circumstances:

1. The policy on surgical packages supersedes this policy and surgeons may not bill for follow-up care after surgery since follow-up care is included in the surgical package. If the consulting physician becomes the surgeon he must not bill for either follow-up care or additional consultations, once the decision to perform surgery is made.

2. A consultant may become a concurrent care provider on a case if his continued care of the patient beyond the consultation is necessitated by the condition of the patient and meets the reasonableness test for standard of care, but he will never be able to bill for a consultation once he assumes the surgeon's role.

3. Concurrent care for simple surgical procedures and uncomplicated diagnosis is not covered under this policy.

Billing Requirements and Limitations

1. Only one visit code per day per physician may be billed even though the physician may see the patient more than once daily. The number of units billed per line for this visit should always be one. The level of code billed should reflect all the concurrent care services rendered that day.

2. The concurrent care physician shall bill his daily visit by attaching the modifier 75 to the applicable inpatient code. The primary care provider does not modify the code for his visits which will distinguish him from the concurrent care provider.

3. If the physician group members have and provide different specialty expertise each specialty service is reimbursable.

CONCURRENT CARE ON AN OUTPATIENT BASIS

Concurrent care of outpatients using office visit and other outpatient Medical Services CPT-4 codes (90000 through 90080) will be allowed if such care is reasonable and necessary for the care of the patient. Concurrent care means that the patient's condition requires the services of more than one physician (primary care provider) and that the condition is such that the medical community is of the consensus that it is reasonable for the patient to receive such care and a peer review will uphold the standard of care.

A decision that use of outpatient concurrent care is reasonable and necessary requires that the condition and diagnosis of the patient require attendance by more than just the primary care physician in order to meet the community standard of treatment. This would include cases in which the treatment and expertise of a physician specializing in an area different from that of the primary care physician is required to render treatment.

Outpatient concurrent care will be covered for patients who require such care, and include:

1. A patient who is gravely or terminally ill despite the fact that he or she can be treated on an outpatient basis; or

2. A patient who is not gravely or terminally ill who has a complexity of problems sufficient to be obvious to peer review that such care was medically necessary, unduplicative, and met the test of reasonableness as established by statistical norms of the provider's peer group. Sufficient documentation in the patient's medical records must be available for review should such a review be necessary to substantiate the

need for concurrent care; or

3. A patient who needs care from two or more providers of the same specialty with different subspecialties (for example, pediatricians will be assigned a new specialty code for claims processing purposes which will reflect their subspecialty). These claims will pend for medical review prior to reimbursement. Medical documentation will be requested and reviewed prior to authorization or denial of payment.

Outpatient concurrent care is not covered by Medicaid under any of the following circumstances:

1. concurrent care is not covered under this policy for simple outpatient surgical procedures and uncomplicated diagnoses; and

2. surgeons who have performed inpatient surgery on a patient may not bill for routine aftercare which is normally covered in the surgery package; and

3. consultants who become a concurrent care provider on a case due to the need of the patient for care beyond the consultation may not bill if they assume the role of surgeon for this patient.

Billing Requirements and Limitations

The concurrent care physician shall bill his daily visit by attaching the modifier 75 to the applicable inpatient code. The primary care provider does not modify the code for his visits which will distinguish him from the concurrent care provider.

CONSULTATIONS AND FOLLOW-UP CONSULTATIONS ON AN INPATIENT BASIS

One initial consultation and two follow-up consultations per recipient per hospitalization per specialty shall be allowed. A consultation is a service performed by a physician of a different specialty from that of the admitting or primary care physician. A consultant renders an opinion and/or gives advice and may also initiate diagnostic or therapeutic services at the request of the primary care physician. The consultant must always document that he has recommended a course of action to the primary care physician and is initiating treatment at his request. A follow-up consultation is performed when a re-evaluation of the patient by the consultant is needed.

The use of consultations and follow-up consultations is reasonable and necessary when the condition and diagnosis of the patient require the consultation with the primary care physician in order to adequately diagnose and treat the patient in accordance with the accepted community standard of care. This would include cases in which the treatment and expertise of a physician who specializes in an area different from the primary care physician is required to render the appropriate treatment. Request for the consultation will, as always, be made through the primary care physician regardless of whether the referral is generated by the primary care physician or another provider.

Consultations are considered reasonable and necessary for:

1. a gravely or terminally ill patient when justified by diagnosis or medical records documentation.

2. a patient not covered in item 1 who has a complexity of problems sufficient to be obvious to peer review that such consultation was medically necessary, unduplicative, and met the test of reasonableness as established by statistical norms of the provider's peer group. Sufficient documentation in the patient's medical records must be available for review should such a review be necessary to substantiate the

need for the consultation(s).

3. consultations by a provider of the same specialty will be allowed when circumstances are of an emergent nature supported by diagnosis, and the primary care physician needs immediate confirmation of a situation. The consulting physician may perform an intermediate consultation with follow-ups if necessary. These claims will pend for medical review prior to reimbursement. Medical documentation will be requested and reviewed prior to authorization or denial of payment.

Consultations for hospitalized patients are not covered by Medicaid under any of the following circumstances:

1. Consultations performed on a patient for whom the physician has served as either the primary care physician or the concurrent care provider, or

2. Consultations on patients with simple diagnosis or noncomplex care needs.

Billing Requirements and Limitations:

1. An initial and two follow-up consultations shall be allowed; however, if three or more follow-up consultations are needed, the service may be rendered, but an extension(s) will have to be requested. Reimbursement will be made only after the documentation has been reviewed and the medical necessity of the follow-up approved by medical review.

CONSULTATION AND FOLLOW-UP CONSULTATIONS ON AN OUTPATIENT BASIS

One initial consultation and two follow-up consultations per recipient per specialty shall be allowed. A consultation is a service performed by a physician of a different specialty from that of the primary care physician. A consultant renders an opinion and/or gives advice and may also initiate diagnostic or therapeutic services at the request of the primary care physician. The consultant must always document that he has recommended a course of action to the primary care physician and is initiating treatment at his request. A follow-up consultation is performed when a re-evaluation of the patient by the consultant is needed.

The use of consultations and follow-up consultations is reasonable and necessary when the condition and diagnosis of the patient require a consultation with the primary care physician in order to adequately diagnose and treat a patient in accordance with the accepted community standard of care. This would include cases in which the treatment and expertise of a specialist in an area different from the primary care physician is required in order to render the appropriate treatment. Request for the consultation will, as always, be made through the primary care physician regardless of whether the referral is generated by the primary care physician or another provider.

Consultations are considered reasonable and necessary for:

1. a gravely or terminally ill patient when justified by diagnosis or medical records documentation.

2. a patient not covered in item 1 who has a complexity of problems sufficient to be obvious to peer review that such consultation was medically necessary, unduplicative, and met the test of reasonableness as established by statistical norms of the provider's peer group. Sufficient documentation in the patient's medical records must be available for review should such a review be necessary to substantiate the need for the consultation(s).

3. consultations by a provider of the same specialty will be allowed when circumstances are of an emergent nat-

ure supported by diagnosis, and the primary care physician needs immediate confirmation of a situation. The consulting physician may perform an intermediate consultation with follow-ups if necessary. These claims will pend for medical review prior to reimbursement. Medical documentation will be requested and reviewed prior to authorization or denial of payment.

Consultations on outpatients are not covered by Medicaid under any of the following circumstances:

1. Consultations performed on a patient for whom the physician has served as either the primary care physician or the concurrent care provider, or

2. Consultations on patients with simple diagnosis or noncomplex care needs.

Billing Requirements and Limitations

1. An initial and two follow-up consultations shall be allowed; however, if a third follow-up consultation (or additional follow-ups) is needed, the service may be rendered, but an extension(s) will have to be requested. Reimbursement will be made only after the documentation has been reviewed and the medical necessity of the follow-up approved by medical review.

2. These consultations including follow-ups billed with CPT-4 procedure codes 90600 through 90654 are limited to an occurrence of once every 180 days.

3. Should the consulting physician subsequently assume responsibility for a portion of the patient's management, he will be rendering concurrent care and shall bill the applicable outpatient services code modified with a -75 for subsequent outpatient visits rendered within the six-month period.

SAME DAY OUTPATIENT VISITS

Two same day outpatient visits per provider rendering care shall be allowed provided both visits are medically necessary. The medical necessity of the second outpatient visit in one day may be justified when the primary care physician needs to check on the progress of a patient treated earlier in the day, when an emergency situation, such as an accident, necessitates a second visit, or when any other occasion arises in which a second visit is necessary to ensure the provision of medically necessary care to the recipient.

This policy is implemented in conjunction with the policy covering concurrent care on an outpatient basis. This policy addresses the care given by a physician who sees a patient twice in the same day.

A decision that the use of same day outpatient visits is reasonable and necessary when the primary care physician needs to check on the progress of a patient with an unstable condition which was treated earlier in the day, when an emergency situation such as an accident necessitates a second visit or when the severity of the patient's condition warrants a second visit in a day. The necessity of the second office visit must meet the test of reasonableness as established by statistical norms of the provider's peer group. Sufficient documentation in the patient's medical records must be available for review should such a review be necessary to substantiate the need for the second visit.

Same day visits on an outpatient basis are not covered by Medicaid under any of the following circumstances:

1. same day visits on patients with simple diagnosis or noncomplex care needs;

2. routine follow-ups on the same day for a patient whose condition is stable.

Billing Requirements and Limitations

1. The level of visit for the second visit should be billed no higher than a limited office visit CPT-4 code 90050 when seen back in the physician's office.

2. A same day follow-up office visit for fitting of eye glasses is allowable at a minimal office visit, CPT-4 Code 90030.

3. Only one visit per day per recipient shall be allowed for groups whose members are of the same specialty.

4. If the physician group members have and provide different specialty expertise each specialty service is reimbursable.

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, November 26, 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.

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.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Concurrent Care in the Louisiana Medicaid Physicians Program

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

The estimated implementation costs associated with this proposed rule include \$7,386,800 for FY 92; \$7,830,008 for FY 93 and \$8,299,808 for FY 94 for increased medical services expenditures for the Medicaid beneficiaries under 21 years of age.

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

It is estimated that implementation of this proposed rule will increase federal matching funds by \$5,554,874 for FY 92; by \$5,906,958 for FY 93 and by \$6,261,375 for FY 94.

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

There are no costs associated with this proposed rule for Medicaid beneficiaries. It is anticipated that these persons will receive expanded physician services from medical specialists. Physician specialists enrolled in the Title XIX Program who increase services to these beneficiaries will receive increased reimbursement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This estimated effect 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**

**Title 48
PUBLIC HEALTH GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt LAC 48:I.Chapter 39.

In accordance with the regulations and licensing authority contained in Louisiana Revised Statutes, Title 40, §§961 through 1036, and Title 46, §51; LAC 48:I.Chapter 39, Controlled Dangerous Substances are proposed for adoption. These regulations concern the licensing and certification of parties authorized to engage in the manufacture, distribution, or dispensing of controlled dangerous substances.

A copy of these proposed rules may be obtained by contacting the Office of the State Register, 1051 Riverside North, Baton Rouge, LA 70804, or by contacting the Department of Health and Hospitals at the address below.

Interested persons may submit written comments to: 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 November 26, 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.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Controlled Dangerous Substances**

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

The estimated implementation cost will be \$100 for manual revisions and provider notification associated with adoption of these regulations, of which \$50 is the projected cost to the FY 91/92. The 1990-1991 appropriation for the operation of this program is \$240,600.

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

Implementation costs associated with adoption of this proposed rule will result in increased revenues of \$50 for the manual revisions and provider notification associated with adoption of these regulations for FY 91/92. Revenues generated through fees to pay for current expenditures are \$240,600.

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

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

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**

**Title 48
PUBLIC HEALTH
Part I. General Administration
Subpart 3. Licensing and Certification**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, Health Standards Section, hereby gives notice of its intent to adopt LAC 48:I. Chapter 91 regarding revised Minimum Standards for Home Health Agencies. The standards are being revised in order to incorporate the federal requirements relating to home health agencies set forth in the Omnibus Budget Reconciliation Act of 1987.

A copy of these proposed rules may be obtained by contacting the Office of the State Register, 1051 Riverside North, Baton Rouge, LA 70804, or by contacting the Department of Health and Hospitals at the address below.

Interested persons may submit written comments to the following address: Carolyn O. 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 November 26, 1991 in the Auditorium, First Floor, Department of Transportation and Development, 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 the hearing.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Home Health Agency Minimum Standards**

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

The estimated implementation cost will be \$364 for copying costs of which \$182 is the projected cost to the state for SFY 91-92. There is no expenditure increase or decrease projected for program services in FY 92-93 and FY 93-94.

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

Implementation of the proposed rule increases federal matching funds for Title XIX administrative expenditures

by \$182 for issuance of the standards to home health agency providers in the Title XIX program. 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 on other groups resulting from this rule in FY 91-92, FY 92-93, and FY 93-94.

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, MEDICAID of Louisiana, proposes to adopt the following rule regarding Pharmacy Service Reimbursement.

Public Law 101-508, Section 4401(f) (OBRA-90) prohibits states from reducing limits for covered outpatient drugs or dispensing fees for such drugs. The purpose of this provision of law was to reinforce §1902(a)(30) of the Social Security Act which requires states to establish and maintain reasonable reimbursement amounts sufficient to cover the costs which are incurred by efficient and economically operated providers. Historically, Medicaid of Louisiana has assured compliance with these statutory provisions through use of a "lesser of" payment methodology which matched average drug cost plus average pharmacy overhead costs (commonly referred to as dispensing fees) against usual and customary charges to the general public. However, following the Health Care Financing Administration's (HCFA) new requirements which mandate a more accurate measurement of ingredient cost, Medicaid of Louisiana has been required to update its overhead cost allowance on an annual basis to assure compliance with §1902(a)(30).

To streamline reimbursement and assure continued compliance with federal law, Medicaid of Louisiana is proposing to amend its reimbursement for overhead costs related to pharmacy services to track the approved prospective methodology utilized for reimbursement of other Medicaid services. Medicaid of Louisiana is also clarifying its overhead cost survey methodology (commonly known as a dispensing fee survey). The basic reimbursement methodology in use will remain unchanged (i.e. drug cost plus overhead cost matched against usual and customary charges to the general public to determine the lower amount for payment). However, the findings of the most recently completed survey of overhead cost will be inflated forward to establish a base overhead rate. This base rate will be updated each fiscal year through application of various indices to cost categories thereby assuring the maximum allowable overhead cost re-

mains reasonable and adequate to cover costs incurred by economically and efficiently operated providers.

To provide uniformity in the new methodology proposed, current requirements for conducting an application of cost survey findings have been incorporated into this rule. Additionally, utilization of the term "dispensing fee" has been discontinued to clarify the reimbursement process as well as long-standing limitations on reimbursement. The term maximum allowable overhead cost reflects both the federally mandated "lesser of" methodology utilized as well as the type of costs being addressed. It should be noted that there are three basic limitation factors, each with subfactor limitations, utilized for prescription drug reimbursement.

The cost of the drug dispensed is limited based upon various factor which include: federal upper limits on drug cost; state maximum allowable cost limits on drug cost; package size limitations; and adjusted compendia limitations (AWP- 10.5 percent). The maximum allowable overhead cost is limited based upon the average cost incurred by efficiently and economically operated providers determined through cost survey and representative audits inflated forward to assure the maximum allowable remains reasonable and adequate. The usual and customary charge is limited based upon each pharmacy's charges to other payors including the general public. Because the first two limit factors are matched against the usual and customary charge limit, providers are not guaranteed receipt of a set dispensing fee.

In 1989 HCFA required states to reduce published drug pricing data by 10.5 percent for the majority of drugs covered by Medicaid. As a result, the average reimbursement received by providers was reduced by 7.85 percent. To assure continued compliance with §1902(a)(30) of the Social Security Act, Medicaid of Louisiana has been required to adjust the maximum overhead cost to assure total payment to providers remains reasonable and adequate to cover the costs incurred in providing prescription drug services.

Under the proposed methodology the average increase in overhead cost is estimated to be 4.5 percent per year based upon the historic impact of utilization of inflation factors in maintaining prospective payment systems.

Prior to implementation of mandatory drug price limits (AWP- 10.5 percent) by HCFA, the maximum allowable overhead cost (dispensing fee) increased at the rate of 3 percent per year over an 11-year period. The rationale for use of a minimal increase resulted from reliance upon compendia pricing of drug cost which provided an incentive to providers to purchase drugs below the average market price. Under this methodology, reimbursement of overhead costs was dependent upon the efficiency of the provider in purchasing and marketing. Average drug cost has historically increased each year by 11 percent. To project that portion of overhead cost which was reimbursed through drug cost, a percent of annual drug cost increases was allocated to recognize the historic relationship between drug cost and overhead cost. 7.85 percent of the annual drug cost increase ($.0785 \times .11 = .08635$) reflects that portion of drug cost which can reasonably be attributed to annual adjustment of overhead cost. It should be noted that overhead cost is approximately 50 percent of drug cost. To provide a basis for comparing this percentage to overhead cost, the percentage was multiplied by two. (.01727, or 1.727 percent) to provide a reasonable estimate of the percentage increase historically applicable to overhead cost. Total overhead cost under the prior methodol-

ogy was comprised of average increases of 3 percent in dispensing fees and 1.727 percent in drug cost resulting in an average annual increase of 4.727 percent which approximates the methodology proposed for adoption.

PROPOSED RULE

Establishment Of Maximum Allowable Base Overhead Cost

1. Cost Determination

A. Definitions

(1) Adjustment Factors

a. CPI - All Item Factor

b. CPI - Medical Care Factor

c. Wage Factor. Each of the above adjustment factors is computed by dividing the value of the corresponding index for December of the year preceding the overhead year and by the value of the index one year earlier (December of the second preceding year).

D. ROI. One year treasury bill rate applied to a portion of prescription drug cost (17 percent) in recognition of inventories maintained for the purpose of filling prescriptions.

(2) Base Rate. The base rate is the rate calculated in accordance with 2.B., plus any base rate adjustments granted in accordance with 5.B. which are in effect at the time of calculation of new rates or adjustments. The base rate was initially calculated using the 90/91 fee survey findings of average cost for pharmacies representative of the average pharmacy participating in Medicaid reimbursement (15,000 - 50,000 Rx volume). This rate was then inflated forward to December 1990 to establish the first overhead cost maximum.

(3) Base Rate Components. The base rate is the summation of the components shown below. Each component is intended to set the maximum allowable for the costs indicated by its name.

BASE RATE COMPONENT ADJUSTMENT FACTOR

Pharmacist	CPI - Medical Care
Other Salaries	WAGE
Other Routine Services	CPI - All Items
Inventory Cost	ROI (1)
Fixed Cost	None (2)
Return On Equity	None (3)

- (1) No return on equity allowed.
- (2) No inflation allowed.
- (3) Adjusted by ROE Factor.
- (4) Indices

a. CPI - ALL ITEMS. The Consumer Price Index for all Urban Consumers - Southern Region (All Items line of Table 12) as published by the United States Department of Labor.

b. CPI - MEDICAL CARE. The Consumer Price Index for all Urban Consumers - Southern Region (Medical Care line of Table 12) as published by the United States Department of Labor.

c. WAGE. The average annual wage for production or non-supervisory service workers as furnished by the Dallas Regional Office of the Bureau of Labor Statistics of the U.S. Department of Labor. This figure will be obtained by telephone in May and will be utilized to calculate the adjustment factor based upon the change which has occurred since December of the preceding year.

d. ROI. Interest Rates - Money and Capital Markets - The average percent per year for one year U.S. Treasury bills taken from the Federal Reserve Bulletin report on Money Market Rates (line 17) for the preceding calendar year.

(5) Maximum Allowable Overhead Cost. Overhead cost is determined through use of cost survey results adjusted by various indices to assure recognition of costs which must be incurred by efficiently and economically operated providers. The cost determined is referred to as a maximum allowable to reflect application of the "lesser of" methodology for determining total reimbursement.

(6) Overhead Year. The overhead year is the one-year period from July 1 through June 30 of the next calendar year during which a particular rate is in effect. It corresponds to a State Fiscal Year.

B. Determination of Limits. Limits on overhead cost are established through the overhead cost survey process which classifies cost in accordance with generally accepted accounting principles and Medicare principles regarding the allowability of cost.

2. Calculation of Maximum Allowable Overhead Cost

The most recent cost survey results will be utilized to establish base cost for: professional salaries; other salaries; other routine costs; and fixed cost. Claims processing data for claims paid in the current overhead period will be utilized to determine average drug cost. Seventeen percent of this cost will be utilized as base prescription inventory. The base prescription inventory amount shall not be added to the overhead cost maximum allowable. Base prescription inventory is recognized as an allowable investment subject to a return on investment only. Calculation of maximum allowable overhead cost per prescription shall be performed as follows:

A. $NORC = ORC \times CPIA$

NORC is the new other routine cost component

ORC is the current (base) routine cost component

CPIA is the CPI - All Items Economic Adjustment Factor

B. $NPS = PS \times CPIMC$

NPS is the new pharmacist salaries cost component

PS is the current (base) pharmacist salaries cost component

CPIMC is the CPI - Medical Care Economic Adjustment Factor

C. $NOS = OS \times W$

NOS is the new other salaries cost component

OS is the current (base) salaries cost component

W is the Wage Economic Adjustment Factor

D. $NROI = ROI \times IR$

NROI is the new return on investment component

ROI is 17 percent of the current average drug cost

IR is the Interest Rate - Money and Capital Markets

E. $RATE = (NORC + NPS + NOS + FCC) \times ROEF + NROI$ where:

NORC, NPS, NOS, AND NROI are computed by formulae A - D above. FCC is the fixed cost component which does not include prescription drug inventory.

ROEF is the return on equity factor of 1.05 applied to all cost components except return on investment which is calculated separately.

After formal adoption of the new maximum allowable overhead cost, the components computed above will become the base components used in calculating the next year's overhead maximum allowable, unless they are adjusted as provided in 5. below.

3. Parameters and Limitations

A. Method of Calculation. All calculations described herein shall be carried out algebraically.

B. Rounding. In all calculations the base maximum allowable and the base components will be rounded to the nearest one cent (two decimal places) and the Economic Adjustment Factors will be rounded to four decimal places.

4. Cost Survey

Every three years a cost survey shall be conducted which includes cost data for all enrolled pharmacy providers. Participation shall be mandatory for continued enrollment as a pharmacy provider. Cost data from providers who have less than 12 months of operating data shall not be utilized in determining average overhead cost or grouping providers by prescription volume. Pre-desk reviews shall be performed on all cost surveys to determine an average provider profile based upon total prescription volume. Through statistical analysis, minimum and maximum volume ranges shall be established which represent the majority of providers participating in Medicaid reimbursement. Cost surveys of providers whose prescription volumes are above or below the volume range established, shall not be utilized in calculating average overhead cost. Information submitted by participants shall be desk reviewed for accuracy and completeness. Field examination of a representative sample of participants shall be primarily random, but geographic location and type of operation shall be taken into consideration in order to ensure examination of pharmacies in various areas of the state and representative of various types of operations.

A. Cost Finding Procedures. The basic analytical rationale used for cost finding procedures shall be that of full costing. Under full costing, all costs associated with a particular operation are summed to find the total cost. The objective of cost finding shall be to estimate the cost of dispensing prescriptions through generally accepted accounting principles.

B. Inflation Adjustment. Where data collected from participating pharmacies represents varying periods of time, cost and price data may be adjusted for the inflation that occurred over the relevant period. The appropriate Consumer Price Index indicator (Table 12, Southern Region, Urban Consumer) and wage indicator produced by the U.S. Department of Labor, Bureau of Labor Statistics shall be utilized.

C. In addition to cost finding procedures, a usual and customary survey shall be included in the survey instrument. This instrument shall be used to determine the following:

(1) an average usual and customary charge, or gross margin for each pharmacy.

(2) the computation of the net margin per prescription (gross margin less computed dispensing cost per prescription) in order to approximate the average profit per prescription.

(3) computation of the average percentage of markup per prescription.

(4) the computation of average usual and customary charges shall include adjustments to allow comparability with upper limits for prescription reimbursement utilized by Medicaid of Louisiana.

D. Statistical Analysis. Statistical analysis shall be undertaken to estimate the cost to pharmacies of dispensing prescriptions. Such analysis shall include, but not be limited to:

(1) an average dispensing cost for pharmacies;

(2) analysis of the correlations among overhead costs and parameters deemed relevant to pharmacy costs;

(3) the statistical relationship between independent variables and dispensing cost shall be analyzed using the techniques of simple linear and stepwise multiple regression. Independent variables may include annual volume of prescriptions filled, pharmacy location, type of ownership, and number of Medicaid claims paid.

Before regression analysis is performed, efforts shall be made to insure that the data collected during the surveys was accurate and representative, and that errors made during data entry are corrected. Efforts should include tabulations, cross tabulations, data plotting, and visual data inspection.

E. Survey Results. Medicaid of Louisiana shall consider survey results in determining whether the maximum allowable overhead cost should be rebased. Where the overhead cost survey findings demonstrate the current maximum allowable is below average cost or above the eightieth percentile of cost, rebasing shall be required. Medicaid of Louisiana may review the survey data and establish a new cost base utilizing the cost survey findings and any other pertinent factors, including but not limited to inflation adjustment; application of return on equity; recognition of inventory investment; etc.

5. Interim Adjustment to Overhead Cost. If an unanticipated change in conditions occurs which affects the overhead costs of at least 50 percent of the enrolled providers by an average of five percent or more, the maximum allowable overhead cost may be adjusted. Medicaid of Louisiana will determine whether or not the maximum allowable overhead cost limit should be changed when requested to do so by 10 percent of the enrolled pharmacies. The burden of proof as to the extent and cost effect of the unanticipated charge will rest with the entities requesting the change. Medicaid of Louisiana, however, may initiate an adjustment without a request to do so. Changes to overhead cost may be one of two types: temporary adjustments; or base adjustments as described below.

A. Temporary Adjustments. Temporary adjustments do not affect the base cost used to calculate a new maximum allowable overhead cost limit. Temporary adjustments may be made in the rate when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage occur after the end of the period covered by the index, i.e., after the December preceding the limit calculation. Temporary adjustments are effective only until the next overhead cost limit calculation which uses economic adjustment factors based on index values computed after the change causing the adjustment.

B. Base Rate Adjustments. Base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the Indices. This would normally be a change in service requirements. Base rate adjustment will result in a new base rate component value(s) which will be used to calculate the maximum allowable overhead cost for the next year.

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 November 26, 1991 in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, 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.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Pharmacy Services Addition of New
Drugs to MAC Regulations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will increase state expenditures for Prescription drug services by: \$106,491 in FY 91/92; \$266,377 in FY 92/93; and \$289,137 in FY 93/94. Under this rule, the maximum allowable overhead cost will increase from \$5 to \$5.12.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will increase federal expenditures by: \$305,306 in FY 91/92; \$807,722 in FY 92/93; and \$876,739 in FY 93/94.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Under this rule total reimbursement to providers will increase by: \$411,797 in FY 91/92; \$1,074,099 in FY 92/93; and \$1,165,876 in FY 93/94.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment resulting from this rule.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of Mineral Resources**

In accordance with R.S. 49:950, et seq., the Department of Natural Resources, Office of Mineral Resources, is amending LAC 43:I. Part V, Chapter 1 as follows:

Title 43

NATURAL RESOURCES

Part V. Office of Mineral Resources

Chapter 1. Administration Division

§101. Rules and Regulations Applicable to Geophysical and Geological Surveys Conducted Upon or Relating to State-Owned Lands and Waterbottoms

A. Permits for geophysical and geological surveys under Title 30, Chapter 3, Sections 211 through 216 of the Revised Statutes of 1950 shall be obtained from the State Mineral Board through the Office of Mineral Resources.

B. Application for a permit for such exploration must

be filed in quadruplicate with one copy addressed to the secretary of the Department of Natural Resources and three copies addressed to the deputy assistant secretary of the Office of Mineral Resources at least 10 days before the requested effective date of the permit and each copy must be accompanied by supporting documents as follows:

1. If permittee is a shooting company, as hereinafter defined, the name of the client for whom the permit is being secured; if permittee is not a shooting company, the name of the shooting company that will do the geophysical and/or geological survey under the secured permit; or if permittee is a shooting company planning to permit itself for speculative purposes, a statement to that effect.

2. A statement of the type work planned such as gravity meter, magnetometer, reflection, refraction and/or any other recognized methods of acquiring geophysical or geological data, and the name of the client for whom the survey is being shot, if one. It is required that official permit application forms be used which are available upon request from the Office of Mineral Resources.

All permits shall not be deemed to cover and include any state oil and gas lease either in effect or thereafter to be in effect, so long as such lease or leases remain in effect, covering any portion of the area covered by the permit or permits, but if permittee or permittees shall secure appropriate consent from the lessee or lessees under any such lease or leases to conduct operations thereon of the type permitted by the permit or permits, such permit or permits shall evidence the acquiescence of the State Mineral Board in such consent. Upon expiration, lapse, or termination of any such state lease or leases, permits shall automatically extend to cover the acreage formerly under lease, if the acreage no longer under lease falls within the geographic area designated on the map submitted by the permittee as being the area proposed for geophysical and/or geological survey.

C. Whenever there arises an emergency or other cause which prevents the applicant from filing application as above provided, application for a permit for such exploration may be requested in any manner, and the deputy assistant secretary of the Office of Mineral Resources is authorized to grant, in any manner, temporary permission to conduct such geophysical operations after notifying the secretary of the Department of Natural Resources and the Department of Wildlife and Fisheries of the informal application for this temporary permit. Operations under this Paragraph shall be confined to the areas affected by the emergency conditions such as are deemed to exist in the discretion of said deputy assistant secretary of the Office of Mineral Resources. Within 10 days of the date of granting written application shall be filed in accordance with the provisions of §101.B.

D. Permits are limited to a period of one year from date of issuance, unless revoked for cause.

E. In order to accommodate proper administration of permits and orderly operations thereunder, the applicant must submit to the Office of Mineral Resources notice of the date of commencement of any geophysical and geological work authorized by a permit, a plat acceptable to the Office of Mineral Resources reasonably identifying and locating each particular grid area in which operations are to be conducted and, after completion of field operations, a like plat on each proposed grid area, which is to be supplemented with any additional detailed work thereafter conducted, reflecting the locations of the lines shot, all shot point locations and the

date of completion of said work. Additionally, the permittee, in purchasing the permit to conduct geophysical and geological surveys on state lands and waterbottoms, does voluntarily agree to make available to the Office of Mineral Resources and the State Mineral Board, at permittee's office or at the Office of Mineral Resources on request at the staff's option, the fully migrated and processed data derived from each and every survey project conducted under the permit, within 90 days of shooting and/or acquisition of raw data. Any migration or processing which occurs after 90 days shall be submitted within 30 days of migration or processing of data. All such plats and data secured by the Office of Mineral Resources or the State Mineral Board hereunder shall be deemed confidential and not subject to the public records doctrine; but shall be for the use of the staff and the personnel of the Office of Mineral Resources and the State Mineral Board only. All plats and data obtained by permittees in conducting operations under a permit shall be governed by R.S. 30:213. For the purpose of these rules and regulations, date of commencement of operations is defined as the date upon which surveying crews and equipment are moved into the area to be worked for purposes of preliminary line placement surveying prior to actual geophysical surveying.

F. A permit to conduct geophysical and geological surveying in the state of Louisiana shall be subject to the following terms:

1. The permit shall be valid for a period of one year from issuance.

2. The permit shall be valid for the entire state of Louisiana.

3. a. If the business entity whether individual, sole proprietorship, partnership, corporation or other enterprise of any kind whatsoever - applying for and obtaining the permit hereunder is engaged in the business of shooting geophysical and/or geological surveys (hereinafter referred to as *shooting company*), the permit shall be valid only to the extent work done thereunder by the shooting company services one single client. Geophysical and/or geological survey work done for more than one client by the shooting company shall require separate permits for each client.

b. If the business entity applying for and obtaining the permits hereunder is not a shooting company, the permit shall be valid only to the extent that the permittee utilizes one shooting company or its own employees to conduct the geophysical and geological survey. Each additional shooting company utilized to conduct a geophysical and/or geological survey for the business entity described in this Subparagraph shall require the securing of an additional permit for each shooting company.

c. If a shooting company secures a permit for its own use for speculative purposes, that permit shall not be utilized to do any geophysical and/or geological survey work for a particular client.

d. No permit for geophysical and/or geological survey granted hereunder shall be transferable and shall be specific as to the party securing the permit, the party for whom the permitted work is being done and the date on which the work permitted will begin.

4. A certified check, cashier's check or bond money order in the amount of \$11,000 payable to the Office of Mineral Resources shall accompany each application as the fee for issuance of a permit.

5. Violation by the permittee of any of the terms speci-

fied in these rules for fees as promulgated or which may be written on the permit form shall be deemed a permit violation by the Office of Mineral Resources subjecting permittee to the cancellation of his permit and forfeiture of his permit fee.

G. Pursuant to R.S. 30:124 all permits will be issued subject to strict compliance by the permittee with all applicable rules governing the conduct of seismic exploration in water areas as such rules may from time to time be promulgated by the Department of Wildlife and Fisheries for the protection of oysters, fish, and wildlife. Further all wildlife and waterfowl refuges, game and fish preserves, or oyster seed ground reservations or any part thereof, shall not be deemed to be included in the area covered by any permit unless written permission from the agency in charge of such refuge, preserve, or reservation is also secured.

H. The State Mineral Board hereby declares that all information, maps, and other data of every kind whatsoever that are supplied to the board pursuant to the requirements of R.S. 30:213, shall be kept confidential and shall be available only to the State Mineral Board and Commissioner of Conservation in the proper administration and development of state-owned lands and waterbottoms. In order to make effective such secrecy, all such maps and other data shall at all times be kept under lock and key, except during the course of actual examination by or on behalf of the board or the commissioner. Any violation of these requirements is hereby declared cause for peremptory removal from office or discharge of the offending officer or employee or employee in addition to the penalty provided by R.S. 30:216.

I. The permitting requirements of R.S. 30:212 do not apply to the lessees of state-owned lands and waterbottoms under the lease for mineral exploration and development. However, the provisions of §101.G, §101.H and §101.I of these rules shall be applicable to any geophysical exploration conducted by or for the account of such a lessee.

J. The approval of the State Mineral Board, through its duly authorized officer, of any permit, is granted subject to any future rules and regulations which may be adopted by the State Mineral Board from time to time. The board hereby declares that in the event any changes in the rules and regulations are effected, 30 days written notice shall be given to all permittees whose permits are still in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:212.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 4:9 (January 1978), amended LR 18:

§103. Fees

The Department of Natural Resources, pursuant to the authority of Act 13 of the 1988 First Extraordinary Session of the Louisiana Legislature, has adopted the following fees commensurate with costs incurred in administration of state oil, gas or mineral leases and geophysical and geological permits on state-owned lands and waterbottoms.

A. Fee for new mineral leases equal to 10 percent of cash payment to be submitted at time of execution of lease.

B. Fee of \$100 for processing assignments affecting state mineral leases.

C. Fee of \$500 for processing unitization agreements and other advertised instruments.

D. Fee of \$120 annually for subscription to Notice of Publication.

E. Fee for conducting geophysical surveys on state-

owned lands and waterbottoms in the amount of \$11,000 for each permit required under §101.G.

F. Kinds and anticipated amounts of costs are:

Personal Services	\$1,868,778
Operating Expenses	210,170
Other Changes	852,917
TOTAL:	\$2,931,865

G. Fee of \$35 per hour for the number of staff hours required to process requests from payors of royalties seeking reimbursements of overpayments of royalties.

H. Fee for the administration of the in-kind royalty program, authorized by statute, although not collected last year due to absence of in-kind royalty program, could possibly exceed \$150,000 if the program is re-implemented.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988 and R.S. 30:136(A) (2) and R.S. 30:142(A), as amended, respectively, by Acts 1017 and 1018 of 1990.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 14:544 (August 1988), amended LR 16:1062 (December 1990), amended LR 18:

The amendments will take effect January 20, 1992.

Questions or comments relative to the amendments may be directed to William E. Howe, Chief Landman, Office of Mineral Resources, Box 2827, Baton Rouge, LA 70821, telephone (504) 342-4615, and must be received by October 30, 1991.

Ron Gomez
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Title 43 Natural Resources Part V. Chapter 1. Sections 101-103

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This amendment will cause no additional implementation costs to the state. The State Office of Mineral Resources will continue to process and verify applications for geophysical and geological permits with the staff positions currently providing this service. Local governments will not be affected by these rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The rule change replaces the geophysical survey permits for separate geographic districts with a single statewide permit. The cost of the permit is increased by \$2,000 and a separate permit for each client served is explicitly required. These changes will increase fee revenue to the state by an estimated \$300,000 per year. In addition, the rule changes will continue this fee and the other fees levied in LAC 43:V.103 indefinitely beyond the currently scheduled July 1, 1992, expiration date. Local government revenues will not be affected by these changes in the rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Survey firms currently operating in particular districts of the state will incur cost increases of \$7,000 to \$10,000

per year for the new single statewide permit. Firms currently operating statewide will incur cost increases of \$2,000 per year for the new statewide permit. In addition, to the extent permit fees are passed on by these firms, individual clients will now have to pay the new single statewide permit fee of \$11,000 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

While these rule changes will impose greater costs on survey firms and their clients, the effect on competition and employment is not expected to be significant.

Edward H. Rhorer David W. Hood
Deputy Assistant Secretary Senior Fiscal Analyst

NOTICE OF INTENT

Board of Examiners of the Associated Branch Pilots for the Port of New Orleans

In accordance with R.S. 34:945(A) and the provisions of the Administrative Procedure Act, The Board of Examiners of the Associated Branch Pilots for the Port of New Orleans, Louisiana gives notice of its intent to adopt rules regarding standards of conduct and safety.

NAVIGATION AND SHIPPING Part A. General Provisions

§501. Authority

As mandated by R.S. 34:945 (A), these rules and regulations are issued by the Board of Examiners of Bar Pilots for the Port of New Orleans in accordance with the Administrative Procedure Act under R.S. 49:950, et seq. for the purpose of adopting rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots.

§502. Purpose

The purposes of these rules and regulations are as follows:

A. To establish standards for recommendation by the Board of Examiners of Bar Pilots for the Port of New Orleans to the governor of the state of Louisiana for appointment as bar pilots who pursuant to R.S. 34:941 et seq. have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico.

§503. Definitions

The following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

A. *Administrative Procedure Act* means the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

B. *Application* means the written application supplied by the Board of Examiners to an applicant who desires to become a bar pilot for the Port of New Orleans.

C. *Board of Examiners* or *Board* means the Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

D. *Bar Pilot or Pilot* means a bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

§504. Severability

If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

§505. Effective Date

These rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations as well as any amendments, after the rules and regulations are adopted by the board of examiners.

§506. Qualifications of Pilots

No person shall be recommended to the governor for appointment as a bar pilot unless the applicant (1) is a qualified elector of the state of Louisiana; (2) has served at least 12 months next preceding the date of his application in a pilot boat at the mouth of the Mississippi River or other entrances into the Gulf of Mexico or other outside waters from the Port of New Orleans; (3) has successfully passed the examination given by the board of examiners, as required by R.S. 34:948; (4) owns or has made a binding legal agreement to acquire as owner or part owner of at least one decked pilot boat of not less than 50 tons burden, which is used and employed exclusively as a pilot boat, as required by R.S. 34:950; (5) is a high school graduate, or in lieu thereof holds a third mate's license; (6) has served at least one year at sea on a sea-going vessel of not less than 1600 gross tons in the deck department; (7) has successfully passed a physical examination which in the judgement of the board of examiners includes those standards, such as vision, color perception and hearing tests, to perform duties as a bar pilot; (8) is of good moral character and less than 31 years of age; and (9) shall have completed satisfactorily an apprenticeship program which culminates in a cubbing period of not less than nine months duration handling vessels over the routes of the bar pilots under the supervision of not less than 25 licensed state bar pilots.

§507. Minimum Requirements

The board of examiners shall review and if found satisfactory approve the apprenticeship program of the applicant, the minimum requirements of which shall be as follows: the applicant must set forth in detail the names of the vessels handled, dates handled, the direction of travel, size, draft, and type of vessel, and the name of the supervising bar pilot. During the period of apprenticeship the applicant shall handle vessels on not less than 650 occasions, two-thirds of which shall be at night.

The board of examiners will review the number and times of vessels handled, the size, draft, and type of vessels and the conditions under which the applicant has performed the apprenticeship in order to determine if the applicant has had sufficient exposure as to enable the board of examiners to make a determination of the applicant's competence and ability to perform the duties of a bar pilot.

The board of examiners shall prescribe the form of the application and required documentary proof of the applicant's eligibility.

§508. Bond

No person shall assume the position of bar pilot until

he shall have first taken the oath prescribed by law and has furnished a bond in favor of the governor in the amount of \$2,000 conditioned on the faithful performance of his duties imposed upon him as a bar pilot. This bond shall be approved by the Board of Commissioners of the Port of New Orleans.

PILOTS

Part A. General Provisions

§601. Authority

As mandated by R.S. 34:945(C)(1), these rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950, et seq. for the purpose of establishing minimum standards of conduct for bar pilots and for the proper and safe pilotage of sea-going vessels into and out of the entrance of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

§602. Purpose

The purposes of these rules and regulations are as follows:

A. To establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots.

B. To provide a uniform set of rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways referred to in §601.

§603. Definitions

The following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

A. *Administrative Procedure Act* means the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

B. *Board of Examiners or Board* means the Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

C. *Bar Pilot or Pilot* means a bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

D. *Services* of a bar pilot means any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

E. *Waterways* means the entrance into and out of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

§604. Enforcement

Pursuant to R.S. 34:945(C)(3), the board of examiners shall have the authority to impose a fine of not more than \$500 upon any bar pilot, to reprimand or remove from a vessel any bar pilot, or to recommend to the governor that the commission of any bar pilot be suspended or revoked, if after a hearing conducted in accordance with the Administrative Procedure Act, a bar pilot is found in violation of any rule or regulation adopted by the board of examiners.

§605. Severability

If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

§606. Effective Date

These rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations, as well as any amendments, after the rules and regulations are adopted by the board of examiners.

Part B. Standards of Conduct; Proper and Safe Pilotage

§701. Adoption of Inland Navigational Rules

For those waters on which the inland rules apply within the jurisdiction of the bar pilots, the board of examiners hereby adopts, by reference and in its entirety, the Inland Navigational Rules at 33 U.S.C. §2001, et seq. The board of examiners also adopts the navigation safety standards set forth in Title 33 CFR Part 164(p). All bar pilots and bar pilot applicants shall be subject to these inland navigational rules and safety standards as adopted herein by reference.

§702. Ships Required to Take Pilots

All ships and vessels inward or outward bound throughout the entrances of the Mississippi River or other inland waterway connecting the Port of New Orleans with the Gulf of Mexico, or other outside waters, except those of 100 tons or less lawfully engaged in the coasting trade of the United States, shall take a bar pilot when one is offered; and any ship or vessel refusing or failing to take a pilot shall be liable to the pilot thus offering for pilotage.

§703. Pilots, Duty to Remain On Board Ship Until Crossing Bar

When boarding an outward bound ship or vessel at the boarding stations bar pilots shall remain on board the ship until she crosses the bar, unless permission is given by the master for the pilot to absent himself from the ship or vessel.

§704. Acting as Pilot Without License; Penalty

No person who is not commissioned a bar pilot shall board any ship or vessel required to take a bar pilot, for the purpose of piloting, or to pilot or attempt to pilot the same; and no person or pilot shall board any such ship or vessel for the purpose of piloting, except from the pilot boats on the bar pilot stations. Whoever violates the provisions of this Section shall be fined not less than \$1,500 nor more than \$5,000, or may be imprisoned for not more than six months, or both.

§705. Pilot's Duty to Exhibit License

Whoever offers to pilot a ship or other vessel shall, if required, exhibit to the commander thereof his identification card as a bar pilot, attested to by the chairman of the board of examiners; and if he refuses or neglects to do so, he shall not be entitled to any remuneration for any service he may render as pilot.

§706. Employing Pilot Without Licenses; Liability of Vessel, Master or Owner

When a vessel, inward or outward bound to or from the Port of New Orleans employs as a pilot a person who is not a state commissioned bar pilot, when a bar pilot offers his services, the vessel, her captain and owners, shall be liable for a civil penalty of and shall forfeit to the state of Louisiana

the sum of \$15,000 with privilege on the vessel, to be recovered before any court of competent jurisdiction. An action for forfeiture under this Section may be brought by the attorney general of Louisiana or by the Associated Branch Pilots of the Port of New Orleans. If the Associated Branch Pilots of the Port of New Orleans obtains a judgement hereunder, the court shall include in its judgement a reasonable attorney's fee.

§707. Employing Pilot Without A State Commission; Penalties

A. No master, owner, or agent of a vessel required under R.S. 34:953 to take a state commissioned bar pilot shall, when a state commissioned bar pilot offers his services, employ as a pilot a person who is not a state commissioned bar pilot.

B. Whoever violates this Section shall be subject to a fine of not less than \$1,500 nor more than \$5,000, or imprisoned for not more than six months, or both.

§708. Offering of Services

As used in this Subpart, reference to the offering of a bar pilot or the offering of services by a bar pilot shall mean any offering of any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, and other navigational conditions.

§709. Prohibition of Interest of Members of Board of Commissioners of Port of New Orleans, in Pilot Boat or Pilotage

The members of the Board of Commissioners of the Port of New Orleans shall not be interested, directly or indirectly, in any bar pilot boat or pilotage.

§710. Report By Pilot

In any case where a vessel being piloted by a bar pilot shall go aground, or shall collide with any object, or shall meet with any casualty, which causes injury to persons or damage to property, the pilot shall, as soon as possible, report such incident to the board.

The board, with or without complaint made against said pilot, shall investigate the incident.

The pilot shall make a complete report to the board within 10 days after the incident. This report may either be an oral or a written report as the board deems necessary.

These rules shall apply to any bar pilot engaged in piloting within the operating territory as defined by R.S. 34:941 et seq., whether the vessel be subject to compulsory pilotage or elective pilotage.

§711. Meetings of Examiners

All meetings and notices thereof of the board of examiners shall be conducted in accordance with the Open Meetings Law (R.S. 42:4 et seq.). The board shall meet at least once each quarter and meeting shall be called in accordance with R.S. 42:7.

§712. Pilots Duty to Report

Pilots, when notified, shall report in person to the board at the time and place so designated.

§713. Pilots Summoned to Testify

Any bar pilot summoned to testify before the board shall appear in accordance with such summons and shall make answer under oath to any question put to him, touching any matter connected with the pilot's service or of the pilot grounds over which he is commissioned to pilot.

§714. Record Keeping

The board of examiners shall maintain records and conduct its hearings in accordance with R.S. 49:950, et seq.

Part C. Drug and Alcohol Policy

§801. Application

The board of examiners hereby adopts the following rules and regulations relating to drug and alcohol abuse policy applicable to all state licensed bar pilots pursuant to the provisions of R.S. 34:941 et seq.

§802. Statement of Findings and Purposes

A. The board of examiners of bar pilots for the Port of New Orleans, Louisiana, (hereinafter "board") has always had a strong commitment to the pilot members of the Associated Branch Pilots for the Port of New Orleans to provide a safe work place and to establish programs promoting high standards of bar pilot health. Consistent with the spirit and intent of this commitment the board has established this policy regarding drug and alcohol abuse. Its goal will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug abuse.

B. While the board has no intention of intruding into the private lives of bar pilots, the board does expect bar pilots to report for work in a condition to perform their duties. The board recognizes that off-the-job, as well as on-the-job, involvement with alcohol and drugs can have an impact on the work place and on a bar pilot's ability to accomplish our goal of an alcohol and drug-free work environment.

§803. Bar Pilots' Assistance Program

A. Establishment. The board has designed a Bar Pilot's Assistance Program (BPAP) to provide help for any bar pilot whose personal alcohol or drug abuse problems may seriously affect his or her ability to function on the job, at home and in society.

B. Eligibility. The BPAP is available to all bar pilots and their spouses because an alcohol or drug abuse problem of a spouse may also affect a bar pilot's work and general well-being.

C. Procedure

(1) At times, people find the solution to their own problems. When this cannot be accomplished, a BPAP staff person will discuss the bar pilot's problem with him and put him in touch with appropriate professional sources.

(2) The bar pilot or spouse will then be advised of available alternatives for treatment, counseling or help, and be assisted in arranging an appointment. When an eligible person requests assistance, that person decides whether or not he or she wants to pursue the recommendation.

(3) The BPAP will either provide assistance by telephone or will arrange for a confidential consultation in their private offices.

D. Costs. If the counseled person needs to be referred to resources outside the BPAP, then he or she is responsible for all fees.

E. Confidentiality. A bar pilot's right to confidentiality and privacy in the BPAP is recognized. All information regarding referral, evaluation, and treatment will be maintained in a confidential manner and no BPAP matters will be entered in a bar pilot's personal file except as is mandated by law. A request for evaluation, diagnosis, information, or treatment will not affect this board's actions or recommendations.

§804. Definitions

As used in this part:

A. *Alcoholic Beverage* means any fluid, or solid capa-

ble of being converted into fluid, suitable for human consumption, which contains ethanol.

B. *Drug* refers to all controlled dangerous substances as defined in R.S. 40:961(7). Some of the drugs which are illegal under federal, state, or local laws include, among others, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited physician.

C. *Prescription Medication* means any medication distributed by the authorization of a licensed physician as defined in R.S. 40:961(30).

§805. Prohibitions and Requirements of the Policy

A bar pilot who is under the influence of alcohol or drugs, or who possesses or uses alcohol or drugs on the job, has the potential for interfering with his own safety as well as that of the ship he is piloting and other vessels in the area, property, and personnel. Consistent with existing board practices, such conditions shall be proper cause for disciplinary action up to and including loss of state license as a bar pilot.

B. (1) Off-the-job drug or alcohol abuse use that could adversely affect a bar pilot's job performance or could jeopardize the safety of others shall be proper cause for administrative or disciplinary action up to and including recommendation for revocation of a bar pilot license.

(2) Bar pilots who are arrested for off-the-job drug or alcohol activity may be considered to be in violation of this policy. In deciding what action to take, the board will take into consideration the nature of the charges, the bar pilot's overall job performance as a pilot and other factors relative to the impact of the bar pilot's arrest upon the conduct of bar pilotage and the safety threat posed to the public by the specific activity.

C. (1) A pilot shall be free of use of any drug as defined in §804(B), but excluding prescription medication as defined in §804(C), so long as such use of prescription medication does not impair the competence of the pilot to discharge his duties.

(2) Bar pilots undergoing prescribed medical treatment with a controlled substance should report this treatment to the president of the board and to the associated branch pilots' doctor. The use of controlled substances as part of a prescribed medical treatment program is naturally not grounds for disciplinary action, although it is important for the board to know such use is occurring.

D. A bar pilot who voluntarily requests assistance in dealing with a personal drug or alcohol abuse problem may participate in the BPAP without the board taking action to fine or recommend action against a bar pilot, provided he stops any and all involvement with alcohol or drugs. Volunteering to participate in the BPAP will not prevent disciplinary action for a violation of this policy which has already occurred.

E. (1) Narcotics or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana shall not be brought aboard or caused to be brought aboard any vessel no matter by whom owned, or property owned or leased by the associated branch pilots.

(2) Persons, or property, coming aboard any such vessel or property will be subject to inspection.

(3) The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

§806. Drug Testing

A. Drugs investigated. All bar pilots shall be subject to testing for the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine.

B. Types of testing

(1) All bar pilots shall submit to reasonable scientific testing for drugs when directed by the board. All procedures and activities conducted in connection with such testing shall comply with R.S. 49:1001 - 1015, as those provisions may be amended from time to time.

(2) A bar pilot shall be required to submit a urine specimen to be tested for the presence of drugs under the following circumstances:

(a) prior to recommendation for appointment, as a part of the physical exam required in §506(7) of these rules and regulations;

(b) after recommendation, whenever the pilot is required by the board to undergo a physical examination;

(c) upon written complaint signed by the complainant in accordance with §901-§1003 of the rules and regulations of the Board of Review of Bar Pilots for the Port of New Orleans;

(d) when the pilot is reasonably suspected of using drugs in violation of this policy;

(e) at random at the discretion of the board; and

(f) when the pilot is determined to be directly involved in a marine casualty or accident during the course of his activities as a pilot that results in:

(i) one or more deaths;

(ii) injury to any person which requires professional medical treatment beyond first aid;

(iii) damage to property in excess of \$100,000; or

(iv) actual or constructive loss of any vessel.

C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of drugs or their metabolites in a pilot's system.

§807. Alcohol Testing

A. The board of examiners may require a pilot to submit to a blood alcohol test under the following circumstances:

(1) upon written complaint signed by the complainant in accordance with §901-§1003 of the rules and regulations of the Board of Review of Bar Pilots of the Port of New Orleans;

(2) when there exists reasonable suspicion that a pilot is performing his duties while under the influence of alcohol; or

(3) when the pilot is determined to be directly involved in a marine casualty or accident of the type described in §806(B)(2)(d).

§808. Violations of the Policy

A. Any pilot found to be in violation of this policy may be reprimanded, fined, evaluated, and treated for drug use and have his commission suspended or revoked as provided by R.S. 34:945 and 962.

B. Any bar pilot reasonably suspected of bringing on board any vessel, no matter by whom owned, or property owned or leased by the association, or causing to bring on board a vessel or property owned or leased by the association, any narcotic or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana will be subject to disciplinary action either by the board or, upon recommendation of the board, by the governor of Louisiana.

C. A pilot shall be suspended from performing the du-

ties of a pilot pending a hearing pursuant to R.S. 34:945 and 962 if:

(1) he tests positive for any drug listed in § 806(A);

(2) he uses any drug in violation of §805(C);

(3) he refuses to submit to reasonable scientific testing for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results;

(4) tests positive for alcohol; or

(5) refuses to submit to a blood alcohol test, fails to cooperate fully with the testing procedure, or in any way tries to alter the test results.

D. Any pilot who is required to undergo evaluation or treatment for alcoholism or drug abuse shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the board.

E. Any pilot who believes he would be in violation of these rules if he were to perform his duties as a bar pilot is obligated to remove himself from duty.

§809. Test Results

A. All drug test results shall be reviewed by a medical review officer in accordance with R.S. 49:1007.

B. Any pilot, confirmed positive, upon his written request, shall have the right of access, within seven working days of actual notice to him of his test results, to records relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.

C. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, in accordance with R.S. 49:1012, be confidential and disclosed only to the board of examiners and the pilot tested, except that:

(1) the board of examiners may report the results to the governor; and

(2) in the event that the board of examiners determines that a hearing is required pursuant to R.S. 34:991 or 1001, there shall be no requirement of confidentiality in connection with such hearing.

Interested persons may direct inquiries about and comments on the proposed rules to: R. Gordon Kean, Jr., Attorney for the Board of Examiners for the Port of New Orleans, Port of New Orleans, Box 3513, Baton Rouge, LA 70821. Comments will be accepted through the close of business at 5 p.m., November 22, 1991.

Gary G. Mott
President

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Standards of Conduct and Safety

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

There are no implementation costs or savings to the state of Louisiana or local governmental unit in either the adoption or implementation of the rule.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The adoption and implementation of the proposed rules and regulations by the board of examiners will not effect competition and employment.

R. Gordon Kean, Jr.
Attorney, Board of Examiners

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Board of Review of the
Associated Branch Pilots
for the Port of New Orleans**

In accordance with R.S. 34:962(B) and the provisions of the Administrative Procedure Act, The Board of Review of the Associated Branch Pilots for the Port of New Orleans, Louisiana gives notice of its intent to adopt rules regarding complaint procedures.

**NAVIGATION AND SHIPPING
PILOTS
Part A. General Provisions**

§901. Authority

As mandated by R.S. 34:962(B)(1), these rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950, et seq. for the purpose of outlining the procedures for the hearing of complaints by the board of review of misconduct of any bar pilot, for his carelessness or incompetence in handling a vessel he is piloting, or for soliciting business or other employment for himself or others while on board any vessel.

§902. Purpose

The purposes of these rules and regulations are as follows:

A. To establish procedures and guidelines for the board of review to hear complaints of misconduct of any bar pilot, for his carelessness or incompetence in handling a vessel he is piloting.

B. To establish procedures and guidelines for the board of review to hear complaints of misconduct of any bar pilot, for soliciting business or other employment for himself or others while on board any vessel.

§903. Definitions

The following terms as used in these rules and regulations, unless redefined by a particular part hereof, shall have the following meanings:

A. *Administrative Procedure Act* means the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

B. *Board of Review* or *Board* means the Board of Review of the Associated Branch Pilots for the Port of New Orleans, established in R.S. 34:962.

C. *Bar Pilot* or *Pilot* means a bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

D. *Services* of a bar pilot means the advice or assist-

ance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

E. *Waterways* means the entrances into and out of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

§904. Enforcement

Pursuant to R.S. 34:962(B)(3), the board of review shall have the authority to impose a fine of not more than \$500 upon any bar pilot, to reprimand or remove from a vessel any bar pilot, or to recommend to the governor that the commission of any bar pilot be suspended or revoked, if after a hearing conducted in accordance with the Administrative Procedure Act, a bar pilot is found in violation of any rules and regulations adopted by the board of review.

§905. Severability

If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

§906. Effective Date

These rules and regulations shall be in full force and effective upon final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations, as well as any amendments, after the rules and regulations are adopted by the board of review.

Part B. Complaint Hearings

§1001. Disciplinary Hearings; Reports; Disciplinary Actions; Notice

A. A hearing, pursuant to the Administrative Procedure Act, shall be held by the board of review when any person having cause to complain testifies in a sworn complaint filed at the location designated by resolution of the board of review that a bar pilot:

(1) was guilty of misconduct, carelessness, or incompetence in the performance of his duties;

(2) has solicited the owners, agents, masters, officers, crew, or passengers of any vessel required by these statutes to employ a pilot, for business or employment of any kind or nature whatsoever, for himself or for any other person.

(3) has failed to timely offer pilot services to a vessel without just cause.

B. The board of review may report all findings and conclusions of the hearing to the governor, and shall report all findings and conclusions of the hearing to the complaining party, along with any action taken by the board against the bar pilot pursuant to its conclusions. The board in its discretion may acquit the pilot of any wrongdoing, fine or reprimand the pilot, or recommend to the governor that the pilot's state commission be suspended or revoked.

C. If the board of review determines to recommend suspension or revocation of a pilot's commission, prior to forwarding the recommendation to the governor, the board shall notify the pilot, by certified mail, return receipt requested, of the determination, and permit the pilot to request a hearing as hereinafter provided.

(1) Within 30 days after receipt of the notice, the bar pilot may request a hearing before the Board of Review and the Board of Commissioners of the Port of New Orleans, by submitting a written request for the hearing to the presidents of the respective boards. Upon receipt of such a request, presidents of the respective boards shall call a joint hearing within a reasonable time. If, after the hearing is held, the board and the commission concur on their findings and recommendations, a joint report shall be made to the governor. If the boards do not concur on the findings or recommendations each board shall make a separate report to the governor.

(2) If a request for a joint hearing is not made timely, the board of review shall report its findings and recommendations to the governor.

§1002. Summons to Testify

The board of review has the right to subpoena documents and witnesses pursuant to the provisions of R.S. 49:956 and investigate any complaint made to it.

§1003. Annual Report; Records; Copies of Regulations

The board of review shall also:

(1) Make an annual report to the Louisiana Department of Transportation and Development on accident investigations that identify the accident, the pilot involved, the cost of each accident and action taken by the board of review.

(2) Keep a permanent, detailed accident record on each pilot and accident investigation files for as long as the pilot is piloting.

(3) Provide all bar pilots with copies of the rules and regulations.

Interested persons may direct inquiries about and comments on the proposed rules to: R. Gordon Kean, Jr., Attorney for the Board of Examiners for the Port of New Orleans, Port of New Orleans, Box 3513, Baton Rouge, LA 70821. Comments will be accepted through the close of business at 5 p.m., November 22, 1991.

James Fitzmorris
President

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Complaint Procedures

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

There are no implementation costs or savings to the state of Louisiana or local governmental units in either the adoption or implementation of the rule.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The adoption and implementation of the proposed

rules and regulations by the board of review will not affect competition and employment.

R. Gordon Kean, Jr.
Attorney, Board of Review

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

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 gives notice of its intent to amend the rules and regulations relative to the death penalty and the policy for implementation and regulation.

Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT Part I. Corrections

Chapter 1. Secretary's Office

§103. Death Penalty

A. Purpose. The purpose of this regulation is to set forth procedures to be followed for lethal injection of those individuals executed on or after September 15, 1991.

B. Responsibility. The secretary, deputy secretary, assistant secretary for the Office of Adult Services and the wardens of Louisiana State Penitentiary and Louisiana Correctional Institute for Women are responsible for ensuring implementation of this regulation.

C. Incarceration Prior to Execution. Male offenders sentenced to death shall be incarcerated at the Louisiana State Penitentiary at Angola, Louisiana. Female offenders sentenced to death shall be incarcerated at the Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the offender in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female offenders shall be transported to Louisiana State Penitentiary after 6 p.m. on the day immediately prior to the execution date.

D. Visits

1. Offenders sentenced to death shall be afforded same visiting privileges as other offenders in the same institution. In addition, during the final 72 hours before the scheduled execution, the warden will approve special visits for the following:

a. Clergy;

b. Family member(s) and friend(s) on approved visiting list;

c. Attorney;

2. Except for a priest, minister, religious advisor, or attorney, visits will terminate by 6 p.m. on the day immediately prior to the execution date. Visits with a priest, minister, religious advisor, or attorney will terminate no later than 11:30 p.m. on the evening preceding the execution.

E. Media Access

1. Properly credentialed reporters may contact the office of the warden to request interviews. If the warden, of-

fender, and (if represented by counsel) his/her attorney consent, the interview shall be scheduled for a time convenient to the institution.

2. Should the demand for interviews be great, the warden may set a day and time for all interviews to be conducted and may specify whether interviews will be done individually or in "press conference" fashion.

F. Pre-Execution Activities

1. The warden shall select any appropriate area to serve as a press room and for any mobile press units. Press representatives, except those selected as witnesses, will not be permitted in other areas of the penitentiary from 8 a.m. on the day preceding the execution until such time after the execution as the warden deems appropriate.

2. The execution room shall be off-limits to unauthorized offenders and employees from 8 a.m. on the day preceding the execution until such time after the execution as the warden deems appropriate. The execution room shall also be off-limits to the public and press from five days before the execution until such time after the execution as the warden deems appropriate.

3. All persons selected as witnesses will sign copies of the witness agreement prior to being transported to the execution room.

G. Execution

1. Time and Place

a. The execution shall take place at Louisiana State Penitentiary, Angola, Louisiana, between 12 midnight and 1:00 a.m., barring unforeseen delays. In no event may the execution be conducted after 3 a.m. (R.S. 15:569.1).

b. At 12:01 a.m., the witnesses shall be escorted to the execution room.

2. Witnesses

a. The following are the only persons, other than the condemned, who will be admitted to the execution room during the execution:

*i. the warden of Louisiana State Penitentiary or his designee;

*ii. the coroner of West Feliciana Parish or his deputy;

*iii. a physician chosen by the warden;

*iv. a competent person selected by the warden to administer the lethal injection;

*v. a priest or minister, or religious advisor, if the offender so requests;

*These and no less than five and no more than seven additional witnesses are required, by law, to be present (R.S. 15:570).

vi. three members of the news media, as follows: one qualified Louisiana representative from the Associated Press, one representative selected by lot from Louisiana media persons from the parish where the crime was committed and one representative selected by lot from all other Louisiana media persons requesting to be present. Those so designated must agree to act as pool reporters for the remainder of the media present and meet with all media representatives present immediately after the execution; and

vii. a minimum of two and a maximum of four additional witnesses selected by the secretary of the Department of Public Safety and Corrections from persons who, in the secretary's discretion, have a legitimate interest. The secretary may designate the warden of the Louisiana Correctional Institute for Women to serve as a witness in the event a female offender is executed.

b. All witnesses must be residents of the State of Louisiana, over 18 years of age and all must agree to sign the report of the execution (R.S. 15:570 - 571).

c. No cameras or recording devices, either audio or video, will be permitted in the execution room (R.S. 15:569).

3. All arrangements for carrying out the execution shall be completed by 12 midnight. At 11:45 p.m. on the day preceding the execution, the warden shall order the offender to be brought to the execution room where the offender will be strapped to the execution table at which time the person designated by the warden will insert intravenous catheters. The witnesses will enter the witness room at 12:01 a.m., where they will be given a copy of the inmate's written last statement. The warden shall then order the person selected to administer the lethal injection to proceed with the execution.

4. The person designated by the warden will administer by intravenous injection a substance(s) in a lethal quantity into the body of the offender until such person is dead.

5. At the conclusion of the execution, the coroner or his deputy shall pronounce the offender dead. The offender shall then be immediately taken to a waiting ambulance for transportation to a place designated by the next of kin or in accordance with other arrangements made prior to the execution.

6. The warden will then make a written report reciting the manner and date of the execution. The warden and all witnesses shall sign the report and it shall be filed with the clerk of court in the parish where the sentence was originally imposed.

7. No employee, including employee witnesses to the execution, except the warden or his designated representative, shall communicate with the press regarding any aspect of the execution, except as required by law.

H. The effective date of this regulation is January 20, 1992.

ATHORITY NOTE: Promulgated in accordance with R.S. 15:567-15:571 (as amended by Act No. 717 of the 1990 Regular Session of the Louisiana Legislature and by Act No. 159 of the 1991 Regular Session of the Louisiana Legislature), *Garret v. Estelle* 556 F.2d 1274 (5th Cir., 1977).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981) and by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), amended LR 18: (January 1992).

Interested persons may submit written comments to the following address: Larry Smith, Deputy Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:15 p.m., November 15, 1991. Copies of the proposed regulation may also be obtained from the above mentioned address.

Bruce N. Lynn
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Death Penalty LAC 22:I.103

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings to state

- or local governmental units associated with this rule.
- 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 associated with this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
 There will be 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 effect on competition and employment.

Bruce N. Lynn
 Secretary

John R. Rombach
 Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Community Services

The Department of Social Services, Office of Community Services, 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.

- LR 2:36 (January 1976) - Policy relative to confidentiality of information
- LR 2:272 (September 1976) - Eligibility criteria for day care services
- LR 2:318 (October 1976) - Amendments to Title XX Program Plan
- LR 3:495 (December 1977) - Changes in method of reimbursing foster parents
- LR 4:388 (October 1978) - Rules and regulations to implement a program for subsidizing the adoption of children with special needs
- LR 4:512 (December 1978) - Amendments to existing rules and regulations relative to payment of cost related reimbursement rates to facilities providing care and treatment for children
- LR 5:7 (January 1979) - Monthly rate of payment to licensed vendor day care centers and family day care homes
- LR 5:175 (July 1979) - Manual of rules and policies and procedures for the implementation of the client placement system
- LR 5:388 (November 1979) - Policies and procedures to implement a program of community respite care services
- LR 6:730 (December 1980) - Monthly maintenance subsidy rates in the subsidized adoption program for special needs children
- LR 6:731 (December 1980) - Rate schedule for provision of day care services
- LR 7:189 (April 1981) - Fees or rates paid for foster care services
- LR 7:340 (July 1981) - Low Income Home Energy Assistance Program

- LR 7:408 (August 1981) - Amendments to Child Placement Program policy
- LR 7:409 (August 1981) - Guidelines for Respite Care Program
- LR 7:629 (December 1981) - Vendor payments to licensed day care centers and family care homes
- LR 7:629 (December 1981) - Eligibility in the Adoption Subsidy Program
- LR 7:629 (December 1981) - Fees or rates for foster care services
- LR 8:76 (February 1982) - Low Income Home Energy Assistance Program
- LR 8:76 (February 1982) - Client eligibility for services provided in the Client Placement Program
- LR 8:277 (June 1982) - Amendments to Client Placement Program policy
- LR 8:599 (November 1982) - Fees or rates paid for foster care services
- LR 9:68 (February 1983) - Fees or rates paid for Title XX Vendor Payment Day Care Services
- LR 9:415 (June 1983) - Rules relative to voluntary registration of adopted children and/or biological parents of adopted children
- LR 9:563 (August 1983) - Fees or rates paid for Title XX vendor payment day care services
- LR 9:685 (October 1983) - Low Income Home Energy Assistance Program
- LR 10:89 (February 1984) - Policies and procedures for Adult Protective Services Program
- LR 11:349 (April 1985) - Amendment to State Plan for the Low Income Home Energy Assistance Program
- LR 11:865 (September 1985) - Amendment to State Plan for the Low Income Home Energy Assistance Program
- LR 13:354 (June 1987) - Title XX vendor and purchase of service contracted day care services
- LR 14:91 (February 1988) - Policy limiting fee paid to private attorneys for work performed on adoptions
- LR 14:91 (February 1988) - Monthly maintenance payments to Title IV-E eligible adoption subsidy recipients
- LR 16:91 (April 1990) - Weatherization Assistance Program State Plan
- Interested persons may submit written comments within 20 days of the date of publication of this notice to the following address: Brenda L. Kelley, Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804.

May Nelson
 Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Repeals Certain Rules

- 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.

Robert J. Hand
Director

John R. Rombach
Legislative Fiscal Officer

A public hearing on the proposed rule will be held on November 26, 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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Job Opportunities and Basic Skills (JOBS)
Training Program or Project Independence**

NOTICE OF INTENT

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

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III., Subpart 5. Job Opportunities and Basic Skills Training Program.

This rule is mandated by Act 1033 of the 1991 regular session of the Louisiana legislature.

Title 67

DEPARTMENT OF SOCIAL SERVICES

Part III. Office of Family Support

Subpart 5. Job Opportunities and Basic Skills Training Program

Chapter 1. Organization

Subchapter A. Designation and Authority of State Agency

§101. Implementation

* * *

B. Participation Requirements

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3. Individual Participation Requirements

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b. Regulations at 45 CFR 250.30 (b)(9)(i) mandate that all non-exempt applicants and recipients with children over age three, or an age less than three but not less than one, participate in the JOBS program as an eligibility condition for receipt of AFDC benefits. Louisiana will exercise the option to require participation of parents with children over age one. This age limitation is overridden in the case of the custodial parent under age 20 who has not completed high school, since the legislation requires that such an individual participate in the education component of the program regardless of the age of the dependent child.

* * *

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 45 CFR 250.33 and R.S. 460.3(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support in LR 16:626 (July 1990), LR 16:1064 (December 1990) and LR 18:

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.

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

This proposed rule lowers the age of the child from three years to one year that allows exemption of the parent from participating in Project Independence. While this rule change will increase the number of mandatory participants, it will have no effect on the total number of participants to be served. The Office of Family Support estimates that the number of mandatory participants for FY 92-93 to be served by Project Independence on a statewide basis will increase from 5,802 (recipients with children age three and above) to 6,329 (age one and above). For FY 93-94 the number will increase from an estimated 8,070 (age three and above) to 8,804 (age one and above).

However, the agency was already planning to serve an annual total of 7,708 participants (mandatory and non-mandatory) in FY 92, and 9,894 participants in FY 93 and FY 94. Therefore, although the number of mandatory participants is estimated to increase, that number will not exceed total participants which the agency plans to serve, and there will be no additional costs to implement the proposed rule. Agency estimates of statewide mandatory and total participants published in July and September 1990 are in error and should be disregarded.

The cost per participant for component services (education and training) and all supportive services other than child care is approximately \$1,739 per year. Child care costs are approximately \$1,214 per case per year. The total budgeted for Project Independence for the current year is approximately \$36,253,195 (\$10,891,118 SGF). OFS is requesting a total of approximately \$43,237,494 (\$13,218,528 SGF) for Project Independence for FY 92-93 in the continuation budget. However, these costs are not increased or decreased as a result of the implementation of 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 economic costs or benefits resulting from this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of the Treasury Board of Trustees of the Louisiana State Employees' Retirement System

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rules for implementation of Act 6 of the First Extraordinary Session of 1991 for Retirement System purposes.

PROPOSED RULE

The Military Service Relief Act (R.S. 29:401-425) provides for a broad range of benefits for persons who are called to military service for the security of the nation. The provisions of the law are effective for military service rendered on and after August 3, 1990, which includes service in Operation Desert Shield/Storm.

The following rules apply to the provisions that affect benefits administered by the Louisiana State Employees' Retirement System (LASERS) for the service during Operation Desert Shield/Storm pursuant to Presidential Order.

Requirements

In order to qualify for retirement credit for military service, at the time the individual was called to active military service, he or she must have been:

1. a state employee in a position that is other than temporary (including but not limited to probational and permanent Civil Service positions);
2. a member of the Louisiana State Employees' Retirement System;
3. a member of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, Air Force Reserve, or the Coast Guard Reserve (hereinafter called reservist) called to active duty; and
4. must have been released from active duty after satisfactory completion of military duty in accordance with the provisions of 50 U.S.C. A. §459 (release must have been other than dishonorable).

In addition, the reservist must apply for reemployment within 90 days of release from military service or discharge from hospitalization incidental to the military service.

Exclusions

Employees who were in temporary positions (such as, but not limited to, restricted appointments, job appointments, provisional appointments, and student workers) are not eligible for retirement credit. Elected officials and appointed officials in positions established by the constitution or laws of the state are eligible for retirement credit. Reservists who were participating in the Deferred Retirement Option Plan at the time of military service are not eligible to receive service credit.

Limitations

Reservists may not receive more than a total of four

years of military service credit in the retirement system for military service performed after August 3, 1990. Even if a reservist has prior credit for military service, he or she may receive credit for Operation Desert Shield/Storm.

Credit for Eligibility and/or Benefit Purposes

Under the provisions of the Act, a reservist will receive credit for purposes of determining eligibility for retirement at no cost to the individual or agency. In order to receive credit for purposes of calculating the retirement benefit, contributions must be paid to the retirement system within four years of release from active military duty. If the employee was on paid leave during the period of active military service, the employee has received retirement credit for that service and no additional information must be furnished to the retirement system.

Certification of Military Service

In order to receive retirement credit for eligibility and/or benefits purposes, the employee must provide:

1. discharge or release notice (Form DD214) and any other pertinent documentation from the appropriate military entity which provides the inclusive dates of active service or discharge from hospitalization incidental to the military service,
2. documentation from the agency certifying that the reservist was employed in a position other than temporary on the date the active duty began, and
3. certification from the agency that the reservist applied for reemployment within 90 days of release from military service or discharge from hospitalization incidental to the military service.

Differential Payments Made by the Agencies

Under the provisions of this Act, many reservists whose military active duty base pay was less than their state base pay will receive compensation from their agency in the amount of the difference between the base military pay and base state pay for the time of their eligible active duty. Retirement contributions should not be paid on this differential pay. The reservist must elect to pay contributions on the entire amount of state earnings that would have been received in order to receive retirement credit for benefit purposes.

Payment of Contributions After Military Service is Completed (R.S. 29:414)

The reservist may receive credit by paying the amount of employee contributions that would have been paid if he or she had continued in state employment during the period of military service plus compounded interest at the actuarial valuation rate at the time the payment is made. (In 1991, the actuarial valuation rate is 8.25 percent). The employer must pay the employer contribution plus interest.

The amount of contributions is based upon the amount of earnings the employee would have received if still employed. This includes any increases in compensation the employee would have received if he/she had remained in employment during the period of military service. If the employee's compensation varies, such as for legislators, the average monthly earnings for the 12 months preceding the active military service should be used to determine the amount of contributions.

The employer must determine the amount of earnings that would have been earned and compute the employee and employer contributions that are due plus interest. The interest should be calculated from the date the contributions would have been made to the date the payment is made to

LASERS. LASERS will provide interest tables to the agencies for the calculation of interest.

The employee must pay the employee contributions plus interest to the agency. The agency must remit the employee and employer contributions plus interest to LASERS within 30 days after the employee has paid his or her portion. The agency must provide a monthly breakdown of the earnings and contributions for each reservist and the certification documents to LASERS.

All payments must be made in lump sum within four years after the reservist returns to employment in order for the reservist to receive credit for benefit purposes.

Death and Survivor Benefits

The period of military service will be counted as creditable service for determining eligibility for death and survivor benefits. The amount of survivor benefits payable will be calculated as provided for in R.S. 42:601-610.

The final average compensation used for the calculation will be based on the actual earnings of the member. In order for the estimated earnings during the period of military service to be used in the determination of the final average compensation, the employee and employer contributions must be paid for the period of military service.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees' Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Desert Storm

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

Members of the retirement system who were called to active duty for Operation Desert Shield/Storm will receive service credit for eligibility purposes at no cost. The number of affected members and the length of service is not available to calculate the cost which will be reflected in the determination of the employer contribution for future years. The system will incur administrative costs to adjust the service credit for affected members and process payments for purchase of service for purposes of benefit calculations.

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

LASERS members who participated in Operation Desert Shield/Storm must pay the employee contributions plus interest that would have otherwise been paid in order to receive service credit for purposes of calculating the retirement benefit. The agencies must pay the employer contribution plus interest for each member who elects to pay for the service. The amount of contributions received will equal the amount that would have been received if the member had continued state employment during the time period.

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

The affected members will receive service credit for

eligibility purposes at no cost to them. They must pay the contributions that otherwise would have been paid, plus interest, to receive credit for purposes of calculating the retirement benefit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition or employment.

Thomas D. Burbank, Jr.
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of the Treasury Board of Trustees of the Louisiana State Employees' Retirement System

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rule for emergency refunds (R.S. 42:657(B)).

PROPOSED RULE

A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

1. the refund results from the death of the member,
2. the member is totally and permanently disabled and is not entitled to disability retirement benefits, or
3. the member has expenses for medical care for an immediate family member.
4. unusual situations that are determined to be of an emergency nature by the executive director. The member must provide a written request detailing the emergency situation and the executive director must provide written justification for his approval.

The member or beneficiary must provide a copy of the death certificate, a doctor's statement of total and permanent disability, or a copy of medical invoices to qualify for the emergency refund.

Upon receipt of the documentation, the retirement system will issue the refund at the next scheduled date for issuing refund checks. The refund amount will include all employee contributions received from the employing agency and posted to the individual's account. Any additional contributions received at a later date from the agency will be refunded to the individual after they are received and posted to the account.

If the amount that is refunded is greater than the amount actually due the individual, the individual is responsible for repaying the overpayment upon receiving notification from the retirement system.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees' Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Emergency Refunds**

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

Employee contributions withheld from an employee's pay are remitted by the employer agency on the 15th day of the month following the pay day. In most cases, the contributions from the last paycheck issued are not received within 30 days of the date of termination. If a refund is issued less than 30 days after termination, a second refund check must be issued when the final contributions are received. The system will incur additional costs to process and mail the second refund check.

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)

Terminated employees who receive an emergency refund will receive their refund of employee contributions approximately 15-20 days earlier than those processed under normal procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

If a large number of emergency refunds are approved, additional costs will be incurred based on the increased workload. Approximately 950 refunds are issued monthly under normal procedures. Processing the requests for emergency refunds is an additional task and increases the workload of staff.

Thomas D. Burbank, Jr.
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rule concerning judicial retirement as mandated by Act 1063 of the 1991 Regular Session of the Louisiana Legislature.

Act 1063 of the 1991 Regular Session enacts special retirement provisions for certain judges whose judicial divisions were not precleared by the U.S. Justice Department, judges serving on a court restructured by federal court order, or judges serving on a court found to be in violation of the Voting Rights Act.

Any judge holding office on the effective date of this Act may retire at the end of his current term, regardless of age or years of service, provided that he does not seek reelection to the current office or seek election to another judicial office.

In order to be eligible for retirement under these provisions, the judge must make application on or before November 21, 1991. A judge who seeks reelection or election to another judicial office is not eligible to apply for retirement under this Act. The judicial administrator's office must certify that the office held by the judge is covered under the provisions of Act 1063. Once received in the office of LASERS, the retirement application is irrevocable.

Act 1063 establishes a special retirement benefit structure for certain judges. This benefit structure replaces the structure established in R.S. 42:575 and R.S. 13:15. The base benefit is defined as "that proportion of his annual judicial pay, as it exists on the date of his retirement, which his number of years served on a court of record bears to 25." Thus, the base benefit is equal to four percent of judicial pay instead of three and one-half percent of the average highest 36 months, and does not include a \$300 supplement. The judicial pay will be based on the base pay reported in the last monthly earnings report from the agency.

There is also a supplemental benefit for legislative, military, and prosecutorial service. The rules for recognizing, purchasing, or transferring such service are to be in accordance with the "otherwise applicable laws" of the system. Thus, prior state service with the attorney general, for example, where the contributions have been left with the system, would be credited at two and one-half percent. Service that is purchased on an actuarial basis, such as military service, will be credited at three and one-half percent. The formula for calculating the supplemental benefit for purchased service is three and one-half percent \times final average compensation \times number of years of purchased service. Existing service and transferred service will be calculated using the rate normally applicable to such service.

Purchases of service not normally authorized may be made only for purposes of establishing a benefit under this Act.

The total retirement benefit is limited to 100 percent of the judicial pay as it exists on the date of his retirement.

Purchases of service credit may be made by paying the actuarial cost under the provisions of R.S. 42:697.16. Military service is defined as regular full time active duty or full time active duty in the national guard or reserve forces, and does not include periods of annual training. The judge must provide the appropriate documentation for military service (Form DD214) or must provide certification from the political subdivision detailing the dates of service and whether the service was full-time or part-time. If the service was covered by another retirement system and the judge previously received a refund for the service, the refund may be repaid to the other retirement system in order to transfer the service to LASERS.

If he has service in another retirement system, the service may be transferred under the provisions of R.S. 42:697.1. Benefits based on transferred service will be calculated using the formula from the transferring system.

Reciprocal agreements with other retirement systems will be processed in accordance with the provisions of R.S. 42:697. The judge must qualify for retirement under the provisions of the reciprocating system in order to receive a benefit from that system.

Since this is not a regular retirement program, judges retiring under these provisions are not eligible for participation in the deferred retirement option plan.

PROPOSED RULE

Act 1063 of 1991 provides special retirement options for certain judges affected by federal court orders. It provides for an enhanced benefit structure, special purchase of service credit provisions, and waives age and years of service requirements.

This proposed rule will establish the procedures for implementing the provisions of Act 1063.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees' Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Judicial Retirement

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

Act 1063 provides an additional benefit of one-half of one percent for judicial service, the benefit is based on current salary rather than the final average compensation, and eligible judges may retire at the end of their current term regardless of their age or years of service. Information necessary to calculate the cost of this benefit is not currently available, but the cost will be significant. The cost will be recovered by an increase in the employer contribution rate beginning July 1, 1992.

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

The Act provides for the purchase of legislative, prosecutorial, and military service at the discretion of the judge. The actuarial cost of the service must be paid by the judge. Information is not available to determine the amount of service that may be purchased.

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

Eligible judges who elect to retire under these provisions will receive an additional retirement benefit of one-half of one percent for all judicial service, the benefit will be calculated based on their current judicial pay rather than their final average compensation and they will be eligible to retire immediately regardless of age or years of service.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

A judge who retires under these provisions is prohibited from seeking re-election or election to another judicial office. Thus, the affected judicial offices will be filled by other individuals elected to the positions.

Thomas D. Burbank, Jr.
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of the Treasury Board of Trustees of the Louisiana State Employees' Retirement System

The Board of Trustees of the Louisiana State Employees' System hereby gives notice in accordance with law that it intends to adopt the following rules for purchase of military service under R.S. 42:697.11.

PROPOSED RULE

R.S. 42:697.11 as amended by Act 205 of the 1991 Regular Legislative Session provides for the actuarial purchase of military service under certain conditions effective July 2, 1991.

A maximum of four years of credit for military service may be purchased by members who rendered military service prior to January 1, 1982 provided the member received a discharge other than dishonorable. The member must have at least 18 months of creditable service in LASERS in order to purchase the service.

A member who cannot receive credit for service in the state national guard or in the reserve forces under these provisions unless the service was for full time active duty.

In order to apply for purchase of the service, the member must:

1. make application to LASERS,
2. provide a copy of military form DD214,
3. certify that he/she is not drawing a regular retirement benefit based on the military service calculated on the basis of age and service (restriction does not apply to disability benefits based on 25 percent or less disability received as a result of military service),
4. certify that he/she has not received credit for the service in any other public retirement system, and
5. Pay \$75 for the cost of the actuarial calculation to determine the cost to purchase the service.

The member must pay the actuarial cost to receive the service credit. Upon receipt of the items listed above, LASERS will issue an invoice to the member. The invoice is void if not paid within 90 days after the date issued. Payment must be made in a lump sum.

Military service purchased cannot be used to establish eligibility for disability or survivor's benefits. Military service purchased will be used to establish eligibility for regular retirement provided the member has a minimum of 20 years of state service. The military service purchased will be used in the calculation of the retirement benefits but will not be used to establish the final average compensation.

The payment of the actuarial cost will be credited to the member's account as unsheltered employee contributions. If the member later separates from state employment and requests a refund of contributions, the amount paid will be refunded along with other employee contributions.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Military Service**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The retirement system must process the requests for an actuarial calculation, the invoices to members, and the payments received. Data is not available to determine the number of requests or the number of members who will elect to purchase the service.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The retirement system will receive the actuarial cost of the service from the members who elect to purchase the service.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The member must pay the actuarial cost to purchase military service credit and must pay the actuary \$75 to perform the calculation of the cost.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition or employment.

Thomas D. Burbank, Jr.
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rule for purchases and transfers of service.

PROPOSED RULE

The purchase of service on an actuarial basis and the transfer of service from other public retirement systems into LASERS requires an actuarial calculation by the system actuary.

The cost of this calculation shall be paid by the member requesting the calculation. Payment must be made before the request for the calculation will be forwarded to the actuary.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees' Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Payment of Actuarial Calculation**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
When an actuarial calculation is required to determine the cost of purchasing retirement service credit, the system actuary must be paid for the cost of performing the calculation. The retirement system will save approximately \$10,000 annually if the requesting member pays this cost instead of the retirement system.
- 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)
The member requesting an actuarial calculation of the cost to purchase service credit will be required to pay the actuary \$75 for performing the calculation.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition or employment.

Thomas D. Burbank, Jr.
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rule for payments to certain handicapped or mentally retarded children.

PROPOSED RULE

R.S. 42:603 provides for payment of survivor benefits to totally physically handicapped or mentally retarded children of deceased members if the child is "dependent upon the surviving spouse or other legal guardian" and does not receive state assistance.

The statute does not address the situation where the otherwise qualified surviving child has neither a surviving parent or legal guardian. For example, the surviving spouse may die, and if no legal guardian is appointed for a major child, the child may be dependent upon the survivor benefits and not upon either a legal guardian or surviving spouse as stated in the statute.

In order to cover this area not addressed by the statute, it will be the policy of the Louisiana State Employees' Retirement System to pay survivor's benefits to otherwise qualified physically handicapped or mentally retarded children of deceased members who have neither a surviving parent or legal guardian if such child, or a person holding a power of attorney or other legal authority to act on behalf of such child, provides to the system adequate annual docu-

mentation demonstrating that benefit payments will be used exclusively for the support and care of the child.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees' Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Handicapped Children**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no impact on state expenditures.
- 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)
Totally physically handicapped or mentally retarded children of deceased members who are otherwise eligible for survivor benefits but do not have a legal guardian or surviving parent will receive survivor benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition or employment.

Thomas D. Burbank, Jr.
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rule for purchase of service by reinstated employees.

PROPOSED RULE

When an employee is reinstated to a position in state government by the Department of Civil Service or a court of law, the employee is entitled to receive retirement service credit for the period of time that is reinstated provided payment of employee and employer contributions plus interest is made to the retirement system.

In order to receive service credit, the employee must pay an amount equal to the current employee contributions based on the earned compensation for the period of time that was reinstated. The employing agency must pay the employer contributions which would have been due plus compound interest at the actuarial valuation rate for all contributions payable from the date the contribution was due until paid.

Any costs to the retirement system associated with these procedures shall be paid by the employing agency.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees' Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Reinstated Employees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
When an employee is reinstated by the Department of Civil Service or a court of law, the employee and employer contributions to the retirement system plus interest must be paid to establish service credit. The employing agency will be required to pay the compound interest at the actuarial valuation rate (8.25 percent) for all contributions payable from the date the contributions were due until paid. The retirement system will receive the amount of contributions that would have been paid if the employee had not been terminated and the amount of interest that would have been earned.
- 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)
The employee who is reinstated will receive service credit that would have been received if he had not been terminated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition or employment.

Thomas D. Burbank, Jr.
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rule for credit for part-time service and service in multiple positions.

PROPOSED RULE

Members of the Louisiana State Employees' Retirement System will receive service credit (up to a maximum of one year of service per calendar year) for all service which is rendered for an employer agency as defined in R.S. 42:543(12), and which is "state service" as defined in R.S. 42:543(28).

All compensation for such service, which meets the criteria of R.S. 42:543, will be recognized by the system, and employer and employee contributions must be paid thereon.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Multiple Positions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no impact on state expenditures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Retirement contributions will be paid for all positions in state service, even if the individual employee works in more than one position.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The individual employee will receive credit for all earnings from employment in state service, even if he works in more than one position.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition or employment.

Thomas D. Burbank, Jr.
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule to mandate marking of crab traps.

**PROPOSED RULE
Title 76**

**WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishing
§345. Crab Trap Marking**

Each crab trap shall be marked with a one-half-inch stainless steel self-locking tag attached to the center of the trap ceiling. Said tags shall be supplied by the fishermen and shall have the commercial fisherman's license number (not the commercial gear license) or the recreational crab trap gear license number printed thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332D.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:

Interested persons may submit written comments relative to the proposed rule until 4:30 p.m., December 31, 1991 to Vince Guillory, Marine Fisheries Project Coordinator, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 189, Bourg, LA 70343.

James H. Jenkins, Jr.
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Crab Trap Marking**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using the existing staff in conjunction with other duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed regulation could result in an annual cost of approximately \$25 and \$1 to each commercial and recreational crab trap fisherman, respectively, for purchase of tags. Marking of traps should reduce trap theft or theft of crabs from traps, which are economic burdens to commercial crab fishermen.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be a positive impact on annual revenues of private sector vendors supplying tags; an estimated need for 719,500 tags per year could produce approximately \$71,950 of revenues to private individuals.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

The secretary, Department of Wildlife and Fisheries, does hereby give notice of intent to promulgate a rule to amend the regulations governing the Pompano Permit Program. Authority for adoption of this rule is included in R.S. 56:406.

**Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life**

**Chapter 7. Experimental Fisheries Program
§703. Pompano and Black Drum Permits**

- A. Special Pompano Permit Regulations
 1. Permits will not be issued for species which are

threatened or endangered or for fisheries or gear types which are specifically prohibited by law.

2. Possession of a permit does not exempt the bearer from laws or regulations except for those which may be specifically exempted by the permit. Violation of a fish or game law which carries a Class II penalty or greater shall constitute a violation of the permit.

3. Information gained by the department through the issuance of a permit is not privileged and will be disseminated to the public.

4. Applicants with a citation(s) issued after January 1, 1990 and pending for three years or less, which is a Class II fish or game violation(s) or greater shall be denied a permit until such time as the applicant appears before department officials for the purpose of reviewing the citation(s) issued. The secretary, after reviewing the proceedings, may issue or deny the permit.

5. Permits shall not be issued to any applicant who within three years of the date of his application, has been convicted or pled guilty to a Class II fish or game violation or greater, as defined in the laws pertaining to wildlife and fisheries.

6. Applicants found guilty of two or more Class II fish or game violations or greater within five years of the application date shall not receive a permit.

7. The bearer of a permit shall report monthly the catch and effort under the permit, even when catch or effort is zero. This report shall contain total catch, effort, and other parameters which may be required by the department. A report shall be received by the department no later than 30 days following the last day of each month.

8. When a permit is issued, only the permitted specie(s) can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

9. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferrable without written permission from the department secretary.

10. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

11. Any violation of the conditions of the permit shall result in the immediate suspension of the permit and forfeiture of the deposit, and may result in the permanent revocation of the permit.

12. For permitting purposes, a pompano net shall be defined as a gill net not exceeding 2400' in length and not smaller than two and one-half inch bar or five inch stretched mesh.

13. All permits shall be applied for and/or granted from January 1 to April 30 of each year. All permits expire December 31 following the date of issuance. All permits shall be returned to the department by January 31 following expiration.

14. All potential permittees shall request an appointment by contacting Seafood Division personnel at 400 Royal

Street, New Orleans. Proof of ownership of the proposed permitted vessel(s) and proof that all applicable licenses have been applied for shall be provided at the time of appointment. Proof of bona fide residency, as defined in R.S. 56:8(12), is also required at this time.

15. The permitted boat used in the program shall have a distinguishing sign so that it may be identified. The sign shall have the word "POMPANO" printed on it in at least six-inch high letters on a contrasting background so as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

16. The department reserves the right to observe the operations taking place under the permit at any time and permittee shall be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

17. All permittees shall notify the department prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling a designated phone number.

18. If citation(s) are issued to any permittee for violation of a Class II fish or game law or conditions regulated by the permit, all of the permittee's permits shall be suspended until such time as the permittee appears before department officials for the purpose of reviewing the citation(s) issued. The secretary, after reviewing the proceedings, may reinstate or revoke the permit, and the permittee may lose all rights and privileges to participate in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:406A(3).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:846 (December 1986), amended Department of Wildlife and Fisheries, Office of Fisheries, LR 16:322 (April 1990), amended Department of Wildlife and Fisheries, Office of the Secretary, LR 18: (1992)

Interested persons may submit oral and written comments relative to the proposed amended rule until 4:30 p.m. November 15, 1991, and are to be sent to Harry Blanchet, Office of Fisheries, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

A. Kell McInnis III
Acting Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Pompano Permit Program**

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

There will be no implementation costs (savings) to state or local governing units.

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

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

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

Proposed action benefits commercial fishermen by al-

lowing harvest of pompano and black drum in areas otherwise disallowed. It also contributes to local and state economy by offering sales and employment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Proposed rule should have no significant effect on competition, yet it will probably result in enhanced employment opportunities in the commercial fisheries industry.

Bettsie 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 expresses its intent to adopt rules and regulations affecting the management of the spotted seatrout fishery in Louisiana.

Title 76 WILDLIFE AND FISHERIES Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §341. Spotted Seatrout Management Measures

A. There shall be a closed season for the commercial take from Louisiana waters, and a prohibition of the commercial possession of spotted seatrout, including but not limited to a prohibition of the possession of spotted seatrout on any vessel possessing or fishing any seine, gill net, trammel net, or hoop net, whether taken from within or without Louisiana waters, and the commercial sale, barter, or trade of spotted seatrout in Louisiana from 12:01 a.m. April 1 until midnight September 14 of every year.

B. There shall be a prohibition of the commercial take from Louisiana waters, and the commercial possession of spotted seatrout on the waters of the state, including but not limited to a prohibition of the possession of spotted seatrout during the closed season on any vessel possessing or fishing any seine, gill net, trammel net, or hoop net, whether taken from within or without Louisiana waters from sunset Friday through sunset Sunday for every weekend of the open commercial spotted seatrout season.

C. The annual commercial quota for spotted seatrout shall be one million pounds.

D. The commercial season for spotted seatrout shall be closed on the earlier date of 12:01 a.m. April 1, or when the quota has been reached, or when the staff of the Department of Wildlife and Fisheries predicts the 1,000,000 pound quota will be met each year.

E. Nothing shall prohibit the possession by commercial fishermen off the water of fish legally taken during any open period, or commercial dealers and anyone other than a commercial fisherman licensed to sell, barter or exchange spotted seatrout from possessing, selling, bartering or trading spotted seatrout taken legally during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4.

F. Pursuant to R.S. 56:322 and effective with the seasonal closure, or the closure coming after the quota has been reached, or projected to have been reached, the legal commercial mesh size for all gill nets, trammel nets and seine nets used in saltwater areas of the state, other than strike nets, shall be a minimum of four and one-half inches stretched and a person shall have in possession or use aboard a vessel no more than two strike nets.

This rule shall become effective on February 20, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a); 56:325.3; 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:

Interested persons may submit written comments on the proposed rule to the following address before November 15, 1991: A. Kell McInnis III, Acting Secretary, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

James H. Jenkins, Jr.
Chairman

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Spotted Seatrout Management Measures

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

The proposed rule will have no implementation costs.

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

This proposed rule will likely yield an enhanced expectation of successful fishery efforts thereby potentially increasing the frequency of recreational fishing efforts. Since direct expenditures by recreational fishermen are relatively large, there likely will be positive economic impacts to coastal areas by increasing sales tax revenues. In all likelihood, however, these changes are likely to be marginal at all levels.

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

Economic costs and benefits will be borne by separate user groups. Benefits are expected to accrue to recreational fishermen anticipating enhanced fishery experiences and the industry that supports recreational activities. For instance; bait, tackle, auto transportation, boat launches, lodging, food and beverages likely will be positively impacted (approximately \$91 per fisherman trip). Due to the reduction in spotted seatrout quota by 250,000 pounds, there will be a reduction in income at dockside to commercial fishermen in the neighborhood of \$250,000.

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

The proposed rule may result in increased employment in the recreational fishery industry, for instance, guide services, food, lodging, boat launches, etc., and may result in some unemployment in the commercial

fishing sector if other commercial fishing or other sources of employment are not found to replace the lost activity.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

Administrative Code Update

CUMULATIVE ADMINISTRATIVE CODE UPDATE January, 1991 through September, 1991

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1 LAC 10				
II.10	Adopted		Jan	34
II.101	Repromulgated		May	476
V.Chapter 1	Adopted		Jan	72
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V.Chapter 3	Adopted		May	482
VII.Chapter 1	Adopted		Jun	578
VII.301	Adopted		Jun	588
LAC 35				
I.1703	Amended		Jul	648
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I.1742	Adopted		Mar	261
I.1761	Amended		Jul	648
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I.1791	Amended		Jul	648
I.1793	Amended		Feb	172
III.5702	Adopted		Mar	258
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XXI.11701	Amended		Jan	29
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XXI.11711	Amended		Jan	30
XXI.11711	Amended		Sep	873
XXI.11731	Amended		Apr	354
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XXI.11735	Amended		Jan	30
XXI.11737	Amended		Jan	31
XXI.11739	Amended		Jan	31
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XXV.Chapter 141	Amended		Mar	251
XXXIX.20101	Amended		May	476
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3 LAC 46				
I.1115	Adopted		Jun	575
I.Chapter 13	Amended		Jun	575
VII.Chapters 1-17	Repromulgated		Apr	356
XXI.Chapters 1,5,6,9	Amended		Jan	31
XXI.Chapters 3,6,9	Amended		Jun	578
XXV.117	Amended		Sep	883
XXV.119	Amended		Apr	370
XXV.Chapters 1-23	Amended		Aug	778
XXVII.513	Amended		Mar	270
XLI.705	Amended		Jun	588
XLI.707	Amended		Mar	257
XLI.1904	Adopted		Mar	260
XLV.125	Amended		Jun	603
XLV.Chapters 23, 53	Amended		Aug	779
XLV.Chapter 25	Amended		May	479
XLV.4921	Amended		Sep	884
XLV.5517, 5519	Amended		Sep	886
XLV.9903	Amended		May	480
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LIII.909-923	Amended		Aug	779
LIII.2713	Amended		Aug	780
LIV.Chapters 1,3,5	Amended		Jul	662
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LXVII.1517	Amended		Jul	650
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LXVII.6301	Amended		Jul	650
LXVII.6603, 6621	Amended		Jul	650
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LXVII.10313	Amended		Jul	649

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5 LAC 76				V.3703	Amended	Sep	886
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Potpourri

POTPOURRI

Department of Environmental Quality Office of Legal Affairs and Enforcement Enforcement and Regulatory Compliance Division

The Department of Environmental Quality wishes to announce the availability of the semiannual Regulatory Agenda prepared by the Enforcement and Regulatory Compliance Division. The current agenda contains rules which have been proposed and rules which are tentatively scheduled to be proposed by June, 1992. To obtain a copy send a request to Brooks Ray, Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282 or call (504) 765-0399 for more information.

Joan Albritton
Administrator

POTPOURRI

Office of the Governor Office of Elderly Affairs

The Governor's Office of Elderly Affairs will hold a public hearing on the FY 1992 - FY 1993 State Plan on Aging, Monday, October 28, 1991 at 12:30 p.m. in the first floor auditorium of the Department of Transportation and Development Building, located at 1201 Capitol Access Road, Baton Rouge (next to the Governor's Mansion). All interested par-

ties will be afforded an opportunity to submit oral or written comments at the hearing.

The notice of intent, as published in the *Louisiana Register*, September 20, 1991, page 903, incorrectly listed the time of the meeting.

Vicky Hunt
Director

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

The Board of Veterinary Medicine hereby gives notice that the next examinations in veterinary medicine will be given according to the following schedule:

National Board of Veterinary Medicine	December 10, 1991 8 a.m.
Clinical Competency Test	December 11, 1991 8 a.m.
State Board Examination	December 12, 1991 8 a.m.
National Board for Veterinary Technicians	December 10, 1991 8 a.m.

Each of these examinations shall be administered at the LSU School of Veterinary Medicine in Baton Rouge, LA. Applications and fees must be submitted to the Board of Veterinary Medicine and received no later than 4 p.m., October 25, 1991.

Further information concerning the above examinations may be obtained from the office of the Board of Veterinary Medicine, Box 15191, Baton Rouge, LA 70895-5191. (504) 924-6354.

Dale O. Turner
Secretary-Treasurer

POTPOURRI

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 is proposing a rate increase for Medicaid Transportation Services in order to reflect current costs for providing such services. All non-emergency, non-ambulance providers are to receive an increase in their mileage rates from \$.50 per mile to \$.55 per mile. New pick-up fees are to be established for non-ambulatory transportation services as follows: Two way pick-up will be \$20 and one way pick-up will be \$10. Pick-up fees for second and subsequent non-ambulatory riders will be one half of these rates. The current pick-up rates will remain

the same for ambulatory transportation services. Approximate additional cost attributable to this rate increase is \$1,494,970.

Interested persons may submit written comments to the following address: Carolyn O. 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 public notice. A public hearing concerning these proposed changes is scheduled for October 23, 1991 at 10 a.m. in the auditorium of the DOTD building at 1201 Capitol Access Road, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments orally or in writing at said hearing.

J. Christopher Pilley
Secretary

POTPOURRI

Department of Health and Hospitals Office of the Secretary

The Department of Health and Hospitals will conduct a public hearing at 1:30 p.m. on October 30, 1991 in the cafeteria of John Eskew Training Center, 3136 Cotton Wright Drive, Alexandria to review the application of The Sisters of Our Lady of Sorrows to locate a community home for mentally retarded within 1,000 feet of an existing community home located at 347 Browns Bend Road, Alexandria, LA.

J. Christopher Pilley
Secretary

POTPOURRI

Department of Natural Resources Office of Coastal Restoration and Management Coastal Management Division

Public Hearing on Amendments to Coastal Use Guidelines

In the September 20, 1991 edition of the *Louisiana Register*, the secretary of the Department of Natural Resources (DNR) issued notice of his intention, pursuant to R.S. 49:214.37, to amend the Coastal Use Guidelines and their definitions (LAC 43:1.701-721).

The Coastal Management Division of the Office of Coastal Restoration and Management of DNR has scheduled a public hearing concerning the proposed amendments to the guidelines. The hearing will be conducted in accordance with the procedures established in LAC 43:1.727 and will be held at 7 p.m. on October 30, 1991 in the Mineral Board Conference Room on the first floor of the State Lands and Natural Resources Building, 625 North Fourth St., Baton Rouge, LA.

Additional information about the public hearing may be obtained by contacting Jim Rives, Assistant Director,

Coastal Management Division, Box 44487, Baton Rouge, LA 70804-4487, telephone (504) 342-7591.

Martha A. Swan
Acting Secretary

POTPOURRI

Department of Natural Resources Office of Conservation Injection and Mining Division

In accordance with the laws of the state of Louisiana, and with particular reference to the provisions of R.S. 30:4, notice is hereby given that the commissioner of conservation will conduct a public hearing at 6 p.m., Thursday, November 21, 1991 on the first floor of the Beaugard Parish Police Jury Building, located on Court House Square, Second Street, DeRidder, LA.

At such hearing the commissioner of conservation or his designated representative will hear testimony relative to the application of Energy Production Management Corporation, 128 Demanade Blvd., Lafayette, LA 70503. The applicant intends to construct and operate a commercial nonhazardous oilfield waste storage and disposal facility in §15, Township 6 South, Range 8 West, Beaugard Parish, LA. Prior to issuing a permit for this facility, the commissioner must find that the applicant has met all requirements of Statewide Order No. 29-B.

The application is available for inspection by contacting Mr. Carroll D. Wascom, Office of Conservation, Injection and Mining, Room 253 of the Natural Resources Building, 625 North 4th Street, Baton Rouge, LA, or by visiting Beaugard Parish Police Jury in DeRidder, LA. Verbal information may be received by calling Mr. Wascom at 504/342-5515.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 5 p.m., November 28, 1991, at the Baton Rouge Office. Comments should be directed to: Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, LA 70804, Re: Docket No. IMD 91-36, Commercial Facility, Beaugard Parish.

J. Patrick Batchelor
Commissioner

POTPOURRI

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 41 claims in the amount of \$98,538.97 were received in the month of September 1991, 66 claims in the amount of \$153,447.70 were paid, and three claims were denied.

Loran C. coordinates of reported underwater obstructions are:

28627	46867	Jefferson
28538	46857	Jefferson
27623	46919	St. Mary
27093	46948	Vermilion
29000	46927	St. Bernard
29034	46875	Plaquemines
27474	46917	Iberia
27361	46940	Iberia
27811	46875	Terrebonne

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.

Martha A. Swan
Acting Secretary

POTPOURRI

Department of Transportation and Development Sabine River Compact Administration

Meeting of the Sabine River Compact Administration

The fall meeting of the Sabine River Compact Administration will be held at the Houston Marriott Hotel at the Astrodome, 2100 S. Braeswood Dr., Houston, Texas 77030 on Monday, November 18, 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 bylaws to the Sabine River Compact.

The spring meeting will be held in Louisiana, probably in June 1992.

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

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