

TO: Distribution

FROM: Tom Grumbles
DATE: June 23, 1986

Interoffice
Communication

SUBJECT: State Policy Hazardous Materials Reporting
and Notification Rules

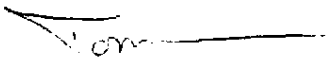
LCCP
I need
extra copy
for Desk

VISTA

The enclosed regulation became effective May 20. The final rule is substantially similar to the draft we commented on in February. The State Police has advised LCA that the forms for Section 4, Survey Form, have not been printed due to a lack of funds. However, they expect the forms to be sent in August and that industry will have 90 days from receipt of the forms to complete and submit them.

Section 5, Notification, is effective as of May 20. There is a great deal of interpretation necessary to identify events covered under 5.A. The phrase "where such emission may reasonably be considered dangerous" was purposely written to force industry to decide which events to report. You will be contacted in the near future to discuss protocol for this decision.

Section 5.B. is more explicit. Events reportable to DEQ under Sections 8.1, 8.1.1., 8.1.2., and 8.1.3 of the state "Notification Regulations" must also be reported to the State Police. The State Police has advised LCA the companies reporting Section 5.B. discharges should tell the State if the discharge left the plant site and if it is reasonably considered dangerous. Many of the 5.B events may be limited to on-site impact.


T. G. Grumbles

TGG:rb

Attachment

Distribution:

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Louisiana Register

VOLUME 12

NUMBER 5

MAY 20, 1986

RECEIVED

MAY 27 '86

Revised: MM/6
LEE

Copy: _____

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EDWIN W. EDWARDS
GOVERNOR

STEPHANIE L. ALEXANDER
COMMISSIONER
OF
ADMINISTRATION



VVV 000016962

be seized and treated in accordance with LRS 15:31 when reasonable cause exists to believe the machine is being operated in violation of the Act or these rules.

Rule XXVI.

Administrative Proceedings and Judicial Review

- (1) The department shall conduct a hearing;
 - (a) following the emergency suspension of a permit, and
 - (b) prior to the revocation of a permit.
- (2) All hearings must be held in accordance with the Louisiana Administrative Procedure Act.
- (3) Administrative procedures conducted by the department are subjected to judicial review in accordance with the provisions of the Louisiana Administrative Procedure Act.

Rule XXVII.

Registration of Manufacturers, Suppliers, Or Distributors of Electronic Video Bingo Machines

- (1) Any person or business entity desiring to sell or distribute electronic video bingo machines in this state must:
 - (a) be issued and maintain all required federal, state, parish, and municipal licenses;
 - (b) apply to the department on forms prescribed by the department for registration;
 - (c) furnish to the department monthly reports identifying the quantities and models of machines and manufacturer, supplier, or distributorships into Louisiana, and such other information the department may determine necessary to regulate and control electronic video bingo machines in accordance with the Act and these rules; and
 - (d) meet the suitability and business relationship criteria of Rule XI.

(2) No person shall be registered who holds a permit to sell liquor of either high or low alcoholic content or who is directly involved with the operating or the assisting in the operation of any game of chance permitted under the Act or who is involved directly or indirectly in leasing or renting any premises or equipment for such game or in the providing of any other incidental goods or services in connection with such game or games.

(3) No person shall ship electronic video bingo machines into this state until his application for registration is granted by the department.

(4) Registration may be suspended or revoked by the department upon the department's determination, after notice and opportunity for hearing, that the registrant has not complied with the conditions of registration.

(5) These permanent rules will remain effective until repealed or amended.

(6) The authority for the department to adopt these rules is found in Act 671 of the 1985 Louisiana Legislature and in the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.)

William J. Guste, Jr.
Attorney General

RULE

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

As Fire Marshal for the State of Louisiana, I amended the boiler rules to provide for and maintain safe operating conditions for boilers installed and operated in the State of Louisiana (City of New Orleans excepted). These rules and regulations are excerpts from the American Society of Mechanical Engineers (ASME) new construction codes, and The National Board of Boiler and Pres-

sure Vessel Inspectors Inspection Code (NBIC). These rules and regulations will provide sufficient guidance to the owners, users and persons making repairs to boilers, without the need for them to maintain the expense code books. The changes to these rules and regulations include: the change in responsibility from the commissioner of labor, to the assistant secretary for the Office of the State Fire Marshal; the deletion of the section on miniature boilers, which are new construction code requirements covered by Section I of the ASME Code and can only be accomplished by ASME Certificate holders; the Appendix on Instructions for Riveted Patches, Record of Welded Repair, Procedure Specification and Record of Qualification Test of Welding Procedures and Operators will be referenced to the NBIC, of which each inspector responsible for in-service inspections of the boiler is required to maintain; the fees for in-service inspection and certification placed into the act; and numerous definitions added to clarify their use.

Carrol L. Herring
State Fire Marshal

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RULE

Department of Public Safety and Corrections Office of State Police

The Louisiana Department of Public Safety and Corrections announces the adoption of rules pursuant to Act 435 of the 1985 Louisiana Legislature, "Hazardous Materials Information Development, Preparedness, and Response Act."

These rules establish the format and procedure mandated by Act 435 for the "Hazardous Materials Survey Form," and provisions for emergency notification during unpermitted, dangerous emissions. Appendices as referred to in these rules contain the following information and may be obtained from the Department of Public Safety.

Appendix A—U. S. EPA Chemical Emergency Preparedness Program List "405."

Appendix B—CFR 172.101, "Hazardous Material Table."

Appendix C—Louisiana Department of Environmental Quality's "Reportable Quantities for Notification of Unauthorized Discharges."

Appendix D—U.S. Coast Guard Chemical Hazard Response Information System (CHRIS).

Interested persons may review these regulations at the following address: Louisiana State Police Hazardous Materials Unit, 265 South Foster Drive, Baton Rouge, LA. Anyone interested in receiving a copy of the rules, including a list of regulated material, should write to: "Right to Know", Box 66614, Baton Rouge, LA 70896; ATTN: Lt. P. A. Touchard.

Affected persons will have until August 31, 1986 to return the completed survey form to the Louisiana State Police.

Hazardous Material Information Development, Preparedness, and Response Rules

These rules will serve as the initial implementation phase of the Hazardous Material Information Development, Preparedness, and Response Act. It is important to note that information generated during this initial phase will enable the Department of Public Safety to comprehensively address all components of this Act in carefully coordinated stages. These rules are hereby issued pursuant to the authority granted by Act 435 of the 1985 Legislative Regular Session.

1. PURPOSE

The purpose of this Section is to insure that the hazards of

all chemicals produced, imported, consumed, applied, transported, stored, or emitted in Louisiana are communicated to appropriate emergency response organizations, local information repositories, and to the general public upon request. This communication system shall be intended to provide information to medical personnel for emergency medical diagnosis, to develop a data base which will facilitate research into possible chronic health risks which may appear as the result of the presence of hazardous materials, and to allow the State Police to coordinate hazardous material emergency response. Nothing contained herein shall be so construed as to conflict with the U.S. Department of Labor's Hazard Communication Standard 29 CFR 1910.1200.

2. SCOPE

A. This Part applies to all persons, corporate or real, in Louisiana, not otherwise excluded in this Part, who produce, transport, consume, dispose, store, distribute, apply, or emit any hazardous materials listed by this Part.

B. This Part does not apply to -

- i. hazardous materials under the direct control of the military forces of the United States;
- ii. consumer products when packaged for distribution to, and intended for use by, the general public;
- iii. products used by a facility when used from a container for, and in a manner consistent with, the intended use of the consuming public;
- iv. substances reported to the Department of Agriculture under the Louisiana Pesticide Law, or the Louisiana Structural Pest Control Law, provided that pertinent data has been transmitted to the Department as provided for in R.S. 30:1150.67;
- v. hazardous materials required to be reported under 40:1299.100 or R.S. 30:1101-1120 et seq., nuclear materials;
- vi. small businesses operating in the state of Louisiana. The term "small business" shall mean a single business establishment employing a maximum of nine employees and showing a maximum of two million dollars in average annual gross receipts;
- vii. cosmetology and barber salons as defined by R.S. 47:301(4)(b) and (11);
- viii. household non-commercial use of hazardous materials, provided the use, storage, or application is from a package purchased from a retail outlet and is specifically designed and intended for use by a person who requires no special information other than what information is supplied on the manufacturer's label;
- ix. forensic laboratories mandated by applicable state law to conduct analyses for law enforcement or regulatory functions. This exemption does not apply to commercial laboratories contracted by government agencies;
- x. persons regulated under 29 CFR 1910.1200 only when compliance with Part V clearly conflicts with federal regulations.

3. DEFINITIONS

Chemical means any element, chemical compound, or mixture of elements and/or compounds.

Chemical name means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation, such as the name located in Appendices A, B, or C of this Section.

Code means three letter designation corresponding with identity listed in Appendix D.

Container means any bag, barrel, bottle, box, can, cylinder, drum, storage tank, or the like that contains a hazardous chemical. For purposes of this Section, pipes or piping systems are not considered to be containers.

Distributor means a business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to manufacturing purchasers.

Emission means a discharge into the atmosphere, land, or water, of any material regulated by the Part, whether permitted or not, where such discharge may reasonably be considered dangerous if it escapes beyond the confines of the facility.

Explosive means a chemical that causes a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature, and meets the definition of Part 173.50 of the Louisiana Hazardous Materials Transportation Regulations.

Facility means the physical premises used by the owner or operator at which the hazardous materials are manufactured, used, or stored.

Hazardous material means any substance listed in Appendices A, B, or C of this Part. "Hazardous material" also means any substance designated by the deputy secretary by rule on recommendation of the board which meets criteria established for adding other material to the list.

Identity means any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label, and the MSDS.

Label means any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

Material Safety Data Sheet (MSDS) means written or printed material concerning a hazardous material. An MSDS prepared in accordance with the OSHA Hazard Communication Standard 1910.1200, paragraph g, or identical to the U.S. Coast Guard Chemical Hazard Response Information System (CHRIS), shall be deemed to be in compliance with this Part. In any case, an MSDS must be prepared in a manner that provides basic chemical identity, health, safety, and emergency response information, consistent with the purpose of this Part.

Person means a natural person, whether or not employed at a given facility, a member of the general public, or a firm, association, partnership, co-partnership, joint venture, corporation, or other legal entity.

Produce means to manufacture, process, formulate, or repackage.

Trade secret means any confidential formula, pattern, process, device, information, or compilation of information (including chemical name or other unique chemical identifier) that is used in an employer's business, and gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

Use means to package, handle, react, or transfer.

4. SURVEY FORM

All persons subject to this Part shall complete and submit the following form within ninety days after the effective date of these regulations, and no later than March 31 of each subsequent year.

HAZARDOUS MATERIALS SURVEY FORM	
1) Facility Name: _____	
2) Location: _____	
3) Mailing Address (if different from location): _____	VVV 000016964
4) Business Phone: _____	5) Emergency Phone: _____
6) Facility Type (check as many as appropriate):	
a. Alternate means of compliance	
☐ building industry jobsite ☐ wharf or dock (maritime) ☐ electric substation ☐ liquefied petroleum gas (only when tanks are clearly marked as such) ☐ hazardous waste commercial disposal ☐ gasoline retail sales ☐ tank truck storage area (if placarded appropriately)	☐ oil & gas production facility ☐ natural gas, crude oil, hydrocarbon product pipeline ☐ hydrocarbon storage facilities (other than refinery) ☐ railcar storage area (if placarded appropriately) ☐ explosive storage magazine ☐ other

--- manufacturing	--- hardware or building supply warehouse
--- storage	--- refining
--- mixing	--- oil recycler
--- coatings applicator	--- solvent recycler
--- fiberglass repair	--- laboratory
--- tank or equipment cleaning	--- hospital
--- sewerage treatment	--- medical facility
--- waste water treatment	--- dry cleaner or laundry
--- drinking water treatment	--- other
--- coatings warehouse	
--- food store warehouse	

HAZARDOUS MATERIAL IDENTITY AND CODE	INVENTORY RANGE	AGENCY REPORTED TO (if applicable)	SHIPPING PAPER LOCATION (if applicable)

This survey form must be certified as true and correct by a responsible person as follows:

"I hereby certify the information contained herein is true and correct to the fullest extent of my knowledge".

SIGNATURE

DATE _____

Abstract

Position:

Phone Numbers:

DO NOT WRITE BELOW THIS LINE

Approved by:

Date:

Disapproved by:

References

A. Any emission of any hazardous material, when such hazardous material is reported under this Part, which escapes the boundary of any facility, where such emission may reasonably be considered dangerous, must be reported to the State Police Hazardous Materials Unit via telephone within 30 minutes of the discovery of that release. Actual notification may be accomplished through local emergency response officials; however, it remains the responsibility of the facility experiencing the release to insure notification is accomplished.

B. Any person required to report under Sections 8.1, 8.1.1, 8.1.2, 8.1.3 of Part II of the Department of Environmental Quality's (DEQ) "Notification Regulations and Procedures for Unauthorized Discharges" shall also be required to notify the State Police Hazardous Materials Unit within 30 minutes of discovery of the reportable incident. It shall be the responsibility of the State Police to notify the Department of Environmental Quality as required by the aforementioned Sections.

C. This emergency reporting does not relieve any person or facility of written or follow-up reporting as may be required under applicable law; e.g., "Prompt Notification," "Written Report after Prompt Notification," or "Written Report Following Emergency/Notification," as contained in "Notification Regulation Procedures for Unauthorized Discharges" of DEQ.

D. Transportation incidents shall be reported according to R.S. 32:1510.

E. All emergency notification, including transportation, shall be to (504) 925-6595.

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A. Alternate means of compliance

i. Facilities indicating only Block 6a (of the Hazardous Materials Survey Form) who currently report chemical identities and quantities as may be required by applicable law, to any other state agency, shall list the agency to whom said chemical is reported, and the names of the hazardous materials reported on the survey form.

ii. Facilities indicating only Block 6a who do not currently report to any other state agency, and are not solely engaged in transportation, shall list on the survey form all materials listed in Appendix A if the maximum quantity which may be encountered at any given time exceeds 10 lbs. "Explosives," as defined by Part 173.50 of the Hazardous Materials Regulations, must be reported regardless of quantity. Mixtures containing materials listed in Appendix A need not be reported if the aggregate weight of Appendix A materials in said mixture does not exceed 10 percent provided said mixture was formulated prior to its arrival at the reporting facility. Each material found in Appendix B and Appendix C shall be reported if the maximum quantity exceeds 60 gallons or 600 lbs.

iii. Fees -

a) Facilities checking only Block 6a shall submit a \$15 fee upon filing the survey form, for each form submitted.

b) Facilities in compliance with the Liquefied Petroleum Gas Commission Regulations shall have their fees paid by the Liquefied Petroleum Gas Commission.

c) Said fee shall not exceed \$90 per parish, or \$270 for multi-parish facilities.

d) Agencies of the state or of the state's political subdivisions must file the survey form, but are exempt from the fees.

iv. Facilities indicating Block 6a engaged solely in the transportation of hazardous materials, or facilities whose storage of hazardous materials is purely incidental to the transportation of hazardous materials, shall -

a) report to the fullest extent possible, hazard classes and

total quantities which may be experienced at any given time within the confines of their yard.

b) maintain a copy of the shipping papers as defined by Part 172.200 of the Louisiana Hazardous Material/Hazardous Waste Regulations, in a central, accessible location, and include this location on the survey form. Shipping papers will not be required to be maintained for any wheeled vehicle which has been emptied to the fullest possible extent and is awaiting cleaning or refill, provided said vehicle is properly placarded according to the last hazardous material contained.

c) maintain all markings, labeling, or other communication devices required by law on all transportation containers, until such time as said container is cleaned, purged, refilled, or discarded, in accordance with applicable state law.

v. Facilities indicating "hazardous waste commercial disposal" shall report previous year's total waste received. Identification of wastes received shall be indicated using the alpha numeric designation as listed in Appendix C.

B. Full Survey Form

i. Facilities indicating Block 6b, refer to Appendices A, B, C, D.

ii. Any material found listed in Appendix A shall be reported in quantities which exceed 10 lbs.; however, mixtures containing materials listed in Appendix A need not be reported if the aggregate weight of Appendix A materials in said mixture do not exceed 10 percent, provided said mixture was formulated prior to its arrival at the reporting facility. Hazardous materials meeting the definition of "explosives", as contained in Part 173.50 of the Hazardous Materials Transportation Regulations, shall be reported regardless of quantity.

iii. Any material listed in Appendices B or C shall be reported when the total quantity at one facility exceeds 60 gallons or 600 lbs. per material, unless previously provided for.

iv. Any material listed in Appendices A, B, or C, which is also listed in Appendix D, shall also be reported using the three-letter code supplied in Appendix D.

v. Hazardous materials required to be reported, but not listed in Appendices A or D, shall be reported by attaching an appropriate material safety data sheet (MSDS) to the survey form.

vi. The facility submitting the MSDS shall be responsible for supplying the most recent MSDS made available by the person supplying the facility.

vii. Facilities checking Block 6b shall submit a fee of \$50 per survey form reported. In no case shall the fee exceed \$300 for any one person reporting multiple facilities in one parish; and in no case shall this fee exceed \$1,000.

C. Inventory Range

Materials listed in Appendices A, B, C, or D shall be listed according to the following range:

Range	Maximum Quantity for any given time
1	10 - 100 lbs.
2	101 - 1,000 lbs.
3	1,001 - 10,000 lbs.
4	10,001 - 100,000 lbs.
5	100,001 - 1,000,000 lbs.
6	Greater than 1,000,000 lbs.

7. TRADE SECRETS

A. If an owner or operator believes that disclosing information as required by this Part will reveal a trade secret, he may file a trade secret claim with the Department of Public Safety and Corrections (hereinafter referred to as the department) at the time of submission of the survey form(s). He shall first disclose the identity of the material which is the subject of the trade secret claim to the department. In filing such a claim, the owner or operator shall include for each claim -

i. a statement in writing that reporting the information requested would reveal a trade secret, stating that concealment is justified, and the reasons for such concealment.

ii. all appropriate information regarding procedures, including emergency treatment procedures for responding to leaks, spills, and any other exposure to hazardous materials. This information shall also be supplied to designated local governing authorities.

iii. a written statement identifying whether or not the material(s) sought to be protected as part of a trade secret claim appear on the most recent list of the National Toxicology Program Report on Carcinogens or most recent monograph of the International Agency for Research on Cancer.

B. Based on the claim submitted pursuant to Subsection (A) of this Section, the deputy secretary (of the department) shall make an initial determination of the validity of the trade secret claim. If he initially determines that such claim is not valid, he shall set a hearing date to receive information regarding the trade secret claim. The hearing shall be set not more than 60 days from the department's receipt of the owner or operator's claim, and shall be conducted with due regard for confidentiality. The owner or operator shall have the burden of showing the deputy secretary that the trade secret claim is valid. In determining such validity, the deputy secretary shall consider materials provided by the owner or operator regarding -

i. the extent to which the information, for which the trade secret claim is made, is known outside his business;

ii. the extent of measures he has taken to guard the secrecy of the information;

iii. the value of the information to him or his competitor;

iv. the amount of effort or money he has expended in developing the information;

v. the ease or difficulty with which the secret could become known by analytical techniques, laboratory procedures, reverse engineering, or other means.

C. If the deputy secretary determines that the trade secret claim is not valid, he shall notify the owner or operator in writing by certified mail. The owner or operator shall have 15 working days, not to exceed 20 consecutive days, to file an appeal with a court of appropriate jurisdiction. The owner or operator shall notify the department of its filing within five days, in writing, that an appeal has been filed. If no appeal is filed, the owner or operator shall provide the department with a survey form containing the disputed information immediately. If the owner or operator timely notifies the department of filing an appeal, the department shall withhold from public disclosure, any information for which the trade secret claim was made. The deputy secretary's determination shall be considered the final agency review, and he shall inform the owner or operator of his action by certified mail.

D. The subject of any trade secret claim pending or approved shall be treated as confidential information. The department shall protect the confidentiality of trade secrets, provide separate secure storage areas for such information, and shall institute disciplinary procedures, including the firing of department employees who, negligently or intentionally, divulge such information.

E. At such time as the subject of an approved trade secret claim ceases to be a trade secret, the owner or operator shall have the obligation to report such information to the deputy secretary.

F. The provisions of this Section shall not apply to the disclosure of any information required pursuant to any provision of law other than this Part.

G. The department may provide trade secret information to a physician under an agreement of confidentiality, when such

information is needed for medical diagnosis or treatment of a person exposed to a hazardous material.

H. Nothing in this Section shall be so construed as to interfere with the duty of a physician to report actual or potential public health problems to the proper authorities.

Patrick A. Touchard
Lieutenant

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission at its regular monthly meeting amended Rule 33 of the seismic rules and regulations which concern seismic activity in designated red-lined oyster seed grounds belonging to the state of Louisiana.

The rule reads as follows:

(33) Seismic operators making application to work on any designated red-lined oyster seed ground belonging to the State of Louisiana will be required to pay the following fees: \$100 per drilled shot hole, or \$1000 per mile, whichever is greater, for reflective or refractive cable. These fees are to be paid in advance. Fees will be reviewed each January. For use of air guns only the following fees apply. When working in waters from 0 to 5 feet deep, the fee remains \$1000 per mile. In waters from 5 to 100 feet deep, the fee is \$400 per mile. In waters 10 feet and deeper, the fee is \$200 per mile.

J. Burton Angelle
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with R.S. 56:497A and based on the best technical information available, the Wildlife and Fisheries Commission:

- 1) Sets the 1986 Spring shrimp season to be opened at 6 a.m. on Monday, May 19, in all three shrimp management zones.
- 2) Authorized the secretary of the Department of Wildlife and Fisheries to close the shrimp season when technical data indicates the need to close to protect the forthcoming white shrimp crop.

J. Burton Angelle
Secretary

Notices of Intent

NOTICE OF INTENT

Department of Agriculture Office of Agricultural and Environmental Sciences Fertilizer Commission

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:1312, the Department of Agriculture, Fertilizer Commission, is hereby giving notice of its intention to amend LAC 7:XI Chapter 79. Regulations for Sale of Fertilizers.

Copies of the proposed rules may be obtained from and comments forwarded to Hershel Morris, Director of Agricultural Chemistry Programs, Box 16390A, Baton Rouge, LA 70893: (504) 342-5812. All interested persons will be afforded an opportunity to submit views in writing through June 10, 1986.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Fertilizer Commission

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
These amendments will not require any costs for the implementation of these changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
These amendments will not have any impact on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
These amendments will not have any economic benefit which will directly affect any person or non-governmental group.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
These amendments will not effect competition and employment.

Carol H. Guidry
Fiscal Officer

Mark C. Drennen
Legislative Fiscal Officer

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NOTICE OF INTENT

Department of State Civil Service

The State Civil Service Commission will hold a public hearing on Tuesday, June 3, 1986, to consider proposed changes in the Classification and Pay Plan.

The hearing will begin immediately after the general busi-