The Office of the State Register announces the availability of **ENVIRONMENTAL QUALITY** amendment booklets. Each booklet contains up-to-date rule amendments in addition to all new regulations adopted since publication of its corresponding **LOUISIANA ADMINISTRATIVE CODE** volume.

VOLUME 11A, AIR QUALITY..... $15.45
(Out-of-state purchases..... $15.00)

VOLUME 12A, AIR QUALITY..... $15.45
(Out-of-state purchases..... $15.00)

VOLUME 13A, HAZARDOUS WASTE AND HAZARDOUS MATERIALS..... $25.75
(Out-of-state purchases..... $25.00)

Make Check Payable To:

Office of the State Register
Post Office Box 94095
Baton Rouge, LA 70804-9095
(504) 342-5015

CONTENTS

This public document was published at a total cost of $8,100.00. 1,300 copies of this public document were published in this monthly printing at a cost of $6,100.00. The total cost of all printings of this document including reprints is $8,100.00. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-970. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

IV. NOTICES OF INTENT

V. POTPOURRI

Executive Orders

EXECUTIVE ORDER BR 91 - 18

WHEREAS, the state of Louisiana is committed to implementation of the Americans with Disabilities Act;

WHEREAS, state and local governments may not discriminate against qualified individuals with disabilities;

WHEREAS, newly constructed state and local government buildings, or alterations to existing buildings must be accessible;

WHEREAS, individuals with disabilities have a need for information and education on the Americans with Disabilities Act;

WHEREAS, employers and businesses in communities throughout the state have a need for information and education on the Americans with Disabilities Act;

WHEREAS, the state of Louisiana does not have a coordinated system to promote compliance with the Americans with Disabilities Act.

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

SECTION 1: That there shall be a Governor's Advisory Council on the implementation of the Americans with Disabilities Act.

SECTION 2: The purpose of the Advisory Council will be as follows:

A. Advise the governor's office regarding measures relative to the implementation of ADA within state government.

B. Advise the Louisiana ADA Task Force which has recently been established through the combined efforts of Louisiana Rehabilitation Services, the University of New Orleans Training and Resource Center for the Blind, and the Louisiana State Planning Council on Developmental Disabilities. This Task Force will be planning and coordinating statewide educational and public awareness activities on ADA.

C. Coordinate activities of Federal Regional Disability Business and Accommodation Centers which will affect Louisiana. These centers will be funded through grants awarded by the National Institute of Disability Rehabilitation Research.

D. Advise state and local entities on other issues relating to the implementation of ADA.

SECTION 3: The Advisory Council shall be composed of the following members:

A. A representative from the Governor's Office

B. a representative from the following departments within state government:

the Department of Civil Service
the Department of Employment and Training
the Department of Transportation and Development
the Department of Economic Development
the Department of Education
the Department of Culture, Recreation and Tourism
the Department of Health and Hospitals
the Department of Social Services
Office of State Fire Marshal;

C. one member of the House of Representatives;

D. one member of the Senate;

E. a representative from Louisiana Association of Business and Industry;

F. a representative from AFL-CIO;

G. a representative from the Louisiana Municipal Association;

H. a representative from the Police Jury Association of Louisiana;

I. a representative from the Louisiana Coalition of Citizens with Disabilities;

J. a representative from the Paralyzed Veterans of America, Bayou Chapter;

K. a representative from the Easter Seal Society of Louisiana for Children and Adults with Disabilities;

L. a representative from the Mental Health Association of Louisiana;

M. a representative from the National Federation of the Blind, Louisiana Chapter;

N. a representative from the Louisiana Council of the Blind;

O. a representative from the Louisiana Association for the Deaf;

P. a representative from the Louisiana Association for Retarded Citizens;

Q. the Chairperson of the Louisiana ADA Task Force;

R. the Advocacy Center for the Elderly and Disabled; and

S. one member at large.

SECTION 4: The governor shall appoint a chairman and vice-chairman.

SECTION 5: This executive order shall be effective upon signature of the governor.

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 10th day of October, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91-19

WHEREAS, Congress has passed and President Bush has signed into law the National and Community Service Act of 1990 and this new legislation and private initiatives offer a broad range of service opportunities for American citizens, with priority on youth and older adults as volunteers; and

WHEREAS, Louisiana's participation in programs created under the Act will create and support opportunities for Louisiana citizens, especially young people, to feel valued and make positive contributions in their communities; and

WHEREAS, the involvement of caring adults in the lives of young people is vital to their positive development; and

WHEREAS, youth are important resources to their communities, capable of identifying and solving problems that affect them; and

WHEREAS, Louisiana will design its statewide Community Service Program inclusive of all aspects of public, not for profit, and private programs to the maximum benefits of its citizens,

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

Section 1: That the Office of the Governor be designated the lead agency in developing, coordinating and directing the state's program under the National and Community Service Act of 1990.

Section 2: That all state agencies and units of government provide any and all assistance necessary to implement this far-reaching legislation by working with and providing assistance to expedite the state's participation in the National and Communities Service Act of 1990.

Section 3. That state agencies cooperate fully with the creation of public/private partnerships called for under the Act to the maximum extent possible and to the end that Louisiana citizens can volunteer their services and be encouraged to become working partners responsible for the solution of our mutual problems, thus fostering pride and progress through participation.

Section 4. This executive order shall be effective upon signature of the governor.

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, this 10th day of October, 1991.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Animal Health Services

The Commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to his authority under R.S. 3:3203(A), adopts the following rule.

This emergency adoption is necessary in order that the provisions of R.S. 49:953 (C), relating to the petitioning of an agency regarding the adoption, amendment or repeal of regulations, may be implemented in a timely manner.

EMERGENCY RULE

Rule 1. Petitions for adoption, amendment or repeal of rules; form and procedure.

A. Petitions for the adoption, amendment or repeal of rules or regulations shall be submitted to the Commissioner of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, Louisiana 70806.

B. Petitions must be in writing and shall state the name and address of an individual who may be contacted relative to the contents of the petition.

C. Petitions shall fairly state the action sought. If the petitioner seeks to amend or repeal an existing rule or regulation, the petitions shall cite said rule or regulation.

D. In the case of adoption of wholly new rules and regulations, petitions shall state the law granting the authority for the adoption of the proposed rules and regulations.

E. Petitions for the adoption, amendment or repeal of rules or regulations shall be considered within the time period provided for in the Louisiana Administrative Procedure Act. Petitions shall either be denied in writing, stating reasons for the denial, or rule making proceedings initiated in accordance with said Act.

The effective date of this rule is October 22, 1991, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever is shortest.

Bob Odom
Commissioner

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 Real Estate Appraisal Subcommittee has adopted emergency rules regarding investigations and adjudicatory proceedings.

The purpose of the declaration of emergency, effective October 7, 1991 for a period of 120 days, is to implement a procedure whereby apparent violations of the Certified Real Estate Appraisers Law and/or the rules and regulations of the subcommittee may be investigated.

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

Chapter 105. Investigations and Adjudicatory Proceedings

§10501. Investigations

A. The subcommittee may, upon its own motion, and shall upon the verified complaint in writing of any person, investigate the actions of a certificate holder, or any person who assumes to act as such. Written complaints shall bear the original signature of the complainant or that of his legal representative before any action will be taken thereon by the subcommittee.

B. Upon documented probable cause and with the concurrence of the subcommittee attorney, or, in his absence, the chairman of the subcommittee, the executive di-

rector of the subcommittee may issue written authorization to investigate apparent violations of the Louisiana Certified Real Estate Appraisers Law and/or the rules and regulations of the subcommittee.

C. If during the conduct of an investigation documented probable cause is established indicating that violations of the Louisiana Certified Real Estate Appraisers Law and/or the rules and regulations of the subcommittee have been committed by any certificate holder other than the certificate holder against whom the original complaint was made, the additional certificate holders may be added as respondents to the investigation in the absence of any written complaint alleging such violations.

D. Investigations alleging violations of the Louisiana Real Estate Appraisers Law or the rules and regulations of the subcommittee shall be investigated by the staff of the Louisiana Real Estate Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

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

§10503. Technical Assistance

A. In any investigation conducted by the staff of the commission, the chairman of the subcommittee may be requested to assign a member of the subcommittee to provide technical assistance to the investigator conducting the investigation.

B. In any investigation conducted by the staff of the commission involving alleged violations of the standards for the development and communication of appraisals the chairman of the subcommittee shall assign a member of the subcommittee to provide technical assistance to the investigator in the conduct of the investigation.

C. When a member of the subcommittee has been assigned to provide technical assistance to a commission investigator, the member shall review the findings and recommendation resulting from the investigation and a written certification of the review signed by the subcommittee member will be provided to the commission investigator and appended to the report of investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

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

§10505. Cooperation

A. Every certificate holder shall cooperate fully with and answer all questions propounded by commission personnel conducting an investigation for the subcommittee.

B. Every certificate holder shall produce any document, book, or record in the certificate holder's possession, or under his control, concerning any matter under investigation by commission personnel conducting an investigation for the subcommittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

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

§10507. Adjudicatory Proceedings

A. When, as a result of an investigation, it appears that violations of the Louisiana Certified Real Estate Appraisers Law may have been committed by a certificate holder, the violations may be adjudicated through informal or formal adjudicatory proceedings.

B. Informal Adjudicatory Proceedings. The complaint may be concluded informally without a public adjudicatory hearing on the recommendation of the hearing examiner of the commission with the concurrence of the executive director if the respondent agrees in writing to such informal action.

1. If the respondent does not agree in writing to the resolution of the complaint through informal proceedings the apparent violations will be referred to the subcommittee along with a recommendation for a public adjudicatory hearing.

2. A three-member panel consisting of the subcommittee attorney, the hearing examiner for the commission and the commission case investigator will be appointed by the executive director to conduct the informal proceedings. When the matter before the panel involves a case wherein technical assistance has been provided by a subcommittee member, the member of the subcommittee who participated in the investigation shall serve as a voting member of the panel. The panel will review the details of the complaint and the allegations with the respondent and arrive at a finding. During the informal proceedings witnesses may be called but no subpoenas will be issued and no formal transcript of the proceedings will be prepared by the subcommittee. Statements made during the informal proceedings may not be introduced at any subsequent formal adjudicatory hearings without the consent of all parties to the informal proceedings.

3. If as a result of the informal proceedings it is determined by the panel that violations were not committed as alleged, a written report of such findings will be submitted to the executive director for review and placement in the investigative file. The adjudicatory proceedings will be terminated without recourse to the subcommittee.

4. If as a result of the informal proceedings it is determined by a majority of the panel that violations have been committed as alleged, the panel may enter into a recommended consent order with the respondent to include any sanctions authorized. In any such consent order the respondent must acknowledge the findings of the panel in writing, accepting the recommended sanctions, and waiving any rights to request a rehearing, reopening or reconsideration by the panel or hearing by the subcommittee, and the right to a judicial review of the consent order.

5. If the respondent does not agree with the findings of the panel and the sanctions recommended, the apparent violations will be referred to the subcommittee along with a recommendation for a public adjudicatory hearing.

6. If the respondent does agree with the findings of the panel and the sanctions recommended, the panel will, within five days, submit a written report of the findings and recommendations to the executive director for review. If for any reason the executive director is unavailable to review the actions of the panel, the subcommittee attorney will conduct the review.

7. If a complaint is concluded by the informal procedure, the executive director, or the hearing examiner for the commission, shall submit the consent order to the subcommittee at the next regular meeting for approval and authorization for the executive director to execute the consent order in the name of the subcommittee.

8. The actions of the subcommittee relative to all consent orders shall be noted in the minutes of the meeting at which the consent order is approved and authorization is granted to the executive director to execute the order in the name of the subcommittee.

9. Any consent order executed as a result of informal proceedings shall be executory on the date approved by the subcommittee.

C. Formal Adjudicatory Proceedings. All formal public adjudicatory hearings shall be conducted under the auspices of R.S. 37:3409 and Chapter 13 of Title 49 of the Louisiana Revised Statutes.

1. Subcommittee members who have provided technical assistance in any matter being adjudicated at formal adjudicatory proceedings will recuse themselves and not participate in any portion of the proceedings.

2. The order issued by the subcommittee pursuant to any formal public adjudicatory proceeding shall become effective 11 days from the date the order published by the subcommittee is received by the respondent certificate holder or on the date the notice of denial of a request for rehearing, reopening, or reconsideration of the decision or order by the agency is received by the respondent certificate holder.

3. The filing of a petition for judicial review by a respondent certificate holder does not itself stay enforcement of an order by the subcommittee. A stay of enforcement will be granted only when directed by the court conducting a judicial review of adjudication.

D. Costs of Adjudicatory Proceedings. On a finding that a respondent has committed the violations as alleged in any formal or informal adjudicatory proceedings, the subcommittee may assess the respondent the administrative costs of the proceedings, as determined by the subcommittee. Payment of these costs shall be a condition of the reinstatement of any certificate issued by the subcommittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

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

Jane H. Moody
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Bulletin 1196
Louisiana Food and Nutrition Programs Policies of Operation

The Board of Elementary and Secondary Education, at its meeting of October 24, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and adopted an amendment to Bulletin 1196, Louisiana Food and Nutrition Programs Policies of Operation to add the following:

Responsibility

The responsibility for the administration, operation, and supervision of the school food service program is vested in the education authorities who are responsible for all other phases of the school program. All schools which are under the supervision and regulation of the Board of Elementary and Secondary Education shall furnish lunch to their students. Furthermore, a city or parish school board shall participate in the national school breakfast program if at least 25 percent of the students enrolled in one or more of the schools in the school system are eligible for such program. A program in school food service must be well planned, organized, and administered on national, state, and local levels if it is to function as an integral part of the total school program.

This amendment is adopted as an emergency rule due to a requirement of Act 842 of the 1991 Legislative Session. The purpose of the amendment is to incorporate the statutory change into Bulletin 1196. The change requires school systems to provide lunch and in certain circumstances, breakfast to students. Effective date of emergency rule is October 24, 1991.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Revised Criteria for Eligibility and Procedure for Screening, Evaluation and Re-evaluation for Handicapped Infants

The Board of Elementary and Secondary Education, at its meeting of October 24, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953(B) and approved as an emergency rule, an amendment to Bulletin 1508, Pupil Appraisal Handbook to delete the section on Handicapped Infant and replace with Eligibility for Infants and Toddlers with Disabilities as stated below.

Emergency adoption is necessary for implementation of Part H of the Individuals with Disabilities Education Act, Intervention Program for Infants and Toddlers with Disabilities, which requires infants and toddlers to be evaluated in accordance with the federal statute and within 45 calendar days. The effective date of this rule is November 20, 1991.

ELIGIBILITY FOR
INFANTS AND TODDLERS WITH DISABILITIES

I. Definition

Infants and toddlers, ages birth through two inclusive (0 - 36 months), and their families meeting Criteria A, B or C.

II. Criteria for Eligibility

Criteria A - Established Medical Conditions: Established medical conditions include those diagnosed physical or mental conditions that have a high probability of resulting in a developmental delay. Examples of established medical conditions are listed below.

1. Children born with genetic disorders, including but not limited to:

a. major chromosomal abnormalities (Trisomy 21, Fragile X, Turner's Syndrome, etc.);

b. single gene defects (PKU, Hypothyroidism, Tuberous Sclerosis, etc.);

c. anomalies or syndromes of unknown etiology (Spina Bifida, Hydrocephalus, Prader-Willi Syndrome, etc.).

2. Children contracting congenital infections, neonatal

infections or postnatal infections that affect the Central Nervous System including, but not limited to: Cytomegalovirus (CMV), Human Immunodeficiency Virus (HIV), Bacterial Meningitis, etc.

3. Children found to have sensory impairments, including but not limited to:

a. visual impairment which, even with correction, significantly interferes with normal development; and

b. hearing impairment, either permanent or fluctuating, which significantly interferes with normal development.

Medical conditions must be determined by a licensed medical doctor. In the case of hearing impairment, a licensed audiologist or licensed medical doctor must make the determination.

Criteria B - Other Biological Factors: Other Biological Factors include those factors which have determined to place children "at risk" of having substantial developmental delays if early intervention services are not provided. These conditions are listed below:

1. birthweight less than 1000 grams or birthweight less than 1250 grams and complicating factors requiring Level Three Neonatal Intensive Care;

2. hypoxic ischemic encephalopathy;

3. intraventricular hemorrhage (Grade III or IV) or periventricular leukomalacia;

4. technology dependence for on-going medically fragile conditions including, but not limited to, ventilator dependence with home oxygen;

5. both exposure to known teratogens or drugs shown to cause birth defects and finding of effects; and

6. chronic or degenerative orthopedic and/or neurologic conditions including, but not limited to: Cerebral palsy, seizure disorders, neuromuscular disorders or post natal catastrophic illness; or conditions arising from a catastrophic event occurring after the neonatal period, such as accidental amputation, encephalopathy with sequelae, etc.

Other biological factors must be determined by a licensed medical doctor.

Criteria C - Developmental Delay: Children who, even without an established medical condition or other biological (at risk) factor as defined in Criteria A or B, are determined to be delayed in one or more of the following areas:

1. cognitive development;

2. physical development, including vision and hearing [eligibility based on vision or hearing problems must be made based on the diagnosis of a licensed medical doctor (vision) or a licensed medical doctor or licensed audiologist (hearing) as stated in Criteria A.];

3. language and speech development;

4. psychosocial development; or

5. self-help skills.

The determination of a developmental delay must be made by a multidisciplinary evaluation team which includes the child's family and qualified professionals, as recognized by the Department of Education. This determination must be based on informed clinical opinion derived from multisource data such as family input, observations, informal assessment procedures and the results of appropriate formal instruments when such instruments are in compliance with the nondiscriminatory procedures as described in this section.

The following is the team decision-making process for determining developmental delays:

A. The multidisciplinary evaluation team will share their findings and observations as well as the implications of these findings on the overall schema of the child and family.

B. Team members must reach a consensus on the following: A positive response on two or more of the following indicates eligibility. A positive response to only one may indicate the need for additional investigative assessment.

1. parental concern over the child's development in any of the developmental areas;

2. results of appropriate formal diagnostic instruments indicate delays in any of the developmental areas;

3. concerns arising from professional observations and informal assessment of the child and the child's interactions with his environment in any of the developmental areas; and

4. review of medical/health and other pertinent history which may indicate problems in any of the developmental areas.

III. Procedures for Screening

Infants and toddlers who are determined eligible for services under Criteria A or B do not require a screening prior to or as part of their evaluation and assessment. A screening may be completed for infants and toddlers who are referred for a suspected developmental delay (Criteria C) to determine if a complete evaluation and assessment is warranted unless the evaluation process is immediately initiated.

The screening must be conducted by qualified personnel in conjunction with the parents. The screening may include a review of family concerns, a review of medical records, a vision and hearing screening and a developmental screening. The determination of screening criteria should reflect the team decision making process for determining eligibility for services. If the multidisciplinary evaluation is not warranted based on screening results, the team may decide to place the child on a progressive screening schedule and quarterly monitoring to determine if services may be required in the future.

IV. Procedures for Evaluation

Any participating agency/provider with qualified personnel may complete all or part of the multidisciplinary evaluation. Multidisciplinary teams will review all available information from participating agencies and resources such as Kid-Med or developmental screening clinic information, with the permission of the parent, to avoid unnecessary duplication for the child, family and team members.

A. Applicable definitions for Infant/Toddler evaluations and assessments

1. Evaluation and Assessment - procedures used by appropriate qualified personnel to verify or establish a child's initial and continuing eligibility including determination of the developmental status in the areas of cognitive development, physical development including vision and hearing, language and speech development, psychosocial development and self-help skills as well as collect initial planning information required for the development of the Individualized Family Service Plan (IFSP).

2. Assessment - the on-going procedures used by appropriate, qualified personnel throughout the period of the child's eligibility to identify the child's unique strengths and needs in collaboration with the family; the family's strengths and needs including concerns, priorities, and resources related to enhancing the development of the child; and the nature and extent of the early intervention services that are needed by the child and family to meet the aforementioned

needs. On-going assessment is a component of the IFSP and will occur, at a minimum of every six months.

3. Multidisciplinary - the involvement of the family and two or more disciplines or professions in the provision of evaluation and assessment activities.

4. Family - defined according to each family's definition of itself. The child's parent(s) or legal guardian(s) determine who will be considered family and, therefore, be eligible for participation in the evaluation and assessment.

5. Family Assessment - the family's identification of their strengths and needs including concerns, priorities, and resources, only with the approval of the family as related to enhancing the development of their child.

B. Evaluation and Assessment Procedures

Written parental consent must be obtained before conducting the initial evaluation and assessment. Written parental consent must also be obtained prior to conducting the family assessment. The evaluation and assessment must include the following:

1. a review of pertinent records related to the child's current health status and medical history;

2. a Kid-Med (EPSDT) screening or referral for Kid-Med screening for all children eligible for Medicaid if not already performed;

3. an evaluation of the child's level of functioning in each of the following developmental areas: cognitive development, physical development including vision and hearing, language and speech development, psychosocial development and self-help skills;

4. a determination of the child's strengths and needs and the identification of appropriate early intervention services to meet those needs; and

5. the family's identification of their strengths and needs, including concerns, priorities, and resources, only with the approval of the family as related to the enhancement of the child's development.

Any identification of family strengths and needs including concerns, priorities and resources must:

a. be voluntary on the part of the family. The family must be made aware of the purpose of this process and the fact that their refusal to identify strengths and needs will not affect their child's eligibility for services;

b. be conducted by personnel trained to utilize appropriate methods and procedures;

c. be based on information provided by the family through a personal interview in a manner chosen by the family; and

d. incorporate the family's description of their strengths and needs including concerns, priorities, and resources, related to enhancing the child's development.

V. Evaluation Reports

The purpose of the written evaluation report is to summarize the required information obtained during the multidisciplinary evaluation/assessment process which provides the initial planning information required for developing the Individualized Family Service Plan. Parents must be given a copy of the evaluation report and be provided with an interpretation of the evaluation findings.

VI. Re-evaluation

The determination of a child's continuing eligibility for early intervention services is based on the multidisciplinary evaluation/assessment activities of the child and family needs and is accomplished through the Individualized Family Service Plan (IFSP) process.

VII. Timelines

1. Primary referral sources have two working days to make a referral to the child search coordinator in the local educational agency after a child has been identified as possibly in need of services. Primary referral sources include hospitals, physicians, public health facilities, other health care providers, parents, day care programs, local educational agencies, and other social service agencies.

2. The evaluation and initial assessment of each child, the family's identification of their strengths and needs including concerns, priorities, and resources (only with the approval of the family), and the Kid-Med (EPSDT) screening or referral for Kid-Med screening if warranted, must be completed within 45 calendar days upon the receipt of the referral by the child search coordinator.

3. In the event of exceptional circumstances within the family that make it impossible to complete the evaluation and initial assessment within 45 days upon receipt of the referral, the family may request an extension as long as the following procedures occur:

a. the exceptional circumstances must be documented; and

b. an interim IFSP must be developed and implemented to the extent appropriate and agreed upon by the family under presumptive eligibility. Examples of extensions may include extended illness by child or family member, family emergencies, or other extenuating circumstances within the family.

Extensions are available only for the family and at family request. There are no extensions available for evaluation/service provider personnel.

VIII. Nondiscriminatory Procedures

The following nondiscriminatory procedures apply to all evaluations and assessments of infants and toddlers, birth through two inclusive, and their families.

1. Tests and other evaluation materials and procedures must be administered in the native language of the parents or other mode of communication, unless it is clearly not feasible to do so.

2. Any evaluation or assessment procedures and materials that are used must be selected and administered so as not to be racially or culturally discriminatory.

3. Any evaluation or assessment procedures and materials that are used must be selected and administered in a manner appropriate to the child's age, level of functioning, and the sensory and physical status of the child.

4. No single procedure may be used as the sole criterion for determining a child's eligibility for early intervention services.

5. All evaluations and assessments must be conducted by qualified personnel.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Procedure for the Distribution of School Books and Materials of Instruction to Home Study Students

The Board of Elementary and Secondary Education, at its meeting of October 24, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953(B) and approved as an emergency rule, the following procedures for the distribution of school books and materials of instruction to home study students as recommended by the Department of Education in response to Act 338 of 1991.

A parent must adhere to the following procedure in requesting school books and materials from a local school district:

1. receive approval for the home study program;
2. secure verification of participation form from the local school district home study coordinator;
3. present the verification form to the textbook supervisor or designee;
4. select the materials needed from the listing provided by the textbook personnel (only materials approved by BESE and adopted by the local school district are provided through this Act);
5. submit requests for materials. A small deposit equal to 50 percent of the replacement is required. This deposit will be returned when books are returned. If books are not returned or paid for, the parent or legal guardian shall not be eligible to continue in the textbook program until such indebtedness is cleared.

NOTE: Only one grade level set of textbooks per child per subject is available at any single time.

Emergency adoption is necessary because Act 338 of the 1991 Legislative Session directed the Board of Elementary and Secondary Education to establish rules and procedures for the distribution of school books and materials of instruction to children participating in approved home study programs. Effective date of emergency rule is November 20, 1991.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Salary Schedule for State Technical Institutes - Evening Extension

The Board of Elementary and Secondary Education, at its meeting of October 24, 1991, exercised those powers conferred by the emergency provision of the Administrative Procedure Act R.S. 49:953(B) and re-adopted as an emergency rule, the following amendment to the Salary Schedule for State Technical Institutes to allow the directors the flexibility to pay a minimum of $15 per hour, up to a maximum of $20 per hour, for evening extension instructional personnel, effective November 1, 1991.

Emergency re-adoption is necessary in order to continue the emergency rule until the amendment becomes effective as a rule on November 20, 1991.

Amendment to Bulletin 1868, BESE Personnel Manual
CHAPTER D: Employee Compensation
Section 145: Vocational-Technical System

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

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Department of Social Services
Office of the Secretary

In accordance with R.S. 49:953 B, the Department of Health and Hospitals, Office of the Secretary, and the Department of Social Services, Office of the Secretary, are exercising the emergency provisions of the Administrative Procedure Act, as amended, to implement the provisions of R.S. 28:821 et seq., as amended by Act 1011 of the 1991 Regular Legislative Session in a timely fashion. This rulemaking establishes policies and procedures for the payment of a cash subsidy to eligible families of children with developmental disabilities to offset the costs of services and equipment, under the program entitled Community and Family Support System. The effective date of this emergency rule is November 1, 1991.

Community and Family Support System Cash Subsidy

I. Introduction

The first and primary natural environment for all people is the family. Children, regardless of the severity of their disability, need families and enduring relationships with adults in a nurturing home environment. Children with developmental disabilities need families and family relationships to develop to their fullest potential. Services for persons with developmental disabilities should be responsive to the needs of the individual and his family, rather than fitting the person into existing programs. Family Supports are those supports that enable a family to keep their child with developmental disabilities at home.

II. Definitions

A. *Agency* means the Department of Health and Hospitals, Office of Human Services, Division of Mental Retardation/Developmental Disabilities or Division of Mental Health, or the Office of Public Health, Handicapped Children's Services, which will administer the cash subsidy program for the population it is designated to serve.

B. *Cash Subsidy* means a monetary payment to eligible families of children with developmental disabilities to offset the costs of services and equipment.

C. *Child* means an individual under the age of 18.

D. *Department of Education 1508 Evaluation* means the evaluation completed on a child for the purpose of determining eligibility for special educational services and classifying the child by his primary disability. For infants and toddlers this may be called a Multi-Disciplinary Evaluation for Part H Services.

E. *Developmental Disabilities* means a severe, chronic disability of a person which:

1. is attributable to a mental or physical impairment or combination of mental and physical impairments;

2. is manifested before the person attains age 22;

3. is likely to continue indefinitely;

4. results in substantial functional limitations in three or more of the following areas of major life activity: self care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency; and,

5. reflects the persons' need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

F. *Individualized Education Program (IEP)* means a written statement for each child with a disability which is developed in a meeting by a representative of the local educational agency, the teacher, the parents or guardian of such child, and that child, whenever appropriate.

G. *Family Supports* means those supports that enable a family to keep their child with developmental disabilities at home.

H. *Parent/Guardian* means a child's natural or adoptive mother or father or the person who is legally responsible for the care and management of the child.

III. Eligibility for Cash Subsidy

A. All applicants must meet the criteria herein established for "developmental disability" and/or severity of disability.

B. There shall be no financial criteria for eligibility for the cash subsidy.

C. The child must be residing, or expected to reside with his or her parent or guardian. The family must maintain residence in the state of Louisiana to be eligible for the cash subsidy.

D. Adopted children are eligible for the cash subsidy, including those families who are receiving a specialized adoption subsidy.

E. Families who have more than one child who meet the eligibility criteria will be eligible for the cash subsidy amount for each child.

F. Children residing in foster care or specialized foster care are not eligible for the family cash subsidy.

IV. Application Procedures and Waiting List for Cash Subsidy

A. Funding for the cash subsidy shall be divided among the three participating agencies, the Office of Human Services, Division of Mental Retardation/Developmental Disabilities and Division of Mental Health and the Office of Public Health, Handicapped Children's Services Program, according to a method of distribution established by the Department of Health and Hospitals.

B. Families receiving cash subsidies through the two family support pilot projects funded by the Louisiana State Planning Council on Developmental Disabilities shall receive priority in allocations of cash subsidies in those regions in which they have established eligibility. Application must be made according to guidelines established in this document.

C. Application forms will be available November 1, 1991. Completed applications will be accepted with a postmark date no earlier than November 15, 1991.

D. Applications for cash subsidy will be available from the regional offices of the Division of Mental Retardation/Developmental Disabilities and the Office of Public Health, Handicapped Children's Services Program, or regional mental health offices of the Division of Mental Health. Applications may be requested by phone and will be mailed by the next working day.

E. Applications shall be completed by the parent or guardian.

F. The Program/Services page of the child's Individualized Education Program (IEP) which states the child's primary exceptionality must be attached to the application; if an IEP has not yet been completed on the child, the parent may attach the child's Department of Education 1508 Evaluation or Multi-Disciplinary Evaluation for Part H Services in place of the IEP Program/Services page. The application will not be deemed complete in the absence of one of these two reports.

G. The application shall be mailed to one of the offices listed above, where they will be logged in according to the postmark date. Applications will not be accepted in person.

H. If all applicable items are not complete, the parent will be notified that additional information is needed and the application will not be logged in for review until the information is received.

I. If multiple applications are received with the same postmark date, a random process will be used to assign the order in which applications are processed.

J. Eligibility will be determined and families will be added to a waiting list on an ongoing basis. There shall be no closing date for applications.

K. If an applicant is determined eligible for the cash subsidy but funding is not available, the approved application will be placed on a waiting list for available funding. Families will be notified within 30 days of the status of their application.

L. In the event that funding becomes available, either through terminations of contracts or additional funding, the next approved applicant from the list will be notified of the effective date of their participation.

M. Every six months, the regional offices of the Division of Mental Retardation/Developmental Disabilities and the Office of Public Health, Handicapped Children's Services Program, or the regional mental health offices of the Division of Mental Health, will issue a letter to approved applicants, confirming their active application.

N. Completion of a new application will be required annually or at the time that new funding becomes available if the original application is more than a year old.

V. Eligibility Determination

A. Applicants considered automatically eligible are those identified by the Department of Education Bulletin 1508 categories: autism, deaf/blind, profoundly mentally handicapped, severely mentally handicapped, and multi-handicapped. Children so identified are not subject to the screening process listed below.

B. Children who are classified by the Department of Education's Bulletin 1508 with the following handicapping conditions will be screened to determine their categorization as developmentally disabled and the severity of their disability: behavior disordered/emotionally disturbed, orthopedically handicapped, health impaired, handicapped infants and toddlers and non-categorical preschool handicapped.

C. Both the Developmental Disability Checklist and a

screening instrument specific to category of disability must be completed for all applicants who are subject to the screening process. The Screening Instrument specific to category of disability contains a minimum number of criteria for determination of severity of disability for each of the handicapping conditions listed, and must be completed in its entirety.

D. Children who meet both the developmental disabilities definition and the severity of disability criteria for categories listed above, are eligible for the family cash subsidy.

E. The applicant is to be notified in writing of the eligibility determination and of their right to appeal the decision and the process of appeal as well as other services that are available through the regional office systems of the Division of Mental Retardation/Developmental Disabilities and Office of Public Health, Handicapped Children's Services, and local mental health clinics of the Division of Mental Health.

F. If an application is received by an agency that cannot serve the child because of the nature of the disability, the agency will forward the application to the appropriate agency by the next working day, with a memorandum which includes the original envelope so that the original postmark can be used by the agency properly receiving the application.

VI. Terminations

A. Reasons for terminations from the cash subsidy program include: family moves out of state; family requests termination of subsidy; child is placed out of the home; the child dies; the child turns age 18; the child is judicially removed from the home; termination of or limitation in funding for the program; and, the family fails to comply with the terms of the cash subsidy contract.

B. Families may also be terminated from participation in the cash subsidy program for fraud, defined as a misrepresentation or a suppression of the truth made with the intention either to obtain an unjust advantage for one party or to cause a loss or inconvenience to another. Fraud may also result from silence or inaction.

VII. Appeals

A. All persons applying to the family cash subsidy program shall have access to an appeals process in accordance with procedures outlined by the Department of Health and Hospitals in cooperation with the Department of Social Services.

B. Individuals and their families will be informed of their rights of appeal at the point of application for subsidy, eligibility determination, termination of subsidy and at the point of annual review.

VIII. Cash Subsidy Payment Procedures

The cash subsidy payment is provided for the purpose of assisting families in meeting those needs and expenses that enable their child to remain at home and to keep the family intact.

A. The amount of the cash subsidy shall be equivalent to the monthly maximum Supplemental Security Income payment available in Louisiana for an adult disabled recipient living in the household of another. Changes in this rate will be tied to the figure in SSI payments in the state.

B. No third party agreement will be entered into by the agency; no advance payments will be authorized.

C. If, for any reason, a contract is overpaid, the situation shall be handled in accordance with the Department of Health and Hospitals established procedures for recoupment.

D. It is the payee's responsibility to notify the originating office if a payment check is lost, stolen or not received by eighth day of the month.

E. If, for any reason, a payment check is not located and has not been cashed 10 working days after the original agency notification, the agency will either issue a replacement check or defer action until more information can be obtained.

F. The first cash subsidy payments will begin in January, 1992.

IX. Program Records

A. Each agency shall have a written policy concerning confidentiality of and access to records and the time period for maintaining the record.

B. Each agency shall maintain a record on each applicant for cash subsidy payments regardless of the final determination of eligibility.

X. Annual and Ongoing Contract Review

A. Each cash subsidy record shall be reviewed annually.

B. The originating office shall mail an annual parent report to the family three months before the termination of the contract, to be returned to that office.

C. If a family fails to return their annual parent report by their anniversary date, their subsidy payment will be terminated.

XI. Ongoing Monitoring

Staff from the originating office will maintain contact with families at least every 90 days. If the child is enrolled in a licensed case management program, the responsible case manager will maintain this frequency of contact and report changes in status to the originating office.

J. Christopher Pilley
Secretary
Health and Hospitals

May Nelson
Secretary
Social Services

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.

This rule is to increase reimbursement rates for Medicaid providers of non-emergency, non-ambulance transportation services. This rate increase is in recognition of the increases these providers have faced in insurance, labor and other costs of operation over recent years. It is also designed to reimburse providers for the extra expense of providing services with specialized vehicles for those patients who are non-ambulatory. This rule is necessary to assure compliance

with mandatory federal law and regulations which require reimbursement to be reasonable and adequate as well as assure the continued availability of transportation services statewide for non-ambulatory patients.

EMERGENCY RULE

All non-emergency, non-ambulance Medicaid providers of ambulatory transportation services are to receive an increase in their mileage rates from $.50 per mile to $.55 per mile. Van services will be reimbursed $.60 per mile when provided in full size vans equipped with wheelchair lifts, stretcher carriers and two-way communication systems. Pick-up fees for non-ambulatory patients transported by full size vans equipped with wheelchair lifts, stretcher carriers and two-way communication systems are 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. For a provider to receive reimbursement at the van rate, door to door service shall be provided. Door to door services shall include picking-up and delivering a patient to a specific department within a facility. All current vehicle requirements for vans 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 Medicaid Program.

A notice of intent has previously been published in the *Louisiana Register* on April 20, 1991 outlining proposed regulations for the review of urine drug screening laboratories. During the Third Extraordinary Session of the 1991 Louisiana Legislature, the Senate passed Senate Concurrent Resolution Number 5 which urges and directs the Department of Health and Hospitals to adopt rules and regulations which conform to the substance of Senate Bill Number 899 of the 1991 Regular Session. This bill proposed the creation of two classes of urine drug screening laboratories: Class A which contains all laboratories which provide urine drug screening services that are not contained in Class B; and Class B which contains employer testing programs only. Class A laboratories shall be required to meet the personnel standards outlined in the rule as published. Class B laboratories shall meet different personnel standards as outlined in this proposed rule. Otherwise, both classes of laboratories shall meet the same requirements for approval by the Department of Health and Hospitals.

EMERGENCY RULE

There shall be two classes of urine drug screening laboratories in Louisiana. Class A which contains all laboratories which provide urine drug screening services that are not contained in Class B, and Class B which contains employer testing programs only. Class A laboratories shall be required to meet the personnel standards outlined in the notice as published in the *Louisiana Register* April 20, 1991, page 422. Class B laboratories shall meet the following personnel standards outlined below. Other requirements for approval by the Department of Health and Hospitals remain the same for both classes.

Personnel involved in urine drug screening in Class B laboratories shall meet the requirements specified in this section of these rules and regulations. Class B screening laboratories shall meet either of the following:

(1) Employ an on-site technical laboratory supervisor who shall assume professional, organizational, educational, and administrative responsibility for the overall operation of the employer testing program, and who shall, at a minimum, have earned a Bachelor of Science degree; have at least two years employment experience in toxicologic analysis; and annually attend at least 16 hours in continuing education courses in the field of forensic urine drug testing; and employ a laboratory drug screening technician who shall, at a minimum, have earned a high school diploma or equivalent; have a degree of skill commensurate with his or her training, education and technical ability; and annually attend at least eight hours in continuing education courses in the field of forensic urine drug testing, or

(2) Employ a laboratory drug screening technician who shall, at a minimum, have earned a high school diploma or equivalent; have a degree of skill commensurate with his or her training, educational and technical ability; and, if using drug-testing instrumentation, complete a manufacturer's training program that shall assure competency in test performance, and annually attend at least 16 hours in continuing education courses in the field of forensic urine drug testing.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Social Services
Office of the Secretary

The Department of Social Services, Office of the Secretary has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Child Care and Development Block Grant Program and the Title IV-A At-Risk Child Care Program, effective January 1, 1992. The programs will be implemented January 1, 1992 in Orleans Parish, and February 1, 1992 in the remainder of the state.

On November 4, 1991, the Department of Social Services received verbal approval of the Child Care and Development Block Grant State Plan from the Department of Health and Human Services, Administration for Children and Families.

Emergency rulemaking is necessary so that eligible children in need of quality child care can receive these serv-

ices without delay, thus decreasing the risk that they will suffer from inadequate care.

Title 67
DEPARTMENT OF SOCIAL SERVICES
Part I. Office of the Secretary

Chapter 1. Child Care Assistance

§101. Eligibility Requirements

A. Child Care and Development Block Grant Program:

1. family income does not exceed 75 percent of the state median income for a family of the same size;

2. the family includes a child in need of care who is under age 13, or age 13 to age 18 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or under court supervision;

3. the child resides with a parent who is applying for child care services;

4. the parent is employed or attending a job training or educational program, or the child is in need of protective services; and

5. the family requests child care services, provides the information necessary for determining eligibility and fees, and meets appropriate application requirements established by the state.

B. Title IV-A At-Risk Child Care Program:

1. the family is not currently receiving Aid to Families With Dependent Children (AFDC), but is at risk of becoming eligible for AFDC;

2. the family includes a child under the age of 13 in need of child care;

3. the child resides with an adult who is within the required degree of relationship who is applying for child care services;

4. the adult responsible for the child is employed;

5. the child is deprived of parental support and care (in two-parent households, one parent must meet criteria for incapacity or be unemployed); and

6. the family requests child care services, provides the information necessary for determining eligibility and fees, and meets appropriate application requirements established by the state.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

§102. Child Care Providers

A. The parent or guardian is assured freedom of choice in selecting from a variety of child care categories, including center-based child care, family child care, and in-home child care. The parent or guardian will be afforded the maximum freedom to select the child care provider of his choice.

B. Under the Child Care and Development Block Grant Program, relatives providing child care must be at least 18 years of age and must be providing child care to only grandchildren, nieces, and/or nephews. The use of funds for sectarian worship or instruction, or the purchase of land or buildings, is prohibited.

C. Purchase of service contracts using Child Care and Development Block Grant Funds will be used to develop or enhance resources necessary to meet the needs of special needs children, who require care for which specialized training, equipment or facilities are essential. Contracts could be used for developing licensed Class A centers or upgrading existing programs in such centers to handle crack/HIV/severely handicapped or emotionally disturbed infants and young children. Contracts would be designed to preserve parental freedom of choice in selecting providers.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

§103. Payment

A. Each family shall contribute toward the payment of child care based on the size of the family and ability to pay. The sliding fee scale is as follows:

SLIDING FEE SCALE
FOR CHILD CARE ASSISTANCE RECIPIENTS

NUMBER IN FAMILY UNIT	2	3	4	5	6	RECIPIENT'S SHARE OF CHILD CARE FEE
	0 - 8,879	0 - 11,139	0 - 13,399	0 - 15,659	0 - 17,919	5%
ANNUAL	8,880 - 10,795	11,140 - 13,055	13,400 - 15,705	15,660 - 18,355	17,920 - 21,003	10%
FAMILY	10,796 - 12,380	13,056 - 14,972	15,706 - 18,011	18,356 - 21,050	21,004 - 24,087	30%
INCOME	12,381 - 13,966	14,973 - 16,889	18,012 - 20,317	21,051 - 23,745	24,088 - 27,171	50%
	13,967 - 15,551	16,890 - 18,806	20,318 - 22,623	23,746 - 26,440	27,172 - 30,255	70%
	15,552 - 16,341	18,807 - 19,762	22,624 - 23,773	26,441 - 27,784	30,256 - 31,793	90%
	16,342 & ABOVE	19,763 & ABOVE	23,774 & ABOVE	27,785 & ABOVE	31,794 & ABOVE	100%

NUMBER IN FAMILY UNIT	7	8	9	10	11	RECIPIENT'S SHARE OF CHILD CARE FEE
ANNUAL FAMILY INCOME	0 - 20,179	0 - 22,439	0 - 24,699	0 - 26,959	0 - 29,219	5%
	20,180 - 23,652	22,440 - 26,301	24,700 - 28,950	26,960 - 31,599	29,220 - 34,247	10%
	23,653 - 27,125	26,302 - 30,163	28,951 - 33,200	31,600 - 36,238	34,248 - 39,275	30%
	27,126 - 30,598	30,164 - 34,025	33,201 - 37,451	36,239 - 40,878	39,276 - 44,303	50%
	30,599 - 34,070	34,026 - 37,886	37,452 - 41,702	40,879 - 45,517	44,304 - 49,332	70%
	34,071 - 35,802	37,887 - 39,812	41,703 - 43,821	45,518 - 47,831	49,333 - 51,839	90%
	35,803 & ABOVE	39,813 & ABOVE	43,822 & ABOVE	47,832 & ABOVE	51,840 & ABOVE	100%

B. The state's share of the child care payment will be made directly to the child care provider. The provider is responsible for collecting the recipient's share of the payment.

C. Maximum child care payment rates are considered to be the provider's actual rate or the following state-established rate, whichever is less:

STANDARD RATE SCHEDULE

	Regular Care		Special Needs Child	
	Full-time	Part-time	Full-time	Part-time
Monthly Rate	$ 216.50	$ 108.25	$ 260.00	$ 130.00
Weekly Rate	$ 50.00	$ 25.00	$ 60.00	$ 30.00
Daily Rate	$ 10.00	$ 5.00	$ 12.00	$ 6.00
Hourly Rate	$ 1.25	$ 1.25	$ 1.50	$ 1.50

A 25 percent premium is paid for the care of special needs children, who are defined as anyone up to age 13 who because of mental, physical or emotional handicap would require specialized facilities, lower staff ratio and/or specialized training to meet the developmental and physical needs of the child.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

May Nelson
Secretary

DECLARATION OF EMERGENCY

Department of the Treasury
Bond Commission

The State Bond Commission amended the commission's rule on October 17, 1991 as originally adopted on November 20, 1976. The commission amended Rule No. 15 of the original commission rules and increased the maximum amount of authorized lines of credit as follows:

15. *LINE OF CREDIT* - a line of credit is an authorization to a state agency to proceed with a project and draw from the State Treasury funds for the project prior to the sale of bonds for that project. The maximum amount of lines of credit which may be authorized by the commission shall be $220,000,000. Bonds shall be issued to replenish lines of credit granted in the fiscal year in which the line of credit was granted. No lines of credit may be granted for a project unless and until either the bonds have been sold, lines of credit have been granted, or a certificate of impossibility and impracticality has been issued for all projects of higher priority as stated in the comprehensive capital budget adopted by the Legislature. The maximum amount of lines of credit provided herein shall not apply in cases where the commission shall deem an item to be an emergency matter.

Monies advanced on a line of credit for any project shall be spent only in accordance with the description in the bond authorization act authorizing bonds to be issued for that project.

Prior to the execution of any contract or agreement obligating the expenditure of monies received by any state department or agency or any other entity from line of credit funds, the attorney general's office shall be requested to review such proposed contracts or agreements for the sole purpose of determining whether expenditure of funds thereunder is for the purpose of furthering the applicable project adopted by the Legislature. If given, such prior approval by the attorney general's office shall be in writing to the appropriate state department, agency or other entity with a copy to be furnished to the State Bond Commission.

Should the attorney general's office determine that the proposed expenditure of line of credit funds not be in order,

no funds may be used to pay obligations which may be incurred if such contracts are executed after an adverse conclusion by the attorney general's office.

All approvals of lines of credit shall be conditioned on compliance by the state department, agency or other entity with the aforementioned procedure, and it shall be their duty to request approval from the attorney general's office, stating to which bond act and to which project the contract or agreement in question pertains. Failure to comply with such procedure by any such department, agency or other entity shall result in the immediate revocation of the line of credit, and all information regarding the possible expenditure of line of credit funds for other than authorized purposes shall be forwarded immediately by the commission to the attorney general's office and the district attorney's office.

This emergency rule is necessary to ensure continued construction and funding of all projects heretofore begun and contained in Priority 2 of the current Capital Outlay Act, Act No. 1013 of the 1991 Regular Session of the Louisiana Legislature. This rule is effective immediately and will remain in effect for 120 days.

Rae W. Logan
Director

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and in order to establish rules and regulations mandated by R.S. 56:303.7 passed during the 1990 Legislative Session, and to best serve public welfare and interest the Wildlife and Fisheries Commission hereby adopts the following rules and regulations effective January 1, 1992:

A "Commercial Fisherman's Sales Card" in lieu of the commercial fisherman's license will be provided to commercial fishermen and will be embossed with the commercial fisherman's name, license number, social security number, the expiration date of the card and the residency status of the fisherman. The "Commercial Fisherman's Sales Card" shall be presented by the commercial fisherman to the wholesale/retail dealer at the time of each sale for purposes of verifying that the seller possesses a current valid commercial fishing license and to allow the dealer to record the pertinent information contained thereon for his required records.

James H. Jenkins, Jr.
Chairman

Rules

RULE

Department of Economic Development
Board of Certified Public Accountants

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Certified Public Accountants adopted the following rule amendments, as appeared in the August, 1991 *Louisiana Register*, page 812.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XIX. Certified Public Accountants

Chapter 3. Operating Procedures

§305. Meetings

A. Any meeting may be called by the chairman or by joint call of at least two of its members, to be held at the principal office of the board, or at such other place as may be fixed by the board. Regularly scheduled board meetings are usually held on the last working day of January, April, July and October.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), LR 9:207 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

Chapter 5. Rules of Professional Conduct

§505. Responsibilities to Clients

A. ...

B. Records

A licensee shall furnish to his client or former client upon request:

1. - 3. ...

4. a copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records; and

5. a copy of computer generated books of original entry and general ledger.

C. The nonpayment of professional fees and/or out of pocket expenses shall not be a basis for failure to furnish the records referred to in Subsection B.3, 4 and/or 5 above. A licensee shall be permitted to collect in advance of issuance a reasonable fee for time and expenses of issuing or reproducing a return and/or report referred to in Subsection B.1, 2 and 5 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), LR 9:207 (April 1983), LR 10:278 (April 1984), LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

§507. Other Responsibilities and Practices

A. - F. ...

G. Firm Name

The name under which a licensee practices public accounting must indicate clearly whether he is an individual practicing in his own name or a named member of a partnership or professional accounting corporation. If the name includes the designation "and Company" or "and Associates" or abbreviations thereof, there must be at least two licensees involved in the practice, who may be either partners or employees of the firm. However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation. Also, a partner or shareholder surviving the death or withdrawal of all other partners or shareholders may continue to practice under the partnership or corporate name for up to two years after becoming a sole practitioner or sole shareholder. No licensee shall allow a person who is not a licensee and who is not in partnership with him or in his employ on a salary, to practice in his name. If a firm is incorporated, words so indicating must appear in or with the firm name each time it is used.

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), LR 9:207 (April 1983), LR 10:278 (April 1984), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

Chapter 7. Requirements for Continuing Professional Education

§705. Programs Which Qualify

A. The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual licensed to practice as a certified public accountant.

Formal programs of learning are those programs that are designed, and primarily intended, as educational activities, and comply with all CPE standards. Magazines are not designed as educational programs nor do they comply with CPE standards. Accordingly, examinations on magazine articles will not qualify for credit.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

§709. Credit Hours Granted

A. - F. ...

G. Special Limitations and Requirements

1. ...

2. All reporting periods shall include at least two hours of Professional Ethics that include a review of the State Board's Rules of Professional Conduct. (LAC Vol. 3, Title 46, Part XIX)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 17: (November 1991).

Chapter 13. Examination

§1301. General Requirements

A.1 ...

2. Applications for the May examination must be received in the office of the board's agent no later than March 1. Applications for the November examination must be received in the office of the board's agent no later than September 1.

3. ...

B. - C. ...

D. All examinations shall be in writing and must be completed in the time allotted by the board. The use of calculating equipment is prohibited unless provided by the board.

E. - F. ...

G.1. Prior to the May 1994 examination Subparagraphs a, b and c shall read as follows:

a. If, and only if, a grade of 50 or more is made in each subject, a candidate who passes Practice or at least two other subjects at a single examination shall receive credit for the subject or subjects passed, conditioned upon his passing the remaining subject or subjects as set forth in Subparagraph b below.

b. A candidate who has received credit for passing part of the examination as set forth in Subparagraph a above shall be required to remove the condition in any of the next four consecutive examinations but shall receive no credit for passing a subject or subjects at any examination in which he makes a grade of less than 50 in any other subject.

c. Anyone who is a conditioned candidate as of the effective date of the Act shall have four consecutive examinations, beginning with and including the November 1979 examination, with which to comply with Subparagraph b above.

2. Beginning with the May 1994 examination and thereafter, the following rule shall apply:

a. If, and only if, a grade of 50 or more is made in each subject, a candidate who passes at least two subjects at a single examination shall receive credit for the subjects passed, conditioned upon his passing the remaining subject or subjects as set forth in Subparagraph b below.

b. A candidate who has received credit for passing part of the examination as set forth in Subparagraph a above shall be required to remove the condition in any of the next four consecutive examinations but shall receive no credit for passing a subject or subjects at any examination in which he makes a grade of less than 50 in any other subject.

c. Persons who have conditional credit obtained on examinations given prior to May 1994 shall be given credit under the new examination format as follows: conditional credit in Theory of Accounts shall constitute conditional credit in Financial Accounting and Reporting - Business Enterprises; conditional credit in Accounting Practice shall constitute conditional credit in Accounting and Reporting - Taxation, Managerial, and Governmental and Not-for-Profit Organizations; conditional credit in auditing shall constitute conditional credit in Auditing; and conditional credit in Business Law shall constitute conditional credit in Business Law and Professional Responsibilities.

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

Chapter 15. Certification

§1503. By Reciprocity

A. An applicant who has been certified as a public accountant by any state, as defined by R.S. 37:71(F), shall be eligible for certification by the board, provided that:

1. ...

2. the applicant has successfully passed the Uniform Certified Public Accountant Examination prepared and graded by the American Institute of Certified Public Accountants and the scores achieved by the applicant thereon are certified to the board by the state which issued the applicant's original certification;

3. the original, initial certification need not be in good standing; however, it may not have been suspended for cause other than non-payment of fees; and

4. at the time of the application and consideration thereof by the board, the applicant possesses current certification in good standing issued by any state which grants reciprocity certification to public accountants certified by the board.

B. An applicant otherwise eligible for reciprocity certification under Subsection A of this Section, save for possession of a baccalaureate degree, shall nonetheless be eligible for reciprocity certification by the board, provided that the applicant's original, initial certification as a public accountant by any state was issued on or before September 1, 1975, or the applicant has been in active, continuous practice as a certified public accountant for not less than four years during the 10 years immediately preceding the date on which the applicant's application for reciprocity certification is received by the board.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77 and R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:7 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

Chapter 17. Qualifications for Licensing

§1701. Eligibility for Licensing; Experience Requirements

A. To be eligible for initial licensing, other than upon renewal pursuant to R.S. 37:82, a certified public accountant shall present proof, documented in a form satisfactory to the board, that he has obtained such professional accounting experience as is prescribed by §1703 begun and completed within the six years immediately preceding the date of application for licensing.

B. To be eligible for reinstatement of licensure which has expired by virtue of nonrenewal, a certified public accountant shall present proof, documented in a form satisfactory to the board, that he has:

1.a. obtained such professional accounting experience as prescribed by §1703 begun and completed within the six years immediately preceding the date of application for licensing; and

b. satisfied the requirements for continuing professional education for the preceding period as specified in §701.A. or,

2. if the experience obtained within the six years immediately preceding the date of application for licensing does not satisfy the requirements of §1703, he may obtain reinstatement of his license by completion of the following specific Continuing Education courses:

2 hours - Ethics, including the State Board Rules (LAC Vol. 3, Title 46, Part XIX)

118 hours - Accounting and Auditing, including financial reporting and disclosures.

C. Continuing education courses used to reinstate a license to practice, under Paragraph 1 or 2 above, may be used to satisfy the requirement of either the preceding reporting period or the current reporting period but may not be used to satisfy the requirements of more than one reporting period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75 and R.S. 37:77, and R.S 37:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 4:234 (June 1978), LR 6:7 (January 1980) and LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

§1705. Equivalent Experience

A. 1. ...

A. 2. Sufficient Quality and Depth

The experience must be of sufficient depth and quality meeting the following criteria:

a. A level of responsibility shall have been attained which requires the applicant to exercise professional judgment on significant financial accounting and reporting matters.

b. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75 and R.S. 37:77, and R.S. 37:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 4:223 (June 1978), LR 6:7 (January 1980) and LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

Chapter 19. Applications for CPA Examination, Certification, Licensing; Procedures

§1907. Rejection or Refusal of Application

The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form and received in the board's office or for applications for the CPA examination, received in the office of the board's agent by the appropriate due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77 and R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:8 (January 1980), LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

§1909. Unable to Sit for Examination

If, after filing his application, a candidate is unable to

sit for the CPA examination, he must so notify the board not later than seven working days prior to the first day of the examination; otherwise, the fee shall be forfeited. A service charge will be assessed on all refunds of examination fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77, R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:8 (January 1980), LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

§1911. Fees

Each application for examination, certification, or licensing shall be accompanied by a fee set by the board. In no event may the fee exceed $200. Should such application be rejected, the fee shall be refunded. If a Louisiana candidate requests that he be allowed to sit in a state that requires a proctoring fee he shall be required to pay the proctoring fee in addition to the fee provided in Chapter 21.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77, R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

Chapter 20. Temporary Permits

§2003. Scope of Authority

A. Subject to satisfaction of the qualifications and procedures prescribed by this Chapter, a temporary permit may be issued by the board to a person who or firm which is neither a resident of Louisiana nor licensed by the board, but who is certified and licensed as a certified public accountant by another state, to authorize the permittee's incidental, temporary practice of public accounting in Louisiana in connection with and limited to a single, specified engagement.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75(B)(13) and R.S. 7:77.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 15:618, (August 1989), amended LR 17: (November 1991).

Chapter 21. Fees and Service Charges for CPA Examination, Certification, Licensing

§2101. Assessment of Fees

A. Examination fees shall be assessed by the board in conformity with R.S. 37:80(E).

Service Charge for refund of examination fee under §1909	$ 50
Original certification	$ 50
Original license	$ 50*
Replacement certificate	$ 50**
Temporary permits	$100

B. - C. ...

D. Returned Check

A fee not to exceed $25 will be assessed against each person who pays any obligation to the board with a returned check. Failure to pay the assessed fee within the notified period of time shall cause the application to be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75 and R.S. 37:80.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), LR 13:13 (January 1987), LR 15:404 (May 1989), and LR 15:619 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

Chapter 25. Renewals of Certification, Licensing

§2501. Annual Renewals, Reinstatement, Fees

A. Each certified public accountant shall renew his certificate and each licensee shall renew his license (such renewals hereinafter sometimes referred to as "register" or "registration") annually on or before the last day of December preceding the year for which renewal is applicable.

B. ...

C: Repeal

Renumber Subsections
D - C
E - D
F - E
G - F

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985),amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

§2503. Annual Notice of Form of Practice, Firm Registration

A. 1. Every licensed certified public accountant who is registered with the board and who is engaged either on a full- or part-time basis in the practice of his profession on his behalf shall file annually with the board a certification that he is practicing as an individual and that there are no partners or associates practicing with him.

2. Every certified public accountant who is licensed by the board and who is not practicing public accounting in his own name or who is not a partner or shareholder in a firm's registration must complete an Annual Notice of Form of Practice and CPA Firm Registration form.

B. ...

C.1. ...

C.2. In addition to the information to be filed as set forth above, each professional accounting corporation practicing public accounting in the state of Louisiana shall designate which shareholders have and which do not have voting privileges.

D. ...

E. An original letterhead must be attached to the statement referred to in Subsection A and C above. Only licensed employees or licensed associates may be shown on stationery but such names shall be separated from that of the individual practitioner or those of the partners or voting shareholders by an appropriate line. Deceased or retired partners or shareholders shall be appropriately identified.

F. Repeal

Renumber Subsections G - F
H - G

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of

Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

§2504. Practice Monitoring Programs

A. Positive Enforcement Program (PEP)

The board hereby establishes a positive enforcement program which will consist of the desk review of a compilation, review and audit report prepared during the preceding calendar year by practice units selected and approved by the board for audit. Upon notification of selection, the firm will submit one legible copy of a compilation, review and audit report issued by the Certified Public Accountant or firm of Certified Public Accountants within the preceding 12 months of the Annual Notice of Form of Practice.

B. Governmental Positive Enforcement Program (GPEP)

The board hereby establishes the Governmental Positive Enforcement Program (GPEP). The program will consist of a desk review of selected audit reports filed by municipalities and other governmental entities which have filed audit reports prepared by a CPA or firm of CPAs and submitted to the legislative auditor in accordance with law.

C. Working Paper Review Program (WPRP)

The board hereby establishes the Working Paper Review Program (WPRP). The Working Paper Review Program shall consist of a review of working papers developed by individual or firm registrants in connection with the issuance of any audit, review or compilation report. Such review shall encompass all individual and firm registrants within each three-year period.

D. Any firm which shall have been subjected to a professional Peer Review or Quality Review approved by and acceptable to the board and conducted pursuant to standards not less stringent than Peer Review and Quality Review standards applied by the American Institute of Certified Public Accountants shall be exempted from the provisions of Subsections A, B and C above provided that said firm shall have furnished a copy of a Peer Review report to the board should it have undergone a Peer Review or the American Institute of Certified Public Accountants, its designee or other approved providers shall have certified to the board the accountant's or firm's participation in a Quality Review program and the dates of the accountant's or firm's most recent quality review should the firm seek exemption on the basis of a Quality Review.

E. If a Certified Public Accountant or firm of Certified Public Accountants has not provided evidence pursuant to the terms of Subsection D above, then the board shall undertake a review of a compilation, review, audit, or governmental audit reports, or shall undertake a review of the working papers of any such Certified Public Accountant or firm prepared in connection with the issuance of any audit, review or compilation report; further, any firm which shall have its working papers reviewed by the board pursuant to this Subsection E shall be charged reasonable travel expenses and a per diem; provided that the aggregate amount of such reimbursable expenses shall not exceed the sum of $1,000 as to any Certified Public Accountants or firm of Certified Public Accountants within any three-year period. This limitation shall not apply to approved sponsoring organizations.

F. Each Certified Public Accountant or firm of Certified Public Accountants shall undergo a Peer Review, a Quality Review or a review of working papers or reports by the board at least once each three years.

G. No licensee or firm of Certified Public Accountants shall be required to become a member of any organization in order to comply with the provisions of §2504.

H.1. Oversight. The board shall appoint a Quality Review Oversight Board (QROB) whose function shall be the oversight and monitoring of sponsoring organizations for compliance and implementation of the minimum standards for performing and reporting on Quality Reviews. The QROB shall consist of three members, none of whom are current members of the State Board of Certified Public Accountants of Louisiana. These members shall:

a. be currently licensed by the board and,

b. be former state board members who are no longer in public practice, whenever possible.

2. Responsibilities. At least one member of the QROB will attend all meetings of the Society of Louisiana Certified Public Accountants Quality Review Committee, or any successor thereof.

3. Compensation. Compensation of QROB members shall be set by the board.

4. Duties of the QROB.

a. The QROB will observe the plenary sessions of the QRC which include the assignment of reviews to committee members and the summary meeting where the conclusions of the review committee members are discussed;

b. may periodically review files of the reviewers; and

c. may observe the deliberations of the QRC and report their observations to the board; and

d. make recommendations relative to the operation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

Chapter 27. Renewals of Licensing - Reports on Continuing Professional Education

§2701. Submit with Application

Each licensee shall submit with his application for license renewal, on forms supplied by the board, a report of programs of continuing professional education completed during the applicable period and other information relative to fulfilling the continuing education requirements, except that such a report will not be required of a licensee who is included in a report in accordance with §2703 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: (November 1991).

Mildred M. McGaha, CPA
Executive Director

RULE

Department of Economic Development
Board of Certified Public Accountants

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board of Certified Public Accountants adopted the following rule amendment, as appeared in the August, 1991 *Louisiana Register*, page 817:

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XIX. Certified Public Accountants

Chapter 13. Examination

§1303. Educational Requirements

A. To be eligible for examination and certification by and under auspices of the board, after December 31, 1996, an applicant shall possess a baccalaureate degree, duly conferred by a university or college recognized and approved by the board, and in addition shall have, in the course of attaining such degree, or in addition thereto, received credit for not less than 150 hours of post-secondary, graduate, or post-graduate education at and by an accredited college or university approved by the board. The applicant shall present evidence which shall consist of one or more official transcripts certifying that the applicant has attained the foregoing degree and educational hours, and in addition said transcripts shall evidence award of credit for satisfactory completion of the following courses and credit hours, according to whether such courses and credits are taken as an undergraduate course and semester hour or a graduate course and semester hour.

	Undergraduate Semester Hours		Graduate Semester Hours	
Accounting courses:	24		21	
Intermediate		6		3
Cost		3		3
Income Tax		3		3
Auditing		3		3
Accounting electives:		9		9
3 semester hours from one of the following:				
Advanced financial accounting				
Not-for-profit accounting/auditing Theory				
6 semester hours in accounting above the basic and beyond the elementary level				
Business courses:				
(other than accounting courses):	24		24	
Including at least 3 semester hours in Commercial law,				
as it affects accountancy for CPA examination candidates*				

* 1. Any course that emphasizes consumer protection and the regulatory environment, is not recognized as equivalent to, nor does it satisfy, the specified Commercial Law requirement at either the undergraduate or graduate level.

2. Up to six semester hours for internship may be applied to the 150 hours requirement, but may not be used to meet the accounting or business courses requirement.

3. Standard conversion (4 quarter hours equals 3 semester hours) will be applied whenever a school is not on the semester basis.

B. No applicant who has taken the examination administered by the board prior to December 31, 1996 shall be required to meet the requirement of having received credit for not less than 150 hours, as well as a baccalaureate degree and any such applicant who has taken the examination prior to such date shall thereafter remain eligible to take any examination administered by the board prior to December 31, 1999, and shall thereafter be eligible, subject to applicable rules and regulations of the board, to take components of the examination in order to pass all portions of the examination. Candidates whose conditional credits expire after December 31, 1999, shall be required to show completion of 150 semester hours before reapplying to take any other CPA examination in Louisiana.

C. To be eligible for examination and certification by and under the auspices of the board, prior to December 31, 1996, an applicant shall possess a baccalaureate degree, duly conferred by a university or college recognized and approved by the board, with concentration in the area of accounting, at either the graduate or undergraduate level, evidenced by award of credit for satisfactory completion of the following courses and credit hours, according to whether such courses and credits are taken and awarded as an undergraduate course and semester hours or a graduate course and semester hours:

	Undergraduate Semester Hours	Graduate Semester Hours
Elementary accounting	3	-
Intermediate accounting	6	3
Advanced accounting	3	3
Cost accounting	3	3
Income tax accounting	3	3
Auditing	3	3
Accounting elective	3	3
Commercial law, as it affects accountancy, for CPA examination candidates*	3	3

* 1. Any course that emphasizes consumer protection and the regulatory environment, is not recognized as equivalent to, nor does it satisfy, the specified Commercial Law or Accounting Elective requirement at either the undergraduate or graduate level.

2. Standard conversion (4 quarter hours equals 3 semester hours) will be applicable whenever a school is not on the semester basis.

D. In the event that the applicant's degree does not reflect the credit hours in the courses prescribed by Subsections A or C of this Section, the board may, on good cause shown by the applicant, allow the substitution of other courses that, in the board's judgment, are substantially equivalent to any of such prescribed courses or to the credit hours prescribed therefor. Documentation of good cause for any such requested substitution shall be submitted by the applicant to the board upon affidavit sworn to and subscribed by the applicant and an officer of the university, college or other educational institution where the course to be substituted was taken. Such affidavit shall set forth a course description of the course sought to be substituted and a

comparison of the content of such course to that of the course for which substitution is requested.

E. If the applicant's degree does not reflect the credit hours in the courses prescribed by Subsections A and C of this Section, an applicant may become eligible for examination and certification by and under the auspices of the board by having otherwise taken and completed the courses required by this rule and receive credit for satisfactory completion thereof awarded by an accredited university, college, vocational or extension school recognized and approved by the board.

F. Other than for correspondence courses at an accredited university, with respect to the course requirements specified by Subsections A and C of this Section, the board does not recognize credit received for courses granted on the basis of advanced placement examination (such as CLEP, ACT or similar examinations). To be recognized by the board the course credits specified by Subsections A and C of this Section shall have been awarded pursuant to satisfactory completion of a course requiring personal attendance at classes in such course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:616 (August 1989), LR 17: (November 1991).

Mildred M. McGaha, CPA
Executive Director

RULE

Department of Economic Development
Board of Interior Designers

In accordance with R.S. 37:3171 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Examiners of Interior Designers has amended LAC 46:XLIII. Chapters 1 - 13 pertaining to the operation and governing of the board and the examination and licensing of interior designers in the state of Louisiana.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIII. Interior Designers

Chapter 1. Composition and Operation of the Board

§101. Name

The name of this board shall be the Louisiana State Board of Examiners for Interior Designers, hereinafter called the "board," as provided for by Act 227 of the 1984 Regular Legislative Session, hereinafter called the "Act."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§103. Membership

All appointments to membership on the board shall be made by the governor of the state of Louisiana as provided for by the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3173.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§104. Elections

A. The board shall select annually from among its members a chairman, vice-chairman and secretary. The election of officers will be held each year at the last meeting scheduled before the beginning of the fiscal year on July 1.

B. If an officer resigns or is unable to serve, an election to replace that officer shall be held at the next regularly scheduled meeting after the officer leaves his office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§105. Meetings

The board shall have at least two meetings per year for the purpose of examining candidates for registration as interior designers. The board may hold such other meetings and hearings as required for the proper performance of its duties under the Act. The board may receive per diem for only eight meetings per year, pursuant to the Act. The limitation does not prohibit any board member's right to receive per diem granted by §109, except as to regularly scheduled meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3175.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§107. Order of Business

The order of business at any meeting shall be established by the chairman and conducted in accordance with *Robert's Rules of Order*, except that all board members vote.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§109. Expenses of the Board

A. Members of the board shall receive no compensation for their services but shall receive the same per diem and mileage as is provided by law for the members of the legislature for each day the board conducts business. Out of the funds of the board each board member shall be compensated at a the legislative per diem rate for each day in attending board meetings and hearings, attending NCIDQ meetings, issuing certificates and licenses, reviewing examinations, necessary travel, and discharging other duties, responsibilities and powers of the board. In addition, out of

said funds each board member shall be reimbursed actual travel, meals, lodging, clerical and other incidental expenses incurred while performing the duties, responsibilities, and powers of the boards, including but not limited to performing the aforesaid specific activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3175.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§111. Financial Operation of the Board

Payments out of the board's fund shall be made only upon orders of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§113. Quorum

A quorum of the board as stated by the Act shall consist of four members of the board, but no action shall be taken without at least four votes in accord.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173(F).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§115. Subcommittees

The chairman shall appoint members to subcommittees as needed to fulfill the duties of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§117. Staff

The board may, at its discretion, employ an executive assistant, legal counsel, and such other assistants and clerical staff as it deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§118. National Council of Interior Design Qualification

A. The board may maintain membership in the National Council of Interior Design Qualification (NCIDQ). Up to date information on the examinations and policies adopted from time to time by NCIDQ shall be developed by the executive assistant, and reported to the board regularly.

B. The board will cooperate with NCIDQ in furnishing transcripts of records, giving examinations and rendering other assistance calculated to aid in establishing uniform standards of professional qualification throughout the jurisdiction of NCIDQ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§119. Limitation of Liability

A person who serves as a member of the board shall not be individually liable for any act or omission resulting in damage or injury, arising out of the exercise of his judgment in the formation and implementation of policy while acting as a member of the board, provided he was acting in good faith and within the scope of his official functions and duties, unless the damage or injury was caused by his willful or wanton misconduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

Chapter 3. Officers of the Board and Their Duties

§301. Chairman

The chairman shall exercise general supervision of the board's affairs, shall preside at all meetings at which he is present, shall appoint any committees within the board, shall sign vouchers, and shall perform all other duties pertaining to the office as deemed necessary and appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173 and R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§303. Vice Chairman

The vice chairman shall perform the duties of the chairman in his absence or other duties assigned by the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§305. Secretary/Treasurer

The secretary shall be an administrative officer of the board. He shall act as its recording and corresponding secretary and may have custody of and shall safeguard and keep in good order all property and records of the board which the chairman deems necessary and appropriate; cause written minutes of every meeting of the board to be kept in a book of minutes; keep its seal and affix it to such instruments as require it; sign all instruments and matters that require attest and approval of the board; act as treasurer and receive and deposit all funds to the credit of the "Interior Design Fund;" attest all itemized vouchers approved by the chairman for payment of expenses of the board; make such reports to the governor and legislature as provided for by law or as requested by same; and keep the records and books of account of the board's financial affairs and any other duties as directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

Chapter 5. Fees and Charges

§501. Fees and Charges

A. All fees and charges except for the annual renewal fee must be made be cashier's check or money order. The annual renewal fee may be paid by business or personal check, unless required otherwise by the board. The following fees and charges have been established:

1. For licensing 150
2. Annual renewal fee $50
3. Restoration of expired license or reactivation of expired license $75
4. Replacing lost certificate $10
5. Restoration of revoked or suspended license $75
6. Failure to renew license within the time limit set by the board $25

B. NOTE: The fees and charges may be amended by the board in accordance with the Act and rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3182 and R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§503. NCIDQ Examination

Persons who wish to take the NCIDQ examination must purchase the examination directly from NCIDQ. The board does not provide the examination as part of the licensing fee of $150. The applicant for a license must provide evidence that the applicant has taken and successfully passed the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174, R.S. 37:3177 and R.S. 37:3182.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

Chapter 7. Issuance and Reinstatement of Certificates of Registration

§701. Issuance

Certificates of registration issued by the board shall run to and include December 31 of the calendar year following their issue. The initial registration fee payable by cashier's check or money order of $150 should be submitted with the application to the board. Certificates must be renewed annually for the following calendar year, by the payment of a fee of $50; provided that any approved applicant who has paid the initial registration fee of the preceding calendar year shall not be required to pay the renewal fee until December 31 of the next succeeding calendar year. Certificates not renewed by December 31 shall become invalid, except as otherwise provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§703. Reinstatement

When a certificate has become invalid through failure to renew by December 31, it may be reinstated by the board at any time during the remainder of the following calendar year on payment of the renewal fee, plus a late penalty restoration fee of $75. In case of failure to reinstate within one year from the date of expiration, the certificate cannot be renewed or reissued except by a new application approved by the board and payment of the registration fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§704. Restoration of Expired Certificates

A certificate expires on December 31 of each year. If the licensee fails to have the certificate reinstated within one year of the expiration date of the certificate, then the applicant may petition the board to have his certificate restored if he files the said petition within three years of the expiration of the certificate. If the board approves the restoration of the certificate, then the applicant must pay the sum of $75 to the board for the restoration and file a new application with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§705. Lost or Destroyed Certificates

Lost or destroyed certificates may be replaced on presentation of a sworn statement giving the circumstances surrounding the loss or destruction thereof, together with a fee of $10. Such replaced certificate shall be marked "duplicate."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

Chapter 8. Continuing Education

§801. Continuing Education Policy

R.S. 37:3179 mandates that the board promulgate regulations governing the participation by licensees in a continuing education program approved by the board. These regulations are in compliance with that mandate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§802. Continuing Education Units

A. The definition of a continuing education unit will be the same definition used by the Continuing Education Unit Forum, which has ruled that one "contact hour" will equal .1 continuing education unit, or "C.E.U.".

B. The board will only approve continuing education

units which build upon the basic knowledge of Interior Design.

C. A licensee must submit evidence on a yearly basis that he or she has participated in an approved continuing education program. The licensee must show that he or she has earned five or more contact hours of continuing education, or .5 C.E.U.'s.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§803. Verified Credit

A. The term "verified credit" applies to continuing education units which are approved by the board and at which attendance by the licensee is verified in some fashion. Verification of attendance occurs where the sponsor of the program verifies participation or a transcript from the C.E.U. registry is submitted.

B. The board will hold at least one program every year that fulfills the requirements promulgated herein. Attendance at this program will automatically be recognized by the board as verified credit toward the requirements set forth herein.

C. The board shall approve those programs submitted for board approval based upon the following factors:

1. The program must comply with C.E.U. Forum criteria.

2. The program must contain content relative to the health, safety and welfare of the public.

3. The length of the actual instruction time.

4. The program must be open to all licensees or applicants for licensing.

D. The board will allow any program approved by the board prior to the program's date to contain in its brochures or literature the statement "This program in whole or in part counts toward fulfilling requirements promulgated by the state of Louisiana for interior design continuing education units."

E. The approval of a submitted program shall be given by the board in writing to the program's sponsor.

F. Any applicant or sponsoring agency applying for C.E.U. course approval should do so in advance of the program. Programs submitted for approval after they have been given will be reviewed by the board, but approval is not guaranteed. Further, programs which are not approved prior to the date scheduled for the program cannot publish that they have been approved by the state of Louisiana as interior design continuing education units.

G. The board shall not have the authority to disapprove earned C.E.U.'s of a pre-approved program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§804. Approved Programs

A. Any program approved by the "C.E.U. Forum" shall be pre-approved for credit by the board.

B. Any program that builds upon the basic knowledge of interior design and which includes information relative to health, safety and welfare may be considered for approval providing that the following are submitted:

1. Information on the course sponsor, including name, address and telephone number.

2. Description of the course, including a detailed description of subject matter and course offering. The following information is required: length of instructional period, instruction format, lecture, seminar conference, workshop, or home study; presentation method, such as electronic, visuals, or printed materials.

3. Course instructors, leaders and/or participants. Names, addresses and telephone numbers of instructors or leaders or participants in the program must be given. Participants will include any member of any panel, those who make a presentation by electronic means, or any other person who leads or contributes to the course content. Information on these should include education and professional credentials for each person. Professional references will be requested.

4. Time, place and cost. The information must include the date, time and location of course offerings, as well as attendance fees and cost of course materials.

5. Verification of course completion. The information must include the sponsor's method for verifying attendance, participation and achievement of program learning objectives.

6. Course information dissemination. The information must include the method of informing those interested of program offering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§805. Recording and Submission of Credits

A. Those programs sponsored by the board will verify attendance of licensee and maintain records of attendees on a yearly basis, and that information will be retained by the board for five years.

B. It is incumbent on the licensee attending a pre-approved program to provide verification of attendance satisfactory to the board, such as a transcript or certificate of attendance.

C. Licensees attending a pre-approved program must submit attendance verification with license renewal on a yearly basis no later than January 31 of the year after the year in which the program was attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§806. Notification of Approved Programs

A. The board will publish information on approved C.E.U. courses being offered.

B. Information on board-sponsored seminars will be sent directly to all applicants by mail to address listed in applicants' records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

Chapter 9. Examination and Registration

§901. Qualifications for Registration

A. A person desiring to be licensed as an interior designer shall apply to the board for licensure. Each applicant

shall apply to the board on a form and in the manner prescribed by the board. To be eligible for the examination, an applicant shall submit satisfactory evidence of having successfully completed at least four years of study at the high school level, and in addition meets at least one of the following requirements:

1. is a graduate from an interior design program of five years or more and has completed one year of interior design experience;

2. is a graduate from an interior design program of four years or more and has completed two years of interior design experience;

3. has completed at least three years in an interior design curriculum and has completed three years of interior design experience;

4. is a graduate from an interior design program of at least two years and has completed four years of interior design experience.

B. All such education shall have been obtained in a program, school, or college of interior design accredited by the Foundation for Interior Design Education Research (FIDER) or in an unaccredited program, school or college of interior design approved by the board. The unaccredited program, school or college of interior design will be evaluated based upon FIDER standards. The board shall review and approve interior design experience on a case-by-case basis, using the same standards as those accepted by NCIDQ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3174 and R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§903. Application Procedure

Application must be made to the board on application forms obtained from the State Board of Examiners for Interior Design and required fees filed. Application forms may be obtained by calling 504/925-3921 or writing to: State Board of Examiners for Interior Design, 8017 Jefferson Highway, Suite B-3, Baton Rouge, LA 70809.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§905. Reciprocal Registration

Persons providing evidence of registration or licensing in another state, whose requirements for registration are equivalent to Louisiana's requirements and who extend the same privilege to those registered in Louisiana, may become registered by the board upon payment by such person of the initial registration fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§907. Examination

A. The examination for purposes of the Act shall be the National Council for Interior Design Qualification (NCIDQ) Examination, which shall be held at least twice a year in the state of Louisiana. Application forms for said examinations may be obtained by contacting the board. The applicant must pass all portions of the examination and submit proof of passage to the board.

B. Those who have taken and successfully completed the examination provided by the American Institute of Interior Designers may submit proof of passage of that examination to the board. The board may consider for licensing those persons who have taken and passed the AID examination, which preceded and was replaced by the NCIDQ examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§909. Seal

An applicant for licensing who complies with all requirements established therefor, including the successful completion of an examination where applicable, shall be issued a certificate by the board to evidence such licensing. Each holder of a license shall secure a seal of such design as is prescribed in the rules of the board. All drawings, renderings, or specifications prepared by the holder or under his supervision shall be imprinted with his seal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§911. Inactive Status

A. A license which has become inactive may be reactivated pursuant to this Section upon application to the board and payment of an application fee.

B. An applicant who wishes to have his license reactivated must provide proof to the board that he has completed continuing education units of not less than five hours approved by the board for each year the license was inactive, to be cumulated at the time the applicant applies to have his license reactivated. As with all other continuing education requirements, the board shall only approve continuing education that builds upon the basic knowledge of interior design.

C. Any license which has been inactive for more than four years shall automatically expire if the licensee has not made application for reactivation. Once a license expires, it becomes null and void without any further action by the board. At least one year prior to expiration of the inactive license, the board shall give notice to the licensee at the licensee's last address of record that, unless reactivated, the license will expire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Inte-

rior Designers, LR 17: (November 1991).

§913. Application for Inactive Status

A. An applicant who wishes to apply for inactive status must file an application provided by the board which requires all information asked of new and renewal applications. Further, the applicant must provide a good and supportable reason for inactive status. Inactive status is to be considered a status of last resort, and will only be available to a limited number of applicants. Some reasons for obtaining inactive status will be that the applicant is seriously ill; that the applicant is a full-time student; or that the applicant will be out of the country for longer than 12 months at one time. These reasons are for explanation only; other reasons may be considered.

B. Applications for inactive status will be considered on a case-by-case basis. Applicants may be required to produce evidence supporting their claim for inactive status.

C. During inactive status, the designer will not be able to use the term "interior design" or "interior designer" when describing his occupation or the services provided, as prohibited by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

Chapter 10. Use of term "Interior Designer"

§1001. Limitation of Use of Term

Only those who are licensed as an "interior designer" by the board may use the appellation "interior design" or "interior designer" or the plural thereof in advertising or in business usage when referring to themselves or services to be rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 and R.S. 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§1003. Firm Practice

Nothing shall prevent an interior designer licensed pursuant to the statute or regulations from associating with one or more interior designers, architects, professional engineers, landscape architects, surveyors, or other persons in a partnership, joint venture, or corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§1005. Use of Term by Business

A firm shall be permitted to use in its title the term "interior designer" and to be so identified on any sign, card, stationery, device, or other means of identification if at least one partner, director, officer, or other supervisory agent of such firm is licensed as an interior designer in this state. A firm shall not be required to include the names of all partners, directors, or officers in its title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

Chapter 11. Revocation or Suspension of Certificates of Registration

§1101. Authority of Board to Suspend or Revoke

The board may suspend for a definite period or revoke any certificate of registration on those grounds mentioned in the Act, which include:

A. That the license or any renewal thereof was obtained by fraud, misstatement, or misrepresentation of fact.

B. That the holder of the license or any applicant therefor has committed any act of fraud or deceit in his professional conduct or has been convicted of a felony.

C. That an applicant for a license has represented himself to be an interior designer prior to the time of issuance of a license to him except as authorized by the Act.

D. That the holder of a license or an applicant therefor has been found by the board to have aided and abetted any person not licensed in violating any provisions of the Act.

E. That the holder of a license has failed to comply with the requirements of this Act or with any rule, regulation, or order of the board pursuant to authority granted by the Act.

F. That the holder of the license has been guilty of gross incompetence, dishonesty, or gross negligence in the practice of interior design.

G. That the holder of the license has been guilty of affixing his seal or stamp or name to any specification, drawing, or other related document which was not prepared by him or under his responsible supervision and control, or permitting his seal, stamp, or name to be affixed to any such document.

H. That the holder of the license has been convicted of a felony, in which case the record of conviction is conclusive evidence of such conviction.

I. That the holder of the license has been guilty of willfully misleading or defrauding any person employing him as an interior designer.

J. That the holder of the license has been guilty of willfully violating the provisions of this Chapter or any lawful rule or regulation adopted by the board pursuant to law.

K. That the holder of the license has been guilty of attempting to obtain, obtaining, or renewing, by bribery, by fraudulent misrepresentation, or through an error of the board, a license to use the title "interior designer."

L. That the holder of the license has been guilty of having a license to practice interior design, or a license to use the title "interior designer," revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction for any act which would constitute a violation of this Part of this Chapter.

M. That the holder of the license has been convicted or found guilty of a crime in any jurisdiction which directly relates to the provision of interior design services or to the ability to provide interior design services. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charge. However, the board shall allow the person being disciplined to present any evidence relevant to the underlying charge and the circumstances surrounding such plea.

N. That the holder of the license has been guilty of false, deceptive, or misleading advertising.

O. That the holder of the license has been guilty of aiding, assisting, procuring, or advising any unlicensed person to use the title "interior designer" contrary to this Part or to a rule of the board.

P. That the holder of the license has been guilty of failing to perform any statutory or legal obligation placed upon an interior designer.

Q. That the holder of the license has been guilty of;

1. making or filing a report which the licensee knows to be false;

2. intentionally or negligently failing to file a report or record required by state or federal law; or

3. willfully impeding or obstructing such filing or inducing another person to do so.

Such reports or records shall include only those which are signed in the capacity as an interior designer.

R. That the holder of the license has been guilty of making deceptive, untrue, or fraudulent representations in the provision of interior design services.

S. That the holder of the license has been guilty of accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent or licensed to perform.

T. That the holder of the license has been guilty of rendering or offering to render architectural services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§1103. Procedure for Suspension or Revocation

Upon receipt of notice of any alleged violations of this Part, or any rule or regulation adopted by the board, the board shall institute a preliminary investigation. If warranted by the investigation, the board shall duly notify the alleged violator and schedule a timely hearing for the resolution of the alleged violation. If following such hearing, the board reasonably finds that a violation of the rule or the rules or regulations promulgated by the board has occurred, the board shall take such disciplinary action that it may in its discretion choose to exercise in keeping with its delegated authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174, R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§1105. Appeal Process

Any person aggrieved by any disciplinary action of the board shall have the right to a rehearing by the board if written application for a rehearing is made to the board within 15 days after the adverse disciplinary action. If such person is aggrieved further by a decision or action by the board on rehearing, such person may appeal the decision or action of the board to the district court in the parish in which he is domiciled. The written petition for a rehearing in district court shall be made within 30 days after written notice sent to the person of the action or decision of the board on rehearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§1106. Fine for Restoration of Revoked or Suspended License

The board may require a licensee who has had his license revoked pursuant to the provisions of this Chapter to pay a fine of up to $100 to have his license restored to him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3182.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§1107. Enforcement of Board's Decisions

The board may apply to any court which has jurisdiction for an order enjoining or restraining the continuance of the alleged unlawful act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

Chapter 12. Miscellaneous

§1201. Lending Books

Books or other materials on the NCIDQ reading list, which books are owned by the board and located in the board offices may be loaned for a period not to exceed 14 days, provided that a borrower of any book must pay a deposit equal to the book's cost if the book is removed from board offices. Deposits will not be refunded on books or other materials if they are not returned to board offices within the 14-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

§1202. Roster

The roster of licensed interior designers will be provided upon payment of the cost of copying at the rate of copying charges as set by the Regulations established by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

Chapter 13. Severability

§1301. Severability

If any provision or item of the rules of the board or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of the rules of the board which can be given effect without the invalid provisions, items or applications, and to this end the provisions of the rules of the board are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985) amended by the Department of Economic Development, State Board of Examiners of Interior Designers, LR 17: (November 1991).

J. Daniel Bouligny
Chairman

RULE

Department of Economic Development
Real Estate Commission

The Department of Economic Development, Real Estate Commission has amended Escrow and Trust Account, LAC 46:LXVII. Subpart 1, Chapter 27. These rules were published in their entirety as emergency rules in the August 20, 1991 issue of the *Louisiana Register*, and referenced in the notice of intent section of the same issue.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate

Chapter 27. Escrow and Trust Account

§2701. Sales Escrow Account

Each resident broker who accepts any deposit on behalf of a client in connection with the sale of real estate shall open and maintain a sales escrow checking account in a financial institution in the state of Louisiana. All sales escrow accounts shall be titled in the identical wording as stated on the broker's license and the wording "Sales Escrow Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all deposits received by a broker in connection with the sale of real estate shall be deposited in this account.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), LR 12:509 (August 1986), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17: (November 1991).

§2703. Rental Trust Accounts

Each resident broker engaged in the collection of rental payments on behalf of clients shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana. All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all money collected as rental payments from or on behalf of clients shall be deposited into this account.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17: (November 1991).

§2704. Rental Deposit Account

Effective January 1, 1992, each resident broker engaged in the collection of rental security deposits in connection with property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all money collected as rental security deposits from or on behalf of clients shall be deposited into this account.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 17: (November 1991).

§2705. Account Affidavit

Upon the opening of any sales escrow checking account, rental trust checking account, or security deposit trust checking account a broker shall execute and submit to the commission an affidavit attesting to the existence, location, type and account number of such account, and authorizing and empowering the commission or its representatives to examine, inspect, and/or copy the records of the account. All such affidavits shall be submitted to and received by the commission within 10 days following the opening of any such accounts.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17: (November 1991).

§2706. Non-Resident Brokers

Each non-resident broker shall open and maintain sales escrow accounts, rental trust accounts and rental deposit accounts as specified for resident brokers. The accounts may be opened and maintained at a financial institution in the state of Louisiana or in a financial institution in the state in which they reside.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 17: (November 1991).

§2707. Branch Office Accounts

If a broker opens a branch office in a parish other than the parish in which his main office is located, the broker may open an additional sales escrow account, rental trust account, or rental deposit account in the parish in which the branch office is located.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17: (November 1991).

§2711. Non-Interest Bearing Checking Accounts

Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be depos-

ited therein have agreed otherwise in writing.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), LR 12:827 (December 1986), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17: (November 1991).

§2713. Personal Funds in Escrow and Trust Accounts

A. A broker may deposit and keep a sum not to exceed $500 in each sales escrow account, rental trust account, and security deposit trust account from his personal funds, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts.

B. A broker may, in connection with property management activities, deposit personal funds in excess of $500 into a rental trust account for the temporary, limited and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17: (November 1991).

§2715. Withdrawal

No monies received and deposited into an escrow account or rental trust account shall be withdrawn for any purposes except:

* * *

9. to comply with the provisions of R.S. 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17: (November 1991).

§2719. Account Closing

No sales escrow checking account, rental trust checking account, or security deposit account may be closed until such time as all deposits therein have been properly disbursed according to law. Every broker shall notify the commission in writing of the closing of any sales escrow account, rental trust account or security deposit account within 10 days following the date the account is closed.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 9:317 (May 1983), LR 10:874 (November 1984), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17: (November 1991).

§2723. Corporations and Partnerships

Every licensed corporation or partnership shall open and maintain sales escrow accounts, rental trust accounts and rental security deposit accounts as specified for resident and non-resident brokers. All funds received in any real estate transaction conducted by the corporation or partnership as a licensee shall be deposited into these accounts.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17: (November 1991).

§2725. Transfer of Trust Funds on Sale or Acquisition of Agency

A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring or qualifying broker of the acquiring agency will advise the commission in writing of the name of the agency acquired and the anticipated date of the transfer of trust funds. The letter notifying the commission of the acquisition will specify the account numbers of the sales escrow accounts, rental trust accounts, or rental deposit accounts from which the funds will be transferred and the account numbers of the accounts into which the funds will be deposited.

B. A letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency requesting that approval be granted for the transfer of funds will accompany the notification to the commission.

C. The transfer of funds shall not be accomplished until written approval has been granted by the commission in accordance with Section 2715.8 of this Chapter.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), amended LR 17: (November 1991).

Jane H. Moody
Executive Director

RULE

Board of Elementary and Secondary Education

Amendment to Standard 1.020.00 of Bulletin 741

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published August 20, 1991 and under the authority contained in the State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Amendment to 741,
Louisiana Handbook for School Administrators
Under Standard 1.020.00, add the following:

Administrators employed by the school system shall comply with all regulations of the Administrative Leadership Academy.

Refer to R.S. 17:3761-3764 and Bulletin 1882.

AUTHORITY NOTE: R.S. 17:3761-3764.

HISTORICAL NOTE: LR 17: (November 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Amendment to Salary Schedule for State Technical Institutes - Evening Extension

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published August 20, 1991 and under the authority contained in the State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following amendment to the Salary Schedule for State Technical Institutes to allow the directors the flexibility to pay a minimum of $15 per hour up to a maximum of $20 per hour for evening extension instructional personnel, effective July 1, 1991:

Amendment to Bulletin 1868, BESE Personnel Manual
CHAPTER D: Employee Compensation
Section 145: Vocational-Technical System

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

AUTHORITY NOTE: R.S. 17:1993 et seq.

HISTORICAL NOTE: LR 17: (November 1991).

Carole Wallin
Executive Director

RULE

Student Financial Assistance Commission
Office of Student Financial Assistance

Single Disbursement for PLUS Proceeds

The Louisiana Student Financial Assistance Commission hereby establishes a rule requiring single disbursement of all PLUS proceeds. The Loan Program Policy and Procedure Manual Chapter VII, Section J will be amended to add Paragraph 3 as follows:

"A lender will disburse PLUS proceeds in a single disbursement."

This action rescinds the portion of item 2 in LPM 89-105 effective January 1, 1990 which calls for multiple disbursement for every PLUS loan guaranteed by this agency. The requirement for multiple disbursement of Stafford and SLS Loans remains unchanged.

Jack L. Guinn
Executive Director

RULE

Student Financial Assistance Commission
Office of Student Financial Assistance

TAP Summer Attendance Exceptions

The Louisiana Student Financial Assistance Commission hereby exempts certain Tuition Assistance Plan (TAP) recipients from the requirement that funding for all scholarship/grant programs be limited to the fall, winter and spring school terms. Chapter VII, B1 of the Scholarship/Grant Policy and Procedure Manual is revised to read:

> "Funding for all scholarship/grant programs is limited to the fall, winter and spring school terms. Exceptions will be considered for an institution's educational programs that require Tuition Assistance Plan (TAP) recipients to attend summer sessions to complete the program's mandatory classes when such classes are not offered during regular terms."

Jack L. Guinn
Executive Director

RULE

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

Editor's Note: The following text from a final rule published in the October, 1991 *Louisiana Register*, pps. 965 - 968, is being reprinted to correct a typographical error.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations
Chapter 7. Effluent Standards
§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.

* * *

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.

	Concentration in pg/L (ppq)	
Pollutant or Pollutant Property	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 17:965 (October 1991), repromulgated LR 17: (November 1991).

Chapter 11. Louisiana Surface Water Quality Standards

§1113. Criteria

* * *

C. Numerical Criteria

* * *

6. Toxic Substances

* * *

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. Criteria applied to water bodies designated 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 substance 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.

* * *

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 17:966 (October 1991), repromulgated LR 17: (November 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 17:967 (October 1991) repromulgated LR 17: (November 1991).

J. Terry Ryder
Assistant Secretary

RULE

Office of the Governor
Division of Administration
Community Development Section

Louisiana Community Development Block Grant (LCDBG) Program
FY 1992 Final Statement

I. Program Goals and Objectives

The LCDBG Program, as its primary objective, provides grants to units of general local government in nonentitlement areas for the development of viable communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this objective, not less than 70 percent of the aggregate of fund expenditures shall be for activities that benefit low and moderate income persons.

Each activity funded must meet one of the following two national objectives.

A. Principal benefit (at least 60 percent) to low/moderate income persons.

B. Elimination or prevention of slums and blight. In order to justify that the proposed activity meets this objective, the following must be met. An area must be delineated by the grantee which:

1. meets the definition of slums and blight as defined in Act 590 of the 1970 Parish Redevelopment Act, Section Q-8 (See Appendix 1); and

2. contains a substantial number of deteriorating or dilapidated buildings or public improvements throughout the area delineated. The grantee must describe in the application the area boundaries and the conditions of the area at the time of its designation and how the proposed activity will eliminate the conditions which qualify the area as slum/blight. If an applicant plans to request funds for an activity claiming that the activity addresses the slums/blight objective, the state must be contacted for the specific requirements for this determination/qualification prior to application submittal.

To accomplish these national objectives, the state has established the following goals:

A. strengthen community economic development through the creation of jobs, stimulation of private investment, and community revitalization, principally for low and moderate income persons;

B. benefit low and moderate income persons;

C. eliminate or aid in the prevention of slums or blight; or

D. provide for other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

II. General

A. Application Process. This statement sets forth the policies and procedures for the distribution of LCDBG funds. Grants will be awarded to eligible applicants for eligible activities based on a competitive selection process to the extent that funds are available.

The state shall establish deadlines for submitting applications and notify all eligible applicants through a direct mailing. The applications submitted for FY 1992 funds for housing and public facilities will be rated and ranked and funded to the extent that monies are available. The ranking under the FY 1992 program will also be used to determine the grants selected for funding under the FY 1993 LCDBG Program. In other words, the top ranked applications, to the extent that monies are available, will be funded under the FY 1992 Program; the next highest ranked applications will be funded in FY 1993 to the extent that monies are available. Only one application for housing or public facilities can be submitted for FY 1992 funds (with the exception noted under II. G.); that same application will be considered for FY 1993 funds. No new applications for housing and public facilities will be accepted in FY 1993. Only new applications for economic development and demonstrated needs funds will be accepted for FY 1993.

B. Eligible Applicants. Eligible applicants are units of general local government, that is, municipalities and parishes, excluding the following areas: Alexandria (depending on eligibility status which will be determined by the U.S. Department of Housing and Urban Development), Baton Rouge, Bossier City, Terrebonne Parish Consolidated Government, Jefferson Parish (including Grand Isle, Gretna, Harahan, Jean Lafitte, and Westwego), Kenner, Lafayette, Lake Charles, Monroe, New Orleans, Shreveport, Slidell and Thibodaux. Each eligible applicant may only submit an application(s) on its own behalf.

In general and in most instances, the applicant for a particular project will be determined by (will be synonymous with) the location of the potential beneficiaries of that project. There may be instances, however, in which the potential beneficiaries reside within the jurisdiction of more than one local governing body. In those circumstances, the following specific rules will apply:

1. If the proposed project will service beneficiaries that reside in two or more units of general local government and more than 51 percent of those beneficiaries are located within the jurisdiction of one of those units, the appropriate applicant would be the unit of government in which more than 51 percent of the beneficiaries reside.

Only the applicant, not the other units of government involved, for this type of project will have to meet the threshold criteria to be eligible for funding. The applicant will have to enter into a cooperation agreement with the other unit(s) of government involved.

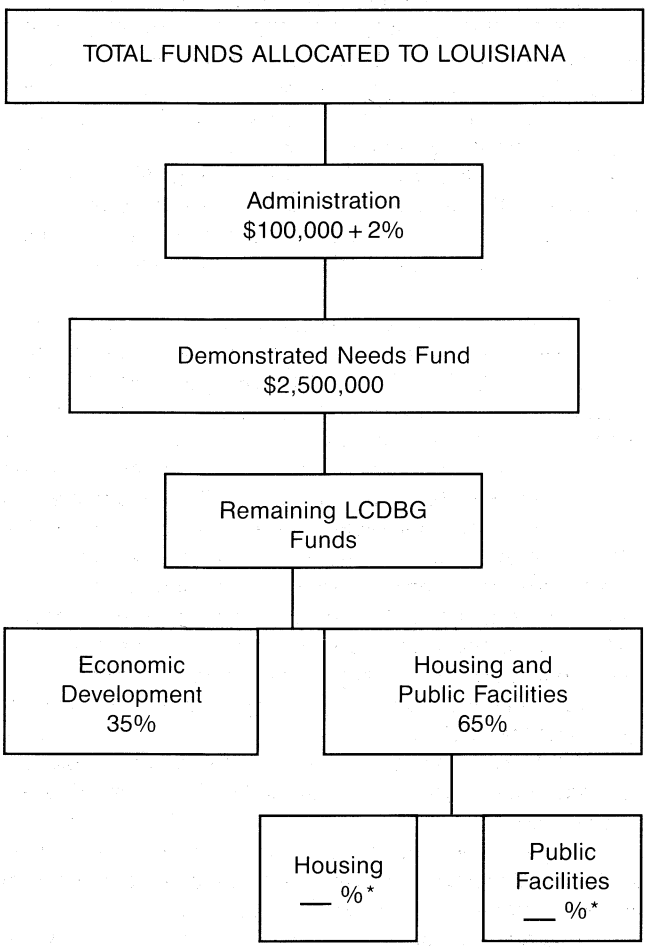
2. If the proposed project will serve beneficiaries that reside in more than one unit of general local government and no more than 51 percent of the beneficiaries are located within the jurisdiction of one of those units, the state will consider this as a joint or multi-jurisdictional application. Such an application will require a meeting with this office prior to submitting the application. The purpose of that meeting will be to determine the appropriate applicant and to explain all of the steps that must be taken by all units of local government involved in the application. All local governing bodies involved in this application must be eligible according to the threshold criteria. The designated applicant (one unit of government) would apply for the grant and act as the representative for the other participating units. Although each jurisdiction would have to make the required certifications, the designated applicant would be responsible for ensuring that the approved activities would be carried out in accordance with all applicable state and federal requirements. To meet the citizen participation requirements for a multi-jurisdictional application, *each* unit of government involved would have to hold the public hearings and publish the notices required for an application. The application would also have to contain individual sets of assurances signed by each local governing body involved. The designated applicant would also have to enter into a legally binding cooperation agreement with each local governing body stating that all appropriate requirements of the Housing and Community Development Act of 1974, as amended, will be complied with; those specific requirements will be discussed during the pre-application meeting with this office. A copy of the cooperation agreement must be included in the application.

C. Eligible Activities. An activity may be assisted in whole or in part with LCDBG funds if the activity is defined as eligible under Section 105(a) of Title I of the Housing and Community Development Act of 1974, as amended, and as provided in Appendix 2. For application purposes, eligible activities are grouped into the program areas of housing, public facilities, economic development or demonstrated needs.

D. Types of Grants. The state will only accept applications for single purpose grants. A single purpose grant provides funds for one need (water or sewer or housing, et cetera.) consisting of an activity which may be supported by auxiliary activities. Single purpose economic development grants are for one project, consisting of one or more activities.

E. Distribution of Funds. Approximately $26,790,750 (subject to federal allocation) in funds will be available for the FY 1992 LCDBG Program. Figure 1 shows how the total funds will be allocated among the various program categories.

FIGURE 1



*The percentage distribution between the housing and public facilities program categories will be based upon the number of applications received and amount requested in each category. Half of the funds will be distributed based on percentage of applications received in each category and half on the basis of amount of funds requested in each category. However, the dollar amount allocated for housing will be no more than 15 percent of the total funds available for housing and public facilities. Subcategories will be established under public facilities based upon the program priorities (sewer systems for collection and/or treatment, water systems addressing potable water and water systems primarily for fire protection purposes) and other type projects. The dollar amount for each of these subcategories will be distributed based upon the percentage of applications submitted and amount of funds requested in each subcategory.

Of the total CDBG funds allocated to the state, up to $100,000 plus two percent will be used by the state to administer the program.

In addition, $2,500,000 will be set aside for the Demonstrated Needs Fund. Since the creation and retention of permanent jobs is so critical to the economy of the state of Louisiana, up to 35 percent of the remaining LCDBG funds will be allocated specifically for economic development type projects. The 35 percent allocation will be reduced by the amount of funds available for use in the economic development revolving loan fund. That reduction in funds allocated for economic development would then be allocated to the amount provided for housing and public facilities. Economic development applications and demonstrated needs applications will be accepted on a continual basis within the timeframe designated by the state. Public facilities and housing applications will be funded with the remaining LCDBG funds. This fund will be divided into two program categories as identified in Figure 1; the exact distribution of these funds will be based upon the number of applications received and amount of funds requested in each program category as established under the FY 1992 LCDBG Program. Half of the money will be allocated based on the number of applications received in each category and half based on the amount of funds requested in each category with a maximum of 15 percent of the funds allocated to housing. Within the maximum 15 percent allocated for housing, an award of up to $500,000 will be made for an "innovative housing" program. The public facilities category will be allocated in the same manner, by number and dollar amount of applications for sewer (collection and/or treatment), water (potable water and fire protection), and other type projects.

Five months following the beginning date of the state's program year with HUD, the status of the monies originally allocated (35 percent minus the amount of the economic development revolving monies) for economic development will be evaluated. At that time, any monies in excess of half of the original allocation which have not yet been applied for under the economic development category will then be transferred to the current program year's public facilities category to fund the project(s) with the highest score that was not initially funded. Ten months following the beginning date of the state's program year with HUD, all monies not yet applied for which remain in the original allocation for economic development will be transferred to the current program year's public facilities category to continue to fund the highest ranked project(s) not already funded. In this latter instance, if a determination is made that a particular application for economic development funds will not be funded, the funds reserved for that application will be immediately transferred to the current program year's public facilities category.

F. Size of Grants

1. Ceilings. The state has established a funding ceiling of $550,000 for housing grants, $500,000 for an innovative housing grant, $600,000 for public facilities grants with the exception of sewer grants which have a funding ceiling of $750,000, and $225,000 for demonstrated needs grants. The state has established a funding ceiling of $635,000 for economic development projects involving a loan for the creation of a new business and a funding ceiling of $1,035,000 for economic development projects involving a grant to the local governing body for infrastructure improvements, and a funding ceiling of $335,000 for the acquisition, construction or rehabilitation of buildings and improvements (including parking lots) by the local governing body when necessary for the creation/retention of jobs. Projects involving infrastructure improvements and the acquisition, construction, or rehabilitation of buildings and improvements shall have a total combined funding ceiling of $1,035,000. No funding ceiling is imposed for economic development projects involving a loan for the expansion of an existing business.

Within the ceiling amounts the state allows applicants to request funds for administrative costs with the following limitations. Administrative funds for housing programs cannot exceed 13 percent of the estimated housing costs. Each local governing body will be allowed a *maximum* of $35,000 in LCDBG funds for administrative costs on public facilities, demonstrated needs, and economic development projects.

The local governing body may use no more than 90 percent of the monies allowed for administration for administrative consulting services. In *all* instances, the local governing body must retain at least 10 percent of the funds allowed for administration to cover its costs of administering the LCDBG Program; such costs on the local governmental level include but are not limited to audit fees, advertising and publication fees, staff time, workshop expenses, et cetera. In addition to the general administrative funds on economic development programs involving a loan to a new business, the state will provide an additional two percent of the estimated economic development project costs or $3,000 whichever is greater, up to a maximum of $5,000. These additional funds are specifically dedicated for the grantee to contract with a Small Business Development Center. If, after a project has been funded, the scope of the project changes significantly, the state will make a determination as to the actual amount which will be allowed for administrative costs; this determination will be made on a case-by-case basis.

Engineering fees may also be requested within the ceiling amounts; the funds allowed by the state will not exceed those established by the American Society of Civil Engineers and/or Farmer's Home Administration. If, after a project has been funded, the scope of the project changes significantly, the state will make a determination as to the actual amount which will be allowed for engineering costs; this determination will be made on a case-by-case basis.

2. Individual Grant Amounts. Grants will be provided in amounts commensurate with the applicant's program. In determining appropriate grant amounts for each application, the state shall consider an applicant's need, proposed activities, and ability to carry out the proposed program.

G. Restrictions on Applying for Grants

1. With the exception of parishes which have an unincorporated population of more than 25,000, each eligible applicant may apply for one housing or public facilities grant under the FY 1992 LCDBG Program; that application will also be considered for funding under the FY 1993 LCDBG Program. Those parishes which have an unincorporated population of more than 25,000 may submit a maximum of two single purpose applications for housing or public facilities with a combined maximum request of $1.2 million; the individual amounts requested per application cannot exceed the funding ceiling amount for that particular type of application as identified in Section II.F.1. According to information obtained from the Louisiana Census Data Center as provided by the U.S. Bureau of the Census, those parishes currently include: Acadia, Ascension, Bossier, Caddo, Calcasieu, Iberia, Lafayette, Lafourche, Livingston, Ouachita, Plaquemines, Rapides, St. Bernard, St. Charles, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, and Vernon.

Any eligible applicant may apply for an economic development project, demonstrated needs grant or innovative housing grant, even those applicants previously funded under the housing and public facilities components. The number of demonstrated needs grants which an eligible applicant may receive during each program year is limited to one.

2. Capacity and Performance: Threshold Considerations for Grant Approval. No grant will be made to an applicant that lacks the capacity to undertake the proposed program. In addition, applicants which have previously participated in the Community Development Block Grant Program must have performed adequately. Performance and capacity determinations for FY 1992 will be made as of the deadline date for submittal of the housing and public facilities applications. Performance and capacity determinations for FY 1993 will be made as of the date the state receives its executed grant agreement from HUD. In determining whether an applicant has performed adequately, the state will examine the applicant's performance as follows.

In order to be eligible for a housing or public facilities grant award in FY 1992, the following thresholds must have been met.

(a) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, FY 1990, and FY 1991) awarded by the state have been conditionally closed-out with the following exceptions.

For recipients of economic development awards under the FY 1988, FY 1989, and FY 1990 LCDBG Programs and for recipients of demonstrated needs awards under the FY 1991 LCDBG Program, the state will, at its own discretion on a case-by-case basis, make a determination on the recipient's performance. If the state makes the determination that the recipient has performed adequately, the state may deem that recipient also eligible for FY 1992 funding;

(b) Audit and monitoring findings made by the state or HUD have been cleared;

(c) All required reports, documents, and/or requested data have been submitted within the timeframes established by the state;

(d) Any funds due to HUD or the state have been repaid or a satisfactory arrangement for repayment of the debt has been made and payments are current.

In order to be eligible for a grant award in FY 1993, the following thresholds must have been met.

(a) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, FY 1990, FY 1991, and FY 1992) awarded by the state have been conditionally closed-out with the following exceptions.

For recipients of economic development awards under the FY 1989, FY 1990, and FY 1991 LCDBG Programs and for recipients of demonstrated needs awards under the FY 1992 LCDBG Program, the state will, at its own discretion on a case-by-case basis, make a determination on the recipient's performance. If the state makes the determination that the recipient has performed adequately, the state may deem that recipient also eligible for FY 1993 funding.

Those parishes with an unincorporated population of more than 25,000 (identified in Section II. G. 1) that may have received a grant award under the FY 1992 LCDBG Program will also be eligible for an FY 1993 award if the state makes the determination that the recipient has thus far performed adequately.

(b) Audit and monitoring findings made by the state or HUD have been cleared.

(c) All required reports, documents, and/or requested data have been submitted within the timeframes established by the state.

(d) Any funds due to HUD or the state have been repaid or a satisfactory arrangement for repayment of the debt has been made and payments are current.

All applications will be rated upon receipt. Any applications that are determined to be ineligible for FY 1992 funding will be re-evaluated for eligibility for FY 1993 funding.

The state is not responsible for notifying applicants as to their performance status.

The capacity and performance thresholds do *not* apply to applicants for economic development, demonstrated needs, and innovative housing funds with the exception that no award will be made to a previous recipient who owes money to the state unless an arrangement for repayment of the debt has been made and payments are current.

H. DEFINITIONS. For the purpose of the LCDBG Program or as used in the regulations, the term:

1. *Unit of general local government* means any municipal or parish government of the state of Louisiana.

2. *Low/moderate income persons* are defined as those having an income equal to or less than the Section 8 lower income limits as determined by the U. S. Department of Housing and Urban Development. (See Appendices 3 and 4.)

3. *Auxiliary activity* means a minor activity which directly supports a major activity in one program area (housing, public facilities). Note: The state will make the final determination of the validity (soundness) of such auxiliary activities in line with the program intent and funding levels and delete if deemed appropriate.

4. *Slums and blight* is defined in Act 590 of the 1970 Parish Redevelopment Act, Section Q-8. (See Appendix 1.)

5. *Division* refers to the Division of Administration which is the administering agency for the LCDBG Program for the state.

III. METHOD OF SELECTING GRANTEES

The state has established selection and rating systems which identify the criteria used in selecting grantees.

A. Data

1. Low and Moderate Income. The low/moderate income limits are defined as being equal to or less than the Section 8 income limits as established by HUD. In order to determine the benefit to low/moderate income persons for a public facility project, the applicant must have utilized either census data (if available) or conducted a local survey. A local survey must be conducted for housing activities and must involve 100 percent of the total houses within the target area. Local surveys which have been conducted within 12 months prior to the application submittal date will be accepted, provided the survey conforms to current program requirements.

(a) Census Data. If an applicant in a non-metropolitan area chooses to utilize census data rather than conducting a local survey, the higher of either 80 percent of the 1980 median income of the parish or 80 percent of the median income of the entire non-metropolitan area of the state will be utilized to determine the low/moderate income levels. The 1980 annual income limits for low/moderate income persons for each parish is shown in Appendix 4. The FY 1979 median income for non-metropolitan Louisiana was $15,011; therefore, the non-metropolitan low/moderate income level would amount to $12,009. The low and moderate income levels for applicants in Metropolitan Statistical Areas (MSAs) will be determined on the basis of the entire MSA.

If 1980 census data on income is available by enumeration district, then the division will calculate the applicant's low/moderate income percentages. The applicant must request this data prior to submittal of the application.

(b) Local Survey. If the applicant chooses to conduct a local survey, the survey sheet in the FY 1992 application package must be used. Local surveys *must* be conducted for all housing activities.

When conducting a local survey rather than using 1980 census data, an applicant in a non-metropolitan area will determine the low and moderate income level based on the higher of either 80 percent of the median income of the parish or 80 percent of the median income of the entire non-metropolitan area of the state. The annual income limits for low/moderate income persons for each parish are provided in Appendix 3. The FY 1991 median income for non-metropolitan Louisiana was $25,800; therefore, the non-metropolitan state low/moderate income level would amount to $20,650 and the low income limit would be $12,900. The low and moderate income levels for applicants in Metropolitan Statistical Areas (MSAs) will be determined on the basis of the entire MSA.

If the applicant chooses to determine low/moderate income based on family size, the following sliding scale *must* be used:

# OF PERSONS IN HOUSEHOLD	% OF PARISH/MSA* MEDIAN INCOME
1	70
2	80
3	90
4	100
5	108
6	116
7	124
8	132
9	140
10	148

For each additional person in excess of 10, add an additional eight percent.

*MSA = Metropolitan Statistical Area

When a local survey, rather than census data, is used to determine the low/moderate benefit, a random sample which is representative of the population of the entire target area must be taken. There are several methodologies available to insure that the sample is random and representative. The methodology used must be stated in your application. If you have questions on the methodology to use, you should contact the division for assistance. The appropriate sample size varies with the total number of occupied households in the target area and is determined by using the following formula:

$$n = .9604 \times N \div (.0025N + .9579)$$

Where n = required number of households in sample

Where N = total number of occupied households in target area.

If the situation arises where it must be determined as to whether or not the sample taken was indeed random, then standard statistical tests at the appropriate geographical level will be used.

B. Program Objectives

Each activity must address one of the two national objectives previously identified under Section 1. Program Goals and Objectives.

C. Rating Systems

All applications submitted for housing, public facilities, and economic development projects will be rated according to the following criteria established for each program category.

Each housing and public facilities application will be rated/ranked against all similar activities in the appropriate program category/subcategory.

1. Housing (Total of 100 points)

All housing activities which are funded under the LCDBG Program must be consistent with the state's Comprehensive Housing Affordability Strategy (CHAS), as required in the Cranston-Gonzalez National Affordable Housing Act.

All units which will be rehabilitated or replaced must be occupied by low/moderate income persons. Proof of ownership for owner occupied substandard units targeted for housing assistance must be verified by the applicant through the local clerk of court's office or another method which has been approved by the state prior to the submittal of the application. Also, the number of housing target areas may not exceed two. In delineating the target areas, it must be kept in mind that the boundaries must be coincident with visually recognized boundaries such as streets, streams, canals, etc.; property lines cannot be used unless they are also coincident with visually recognized boundaries. All houses rehabilitated within the FEMA 100-year flood plain must comply with the community's adopted flood damage prevention ordinance, where applicable.

(a) Program Impact (Maximum Possible Points-25)

This will be determined by dividing the total number of owner occupied units to be rehabilitated and/or replaced plus vacant units to be demolished in the target area by the total number of owner occupied substandard units in need of rehab and/or replacement plus vacant units in need of demolition in the target area.

$$\frac{\text{\# of owner occupied units to be rehabilitated and replaced + \# of vacant units to be demolished inside the target area}}{\text{\# of owner occupied substandard units including those in need of demolition and replacement + vacant units in need of demolition inside the target area}} = \text{Raw Score}$$

The raw scores will be arrayed and the top ranked applicant(s) will receive 25 points. All other applicants will receive points based on how they scored relative to that high score:

$$\text{Program Impact Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 25$$

No project will be funded that meets less than 75 percent of the identified need.

Rental units which are occupied by low/moderate income persons are eligible as long as the number of rental units to be treated does not exceed 10 percent of the total owner occupied units proposed for rehab; the rehab of rental units will not affect the impact score in any way. All units must be brought up to at least the Section 8 Existing Housing Quality Standards and HUD's Cost Effective Energy Conservation Standards.

(b) Needs Assessment (Maximum Possible Points-25)

This will be determined by comparing the total number of owner occupied and vacant units to be treated in the target area to the overall needs of the target area.

$$\frac{\text{\# of owner occupied and vacant units to be treated in target area}}{\text{\# of units in need of treatment in target area}} = \text{Raw Score}$$

The raw scores will be arrayed and the top ranked applicant(s) will receive 25 points.

$$\text{Needs Assessment Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 25$$

(c) Project Feasibility (Maximum Possible Points-50)

This will be rated based upon the project's cost effectiveness and overall needs of the area including housing as well as infrastructure.

2. Innovative Housing

The state will develop the criteria for evaluating applications for innovative housing and will notify all eligible applicants of such through a direct mailing. These applications will be accepted at a different and separate time from the regular housing applications.

3. Public Facilities (Total of 81 Points)

For the purpose of ranking public facilities projects, subcategories will be established (sewer systems for collection and/or treatment, water systems addressing potable water, water systems primarily for fire protection and other).

Any public facilities project that is funded must completely remedy existing conditions that violate a state or federal standard established to protect public health and safety.

(a) Benefit to Low/Moderate Income Persons (Maximum Possible Points-10)

Projects consisting of more than one activity which involve different numbers and percentages of beneficiaries for each activity must specifically identify the numbers and percentages for each activity.

Percent of Low/Moderate Income (Maximum Possible Points-5)

The percentage of low/moderate income persons benefitting will be calculated by dividing the number of low/moderate income persons benefitting (as defined by the state) by the total persons benefitting. Points for percentage of low/mod benefitting will be assigned according to the following ranges:

90% or more-5 points
at least 80% but less than 90% - 4 points
at least 70% but less than 80% - 3 points
at least 60% but less than 70% - 2 points
less than 60% - 0 points

Number of Low/Moderate Income (Maximum Possible Points-5)

Points for the number of low/moderate income persons benefitting will be assigned according to the following ranges:

500 or more - 5 points
200 to 499 - 4 points
less than 200 - 3 points

(b) Cost Effectiveness (Maximum Possible Points-20)

Cost estimates per person benefitting will be carefully evaluated. The cost per person benefitting will be calculated for all projects. All applicants for the same type project

(sewer systems for collection and/or treatment, potable water, water for fire protection, and other) will be grouped and each of these groups will then be grouped by whether the project is for a new system, improvements to an existing system, or both. Once all of these separate groups are established, they will be separated into categories based on the number of persons benefitted. An average cost per person benefitting will then be determined for each of these categories. Each applicant in a given category will be scored relative to the average cost per person figure determined for that given category. An average cost project will receive 10 points, a project with a lower than average cost per person benefitting will receive more than 10 points (a maximum of 20), and a project with higher than average cost per person will receive fewer than 10 points. The following formula will be used to determine the cost effectiveness points for each applicant in each grouping:

$$\text{CE Points} = \frac{\text{Average Cost per Person Benefitted}}{\text{Applicant Cost per Person Benefitted}} \times 10$$

If the calculation yields more than 20, it will be revised downward to the 20 point maximum. This will allow all applications for new sewer systems, sewer system repairs, new water systems, water system repairs, etc. to be rated against similar type projects. It also allows those projects benefitting many people and those benefitting few people to be rated against other projects helping a similar number of persons.

(c) Project Severity (Maximum Possible Points-50)

This will be rated based upon the severity of the problem and extent of the effect upon the health and welfare of the community. Priority will be given to sewer systems for collection and/or treatment and water systems addressing potable water and fire protection.

In assigning points for project severity, the following general criteria will be critiqued by the cognizant review agency as determined by the division for the type of project proposed.

Water systems primarily for fire protection purposes - well capacity, reliability of supply, amount of water stored, extent of hydrant coverage or spacing, and water pressure and volume for fire fighting. A comprehensive approach must be taken for the target area as all factors relating to the remedy of fire protection problems will be assessed. If funds are requested for a fire truck, the service area of that truck will also be evaluated for availability of water, size of lines, hydrant spacing, et cetera. For example, if a community applies for a fire truck which would serve an area having water lines of an inadequate size, a lower overall rating will be assigned.

Water systems addressing potable water and sewer systems - the existence of conditions in violation of those provisions of the State Sanitary Code that most directly safeguard public health and the adequacy of the proposed improvements to eliminate such conditions. Compliance with the Environmental Quality Act, size of facility, uses of receiving stream, environmental impact upon receiving stream, and human health impact will also be taken into consideration for all projects involving sewerage treatment facilities. The assessment will be based upon the problem as documented by DHH and DEQ records, the relative degree of risks to human health posed and the number of persons most directly affected.

Problems that are generally attributable to a lack of routine operation and maintenance will result in a less favorable evaluation. The proposed actions to eliminate verified problems will be evaluated in terms of the direct applicability of the solution; superfluous or inadequate solutions will result in a lowering of the overall rating.

The specific details of the existing problems and proposed project must be provided so that the reviewing agency may accurately assess the project. A lower assessment of the project could result due to the submittal of incomplete information; in those instances, the reviewing agency will *not* re-evaluate its assigned score. The re-evaluation of assigned scores will only be allowed in those cases where a mathematical error occurred or when the reviewing agency determines that it made an error in assigning the score.

(d) Use of Local Funds (Maximum Possible Points-1)

Those applicants which inject local funds into project construction will receive one bonus point. This point will only be assigned when the amount of local funds meets or exceeds 10 percent of the total construction costs (including contingencies but excluding administrative and engineering services costs). The 10 percent calculation will not include any local funds which will be used to pay for any engineering and/or administrative services but will include any local funds which will be used to pay off loans received from other state, federal, or private sources.

To substantiate the availability of local funds, one of the following items will be required as a part of the application: a letter from the local governing body stating the specific source and amount of local cash, a line of credit letter from a financial institution such as a bank stating the amount available as a loan, specific evidence of funds to be received from a tax or bond election that was or will be held, or a letter from another funding agency stating that an application for a loan has been received and is currently being considered for funding. Any funds for which the one point was credited must be available for commitment to the project at the time of grant award or the one point will be eliminated from the total score.

4. Economic Development

The economic development program category involves two types of projects: loans to a business/developer and grants to the local governing body. The specific requirements of each type are identified herein and must be adhered to according to type. Although most economic development awards will involve only one type, both types (loan and grant) may be involved in one award.

The economic development loan set aside is to be used to provide loans to businesses for job creation or retention projects. The LCDBG economic development funds go from the state to the local unit of government to the private developer. A three-way agreement (contract) is signed by these three participants, and other parts of the application are reviewed by them to ensure a complete understanding by the three parties of the planned development, the expected number of jobs to be created or retained, the sources and uses of all funds to be committed to the project, the payback arrangements for all funds borrowed, the security assigned to each loan granting institution or agency, the financial and other reporting requirements of the developer and the local unit of government to the state, and all other obligations of the developer, the local govern-

mental unit and the state.

An application for LCDBG economic development funds may be submitted at any time during the year.

The term *developer* shall mean the corporate entity as well as the individual investors, stockholders, and owners of the applicant business. As an example of the effect of this definition, an LCDBG economic development loan to Company A cannot be used to purchase equipment, land, etc. from Company B, when both Company A and Company B are substantially owned by one or more of the same individuals.

The state will recoup 100 percent of the payback of LCDBG economic development loans (program income to the state) unless the local governing body will utilize the payback for expansion of the originally funded development. These program income funds received by the state will be placed in an Economic Development Revolving Loan Fund which will be used to supplement funding for economic development projects. These funds will be subject to the federal regulations regarding use of program income. The interest rate charged on the LCDBG economic development loan depends on the financial and cash flow projections of the applicant business. This rate will be determined in the application review.

In some instances it may be necessary and appropriate for a local unit of government to receive a grant for infrastructure improvements or the acquisition, construction, or rehabilitation of a building needed by a specific developer before his proposed job creation project can be fully implemented. This economic development grant could be used by the local unit of government to provide sewer, water, and street/road access on public property to the industrial/business site. It cannot be used to acquire, construct, or rehabilitate a building or to create a general industrial park project with the hope that a business client will then be attracted. It must be tied to a specific developer creating a specific number of jobs for low to moderate income people. Although the grant will be tied to a specific developer, all/any other developments that occur within the life of the program as a result of the infrastructure improvements must also be considered to fall under LCDBG requirements. Therefore, when preparing the closeout documents, the job creation/retention and low/moderate income figures would be the total of all of the benefitting businesses in aggregate.

It must be a "but for" situation, where the business cannot locate or expand at that site unless the particular infrastructure is provided. The developer must show why this location, which lacks proper infrastructure, must be used instead of another site which already has proper infrastructure. The developer must provide sufficient financial and other statements, projections, et cetera to establish that the business is likely to be successful, and will create the appropriate number of jobs at the site in a specified timeframe.

Certain assurances by the developer, related to the timing of his development on the site, will be required. Other agreements between the local governing body and the developer/property holder, relative to public rights of way, et cetera will be required as needed on an individual project basis.

The maximum amount available to the local governing body for an infrastructure or building acquisition, construction, or rehabilitation type project grant is $10,000 per job created or retained, with a $1,035,000 limit for infrastructure improvements on any single project (including a building and improvements) or a $335,000 limit for the acquisition, construction, or rehabilitation of a building and improvements, including parking lots. In those instances where a local governing body has received a grant for the acquisition, construction, or rehabilitation of a building and improvements *and* the building is sold within 10 years of the purchase date, an amount equal to the sales price (excluding any lease payments previously made to the state) shall be returned to the state. The sales procedure to be followed by the local governing body must be approved in writing by the division prior to the sale.

The following five requirements must be met by all economic development applicants.

A. A firm financial commitment from the private sector will be required upon submission of the application.

For a loan, the private funds/public funds ratio must not be less than 1:1 for manufacturing firms with Standard Industrial Code classifications of 20-39. A private to public ratio for nonmanufacturing firms must have a ratio of 2.5:1.

For a grant to the local governing body for infrastructure improvements, the private funds/public funds ratio for a grant of less than $500,000 must be 1:1 and for a grant of $501,000 to $1,000,000 must be 2:1. For a grant to the local governing body for the acquisition, construction, or rehabilitation of a building and improvements for economic development, the private funds/public funds ratio must be 1:1.

In addition, the state must be assured that nonmanufacturing projects will have a net job creation impact on the community and not simply redistribute jobs around the community.

Private funds must be in the form of a developer's cash or loan proceeds. Revenues from the sale of bonds may also be counted if the developer is liable under the terms of the bond issue. Previously expended funds will not be counted as private funds for the purpose of this program, nor will private funds include any grants from federal, state or other governmental programs, nor any recaptured funds. The value of land, buildings, equipment, et cetera already owned by the developer and which will be used in the new or expanded operation, will not be considered as private match.

Personal endorsement from all principals of corporations, partnerships, or sole proprietorships shall be required on the LCDBG loan documents. The principals shall: 1) endorse the LCDBG loan to the corporation and 2) guarantee the payment and fulfillment of any obligation of the corporation. These endorsements will be made jointly to the local government and state of Louisiana.

Normally, a principal is defined as owning five percent or more of the business.

B. If cost per job created or retained exceeds $15,000 for a loan to a developer or $10,000 for a grant to the local governing body, applications will not be considered for funding.

C. A minimum of 10 jobs created or retained is required for LCDBG economic development assistance.

D. A minimum of 60 percent of the employment will be made available to people who at the time of their employment are living in households whose total income is below the low to moderate income limit for the parish where the development occurs (see Appendix 3).

E. The application must include documentation showing that the project is feasible from the management, marketing, financial and economic standpoints. Management feasibility has to do with the past experience of the developer in managing the type of project described in the application, or other similar managerial experience. Marketing feasibility deals with how well the market for the product has been documented at the application stage - the best case being that the developer has verifiable commitments substantiating the first year's sales projection. A typical market study includes a detailed analysis of competition, the expected geographical sales plan, and letters of intent to buy, specifying quantity and price. Economic feasibility relates to whether or not the developer has realistic projections of revenues and variable costs, such as labor and cost of materials, and whether they are consistent with industry value added comparisons. An assessment will be made of the industry sector performances for the type of industry/business described in the application. Financial feasibility has to do with the ability of the firm to meet all of its financial obligations in the short and long run, determined by a cash flow analysis on the financial history and projections of the business. In analyzing the financial feasibility of a project, the state may suggest alternatives in the timing of expenditures, the amount and proposed use of public and private funds, as well as other financial arrangements proposed in the application.

For an application to be funded, the state must be assured that: the project is credit worthy; there is sufficient developer equity; the LCDBG funds will be efficiently and effectively invested; the maximum amount of private and the minimum amount of public funds will be invested in the project; the project will make an adequate return in the form of public benefits commensurate with the money invested; the state and the local community will not assume a disproportionate amount of risk in the project; and, the state and the community will receive an adequate security interest proportionate to the LCDBG funds invested in the project.

Default: The local governing body shall be ultimately responsible for repayment of the contract funds which were provided by the state.

The state shall look to the local governing body for repayment of all funds disbursed under this contract and default by the developer shall not be considered as just cause for non-payment by the local governing body. In case of a default by the local governing body in the repayment of contract funds to the state, in accordance with the terms and conditions of the contract, the full sum remitted to the local governing body shall become due and payable to the state upon demand, without the need of putting the local governing body in default.

The state shall deem the local governing body in default, regardless of the fact that the default was precipitated by the developer, to the extent that the local governing body failed to perform its contractual obligations in good faith.

D. Demonstrated Needs Fund

A $2.5 million reserve fund will be established to alleviate critical/urgent community needs. The ceiling amount for demonstrated needs projects is $225,000.

An application cannot be submitted for consideration under this fund if the same application is currently under consideration for funding under any other LCDBG program category.

Subject to the availability of funds, projects that meet the following criteria will be funded:

1. General Eligibility

Proposed activities must be eligible under Section 105 (a) of the Housing and Community Development Act of 1974, as amended (see Appendix 2). These funds will only be awarded, however, to projects involving improvements to existing utility systems.

Each proposed activity must address one of the two national objectives.

2. Critical/Urgent Need - Project Severity

Each activity must address a critical/urgent need which can be verified by an appropriate authority, (cognizant state or federal agency), other than the applicant as having developed within six months prior to submittal of the application.

The project evaluation request will be submitted to the appropriate cognizant agency by the applicant. In addition to the stipulation that the critical/urgent need must have developed within six months prior to submittal, the cognizant agency will rate the severity or urgency of the project on a scale of 1 to 10 based upon the same criteria established by the cognizant agency for determining program severity for public facilities projects. Only those projects receiving a rating of nine or ten from the cognizant agency will be fundable.

3. Application Requirements

All items and forms necessary for a regular public facilities application will also be required for demonstrated needs. An application will not be considered unless all items, including the completed evaluation form from the cognizant agency, are included in the application package.

E. Submission Requirements

Applications shall be submitted to the Division on forms provided by the Division and shall consist of the following:

(1) Program Narrative Statement. This shall consist of:

i. Identification of the national objective(s) that the activity will address.

ii. A detailed description of each activity to be carried out with LCDBG assistance. The description of each activity must clearly identify the target area or areas by street names, highway names or numbers for each street serving as a boundary of the target area. The written description must clearly and exactly conform to the designated area or areas on the map(s). A detailed cost estimate is also required for each activity. If the proposed activity is dependent on other funds for completion, the source of funds and the status of the commitment must also be indicated. If the applicant is applying for a public facilities project, the description must specifically describe what means will be taken by the applicant to ensure that adequate revenues will be available to operate and maintain the proposed project; the description must identify the source of, and estimated amount of funds that will be generated for this purpose.

iii. A statement describing the impact the activity will have on the problem area selected and on the needs of low and moderate income persons, including information necessary for considering the program impact.

iv. A statement on the percent of funds requested that will benefit low and moderate income persons. The statement should indicate the total number of persons to be served and the number of such persons that meet the defi-

nition of low and moderate income.

(2) Map. A map of the local jurisdiction which identifies by project area:

i. census tracts and/or enumeration districts by number;

ii. location of concentrations of minorities, showing number and percent by census tracts and/or enumeration districts;

iii. location of concentrations of low and moderate income persons, showing number and percent by census tracts and/or enumeration districts;

iv. boundaries of areas in which the activities will be concentrated;

v. specific locations of each activity.

(3) Program Schedule. Each applicant shall submit, in a format prescribed by the state, a listing of dates for major milestones for each activity to be funded.

(4) Title VI Compliance. All applicants shall submit, in a form prescribed by the state, evidence of compliance with Title VI of the Civil Rights Act of 1964. This enables the state to determine whether the benefits will be provided on a nondiscriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(5) Certification of Assurances. The certificate of assurances required by the state, relative to federal and state statutory requirements, shall be submitted by all applicants; this certificate includes, but is not limited to, Title VI, Title VIII, §109 and affirmatively furthering fair housing. In addition, each recipient should target at least 15 percent of all grant monies for minority enterprises. All assurances must be strictly adhered to; otherwise, the grant award will be subject to penalty.

(6) Certification to Minimize Displacement. The applicant must certify that it will minimize displacement as a result of activities assisted with LCDBG funds. In addition to minimizing displacement, the applicant must certify that when displacement occurs reasonable benefits will be provided to persons involuntarily and permanently displaced as a result of the LCDBG assistance to acquire or substantially rehabilitate property. This provision applies to all displacement with respect to residential and nonresidential property not governed by the Uniform Relocation Act.

(7) Certification of Residential Antidisplacement and Relocation Assistance Plan. The applicant must certify that it has developed and is following a residential antidisplacement and relocation assistance plan. The plan must include two components - a requirement to replace all low/moderate income dwelling units that are demolished or converted to a use other than low/moderate income housing as a direct result of the use of CDBG assistance and a relocation assistance component.

(8) Certification to Promote Fair Housing Opportunities. Applicants are required to certify that they will make every effort to further fair housing opportunities in their respective jurisdictions.

(9) Certification Prohibiting Special Assessments. The applicant must submit a certification prohibiting the recovery of capital costs for public improvements financed, in whole or in part, with LCDBG funds through assessments against properties owned and occupied by low and moderate income persons. The prohibition applies also to any fees charged or assessed as a condition of obtaining access to the public improvements.

(10) Certification of Citizen Participation. Applicants shall provide adequate information to citizens about the Community Development Block Grant Program. Applicants shall provide citizens with an adequate opportunity to participate in the planning and assessment of the application for Community Development Block Grant Program funds. At least one public hearing must be held prior to application preparation in order to obtain the citizens' views on community development and housing needs. A notice must be published informing the populace of the forthcoming public hearing; a minimum of five calendar days is required for this notice. The notice must inform the citizens that accommodations will be provided for individuals with handicaps and non-English speaking persons. Citizens must be provided with the following information at the hearing:

i. the amount of funds available for proposed community development and housing activities;

ii. the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income;

iii. the plans of the applicant for minimizing displacement of persons as a result of activities assisted with such funds and the benefits to be provided to persons actually displaced as a result of such activities;

iv. if applicable, the applicant must provide citizens with information regarding the applicant's performance on prior LCDBG programs funded by the state.

A second notice must be published *after* the first public hearing has been held but *before* the application is submitted. The second notice must inform citizens of the proposed objectives, proposed activities, the location of the proposed activities and the amounts to be used for each activity. Citizens must be given the opportunity to submit comments on the proposed application. The notice must further provide the location at which and hours when the application is available for review. The notice must state the proposed submittal date of the application. In order to provide a forum for citizen participation relative to the proposed activities, a second hearing must be held to receive comments and discuss the proposed application. The details on this second hearing must be included in the second public notice. The notice must inform the citizens that accommodations will be made for individuals with handicaps and non-English speaking persons. The second public hearing must also be held prior to the submittal of the application.

Applicants must submit a notarized proof of publication of each public notice.

Each applicant shall provide citizens with adequate opportunity to participate in the planning, implementation, and assessment of the CDBG program. The applicant shall provide adequate information to citizens, hold public hearings at the initial stage of the planning process to obtain views and proposals of citizens, and provide opportunity to comment on the applicant's community development performance. In order to achieve these goals each applicant shall prepare and follow a written citizen participation plan that incorporates procedures for complying with the following regulations (a-f). The plan must be made available to the public at the beginning of the planning stage, i.e., the first public hearing.

The written plan must:

(a) provide for and encourage citizen participation,

with particular emphasis on participation by persons of low and moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;

(b) provide citizens with reasonable and timely access to local meetings, information, and records relating to the state's proposed method of distribution, as required by regulations of the secretary, and relating to the actual use of funds under Title I of the Housing and Community Development Act of 1974, as amended;

(c) provide for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

(d) provide for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodations for the handicapped and non-English speaking persons;

(e) provide for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

(f) identify how the needs of non-English speaking and handicapped residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

(11) Certification Regarding Lead-Based Paint. The applicant must certify that its notification, inspection, testing, and abatement procedures concerning lead-based paint are in compliance with Section 570.608 of the Housing and Community Development Act of 1974, as amended.

(12) Certification on Excessive Use of Force. This certification will require each unit of general local government to be distributed Title I funds to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent Civil Rights demonstrations in accordance with Section 104(1) of Title I of the Housing and Community Development Act of 1974, as amended.

(13) Certification Regarding Government-Wide Restrictions on Lobbying. The applicant must certify that no federally appropriated funds have been paid for any lobbying purposes regardless of the level of government.

(14) Certification Prohibiting Discrimination of Handicapped Individuals. Applicants shall provide written certification that as a recipient of LCDBG funds, and subject to Section 504 of the Rehabilitation Act of 1973, as amended, they will prohibit discrimination based on handicap under any program or activity, in whole or in part, receiving federal financial assistance from the Department of Housing and Urban Development. This certification guarantees that the recipient will complete a self-evaluation and transition plan, if applicable, and actively pursue remedying discrimination based on handicaps as required by Section 504. This certification further obligates the recipient for the period during which federal financial assistance is extended.

(15) The state may require additional certifications from applicants/recipients whenever so required by federal regulations.

(16) Local Survey Data. Those applicants who conduct a local survey to determine specific data required for the application must include one copy of all completed survey forms.

(17) Submission of Additional Data. Only that data received by the deadline established for applications will be considered in the selection process unless additional data is specifically requested by the state. Material received after the deadline will not be considered as part of the application, unless requested by the state.

F. Application Review Procedure.

(1) The application must be mailed or delivered prior to any deadline dates established by the Division. The applicant must obtain a "Certificate of Mailing" from the post office, certifying the date mailed. The Division may require the applicant to submit this Certificate of Mailing to document compliance with the deadline, if necessary.

(2) The application submission requirements must be complete.

(3) The funds requested must not exceed the ceiling amounts established by the Division.

(4) Review and Notification. Following the review of all applications, the Division will promptly notify the applicant of the actions taken with regard to its application.

(5) Criteria for Conditional Approval. The Division may make a conditional approval, in which case the grant will be approved, but the obligation and utilization of funds is restricted. The reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a termination of the grant. Conditional approval may be made:

i. where local environmental reviews have not yet been completed;

ii. where the requirements regarding the provision of flood or drainage facilities have not yet been satisfied;

iii. to ensure the project can be completed within estimated costs.

iv. to ensure that actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time.

(6) Criteria for Disapproval of an Application. The Division may disapprove an application for any of the following reasons.

i. Based on a field review of the applicant's proposal or other information received, it is found that the information was incorrect; the Division will exercise administrative discretion in this area.

ii. The Division of Administration determines that the applicant's description of needs and objectives is plainly inconsistent with facts and data generally available. The data to be considered must be published and accessible to both the applicant and state such as census data, or recent local, area wide, or state comprehensive planning data;

iii. Other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time.

iv. The activities cannot be completed within the estimated costs or resources available to the applicant;

v. The proposed activity is not eligible for funding or one of the two national objectives is not being met.

G. Program Amendments for LCDBG Program.

The Division may consider amendments if they are ne-

cessitated by actions beyond the control of the applicant. Recipients shall request prior Division approval for all program amendments involving new activities or alteration of existing activities that will change the scope, location, or objectives of the approved activities or beneficiaries.

1. New or altered activities are considered in accordance with the criteria for selection applicable at the time the original application was reviewed and the policy, current at that time, regarding amendments.

2. All amended activities must receive environmental clearance prior to construction.

3. The state will ascertain as to whether or not the proposed activity is an integral part of the originally approved project and is necessary to complete the project as originally approved. The state will also review the site location of the proposed activity in relation to the originally approved target area. As a general rule, activities which are not an integral part of the originally approved project *and* which are not located within the boundaries of the originally approved target area will *not* be approved.

IV. Administration

Rule for Policy Determination. In administering the program, while the Division is cognizant of the intent of the program, certain unforeseeable circumstances may arise which may require the exercise of administrative discretion. The Division reserves the right to exercise this discretion in either interpreting or establishing new policies.

V. Redistribution of Funds

Any monies awarded by the state that are later recaptured by or returned to the state will be reallocated in accordance with the Division's policy, then in effect. The sources of these funds may include, but not be limited to, program income, questioned costs, disallowed expenses, recaptured funds from loans, unallocated monies, previously awarded funds not spent by grant recipients, et cetera.

With the following exceptions and the stipulations identified in Section II.E., the monies as defined above will be placed in the current program year's public facilities category and will be used to fund the project(s) with the highest score that was not initially funded. This policy will govern all such monies as defined herein from the FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, FY 1990, FY 1991 and FY 1992 LCDBG program years as well as subsequent funding cycles, until later amended. One exception to this rule is that funds recaptured from economic development grants/loans which were not spent by the grant recipients will initially be transferred to the current economic development program category. Those monies remaining in the economic development program category at the end of the FY 1992 program year will be transferred to the public facilities category for distribution as described in Section II. E. Another exception is that all funds recaptured by the state from the payback of economic development loans will be placed in an economic development revolving loan fund which will be used to supplement funding for economic development projects. These funds will be subject to the federal regulations regarding use of program income.

These regulations are to become effective upon publication as a "rule" in the *Louisiana Register* and are to remain in force until they are amended or rescinded.

APPENDIX 1

Act 590 of the 1970 Parish Redevelopment Act Section Q-8

(8) *Slum area* means an area in which there is a predominance of buildings or improvements, whether residential or non-residential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open space, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or an area of open land which, because of its location and/or platting and planning development, for predominantly residential uses, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

(i) *Blighted area* means an area which by reason of the presence of a substantial number of slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors which substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use; but if the area consists of any disaster area referred to in Subsection C (5), it shall constitute a "blighted area."

APPENDIX 2

Eligible Activities

Sec. 105.(a) Activities assisted under this Title may include only—

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this Title; or (E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;

(3) Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public im-

provements and services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation of privately owned properties and including the renovation of closed school buildings);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this Title;

(7) disposition (through sale, lease, donation or otherwise) of any real property acquired pursuant to this Title or its retention for public purposes;

(8) provisions of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by the such unit, or received by such unit from the state in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this Title, and which are to be used for such services, unless the secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 per centum of the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide) under this Title including program income may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this Title for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculations yields the higher amount;

(9) payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under this Title;

(10) payment of the cost of completing a project funded under Title I of the Housing Act of 1949;

(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this Title may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provisions of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in Section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing and Community Development Amendments of 1981;

(14) activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;

(15) assistance to neighborhood-based nonprofit organizations, local development corporations, or entities organized under Section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of Section 101(c), and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in Section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;

(16) activities necessary to the development of energy use strategies related to recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities.

(17) provisions of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that—

(A) creates or retains jobs for low- and moderate-income persons;

(B) prevents or eliminates slums and blight;

(C) meets urgent needs;

(D) creates or retains businesses owned by community residents;

(E) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

(F) provides technical assistance to promote any of the activities under Subparagraphs (A) through (E):

(18) the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937;

(19) (a) provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low- and moderate-income persons (A) where the need for reconstruction was not determinable until after rehabilitation under this Section had already commenced, or (B) where the reconstruction is part of a neighborhood rehabilitation effort and the grantee (i) determines the housing is not suitable for rehabilitation, and (ii) demonstrates to the satisfaction of the secretary that the cost of substantial reconstruction is significantly less than the cost of new construction and less than the fair market value of the property after substantial reconstruction; and

(20)* provision of direct assistance to facilitate and expand homeownership among persons of low- and moderate-income (except that such assistance shall not be considered a public service for purposes of Paragraph (8)) by using such assistance to—

(A) subsidize interest rates and mortgage principal amounts of low- and moderate-income homebuyers;

(B) finance the acquisition of low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

(C) acquire guarantees for mortgage financing obtaining by low- moderate-income homebuyers from private lenders (except that amounts received under this Title may not be used under this Subparagraph to directly guarantee such mortgage financing and grantees under this Title may not directly provide such guarantees);

(D) provide up to 50 percent of any downpayment required from low- or moderate-income homebuyers; or

(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyers.

(b) upon the request of the recipient of assistance under this Title, the secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under Subsection (a)(4).

(c)(1) In any case in which an assisted activity described in Paragraph (14) or (17) of Subsection (a) is identified as principally benefitting persons of low and moderate income, such activity shall—

(A) be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or

(B) involve facilities designed for use predominately by persons of low and moderate income; or

(C) involve employment of persons, a majority of whom are persons of low and moderate income.

(2)(A) In any case in which an assisted activity described in Subsection (a) is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if (i) not less than 51 percent of the residents of such area are persons of low and moderate income; (ii) in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income; or (iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(B) the requirements of Subparagraph (A) do not prevent the use of assistance under this Title for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the secretary determines that—

(i) such system will contribute substantially to the safety of the residents of the area served by such system;

(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

(iii) other federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee. The percentage of the cost of the development, establishment, and operation of such a system that may be paid from assistance under this Title and that is considered to benefit low- and moderate-income persons is the percentage of the population to be served that is made up of persons of low and moderate income.

(3) Any assisted activity under this Title that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.

---

*Section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act provides the following termination for Sec. 105(a)(20):

(2) TERMINATION.—Effective on October 1, 1992 (or October 1, 1993, if the secretary determines that such later date is necessary to continue to provide homeownership assistance until homeownership assistance is available under Title II of the Cranston-Gonzalez National Affordable Housing Act), Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(A) in paragraph (18), by inserting "and" at the end;

(B) in paragraph 19, by striking "; and" at the end and inserting a period;

(C) by striking paragraph (20).

APPENDIX 3

1991 Median Family Income
By Parish and MSA

Parish	1991 Median Family Income	Low/Mod Income* Limit	Low Income* Limit
Acadia	$ 23,200	$ 20,650	$ 12,900
Allen	26,900	20,650	12,900
Ascension	See MSA - Baton Rouge		
Assumption	28,000	22,400	13,600
Avoyelles	19,500	20,650	12,900
Beauregard	29,900	21,900	12,900
Bienville	25,200	20,650	12,900
Bossier	See MSA - Shreveport		
Caddo	See MSA - Shreveport		
Calcasieu	See MSA - Lake Charles		
Caldwell	22,900	20,650	12,900
Cameron	35,300	25,900	13,900
Catahoula	20,800	20,650	12,900
Claiborne	26,500	21,200	13,250
Concordia	24,700	20,650	12,900
Desoto	27,100	21,700	13,550
East Baton Rouge	See MSA - Baton Rouge		
East Carroll	18,800	20,650	12,900
East Feliciana	33,800	25,300	12,900
Evangeline	21,300	20,650	12,900
Franklin	21,600	20,650	12,900
Grant	22,400	20,650	12,900
Iberia	30,200	24,150	15,100
Iberville	36,200	27,050	12,900
Jackson	25,200	20,650	12,900
Jefferson	See MSA - New Orleans		
Jefferson Davis	30,300	22,250	12,900
Lafayette	See Msa - Lafayette		
Lafourche	See MSA - Houma-Thibodaux		
LaSalle	24,800	20,650	12,900
Lincoln	30,400	24,300	15,200
Livingston	See MSA - Baton Rouge		
Madison	19,300	20,650	12,900
Morehouse	23,500	20,650	12,900
Natchitoches	24,300	20,650	12,900
Ouachita	See MSA - Monroe		
Plaquemines	34,300	27,450	17,150
Pointe Coupee	31,100	23,300	12,900
Rapides	See MSA - Alexandria		
Red River	22,800	20,650	12,900
Richland	21,900	20,650	12,900
Sabine	24,600	20,650	12,900
St. Bernard	See MSA - New Orleans		
St. Charles	See MSA - New Orleans		
St. Helena	23,700	20,650	12,900
St. James	34,000	27,200	15,600
St. John the Baptist	See MSA - New Orleans		
St. Landry	23,600	20,650	12,900

1991 Median Family Income
By Parish and MSA
(Continued)

Parish	1991 Median Family Income	Low/Mod Income* Limit	Low Income* Limit
St. Martin	See MSA - Lafayette		
St. Mary	32,400	25,900	16,200
St. Tammany	See MSA - New Orleans		
Tangipahoa	25,100	20,650	12,900
Tensas	18,900	20,650	12,900
Terrebonne	See MSA Houma - Thibodaux		
Union	25,400	20,650	12,900
Vermilion	24,900	20,650	12,900
Vernon	20,000	20,650	12,900
Washington	23,900	20,650	12,900
Webster	25,900	20,700	12,950
West Baton Rouge	See MSA - Baton Rouge		
West Carroll	19,600	20,650	12,900
West Feliciana	29,800	22,300	12,900
Winn	20,300	20,650	12,900

*For those parishes which have a median family income less than the State nonmetropolitan median family income ($25,800), the low/mod income and the low income limits were based on the State nonmetropolitan median family income.

MSA-Metropolitan Statistical Areas			
MSA Alexandria, LA [1]	28,700	22,950	14,350
MSA Baton Rouge, LA [2]	35,700	28,550	17,850
MSA Houma-Thibodaux, LA [3]	32,700	26,150	16,350
MSA Lafayette, LA [4]	35,000	28,000	17,500
MSA Lake Charles, LA [5]	35,700	28,550	17,850
MSA Monroe, LA [6]	28,900	23,100	14,450
MSA New Orleans, LA [7]	35,100	28,100	17,550
MSA Shreveport, LA [8]	34,400	27,500	17,200

Footnotes:

[1]Includes Rapides Parish only.

[2]Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.

[3]Includes Terrebonne and Lafourche Parishes.

[4]Includes St. Martin and Lafayette Parishes.

[5]Includes Calcasieu Parish only.

[6]Includes Ouachita Parish only.

[7]Includes Jefferson, Orleans, St. Tammany, St. Bernard, St. John the Baptist, and St. Charles Parishes.

[8]Includes Caddo and Bossier Parishes.

Source: Income data provided by U. S. Department of Housing and Urban Development, February 1, 1991.

APPENDIX 4

1980 Median Family Income
By Parish and MSA

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT Families	LOW/MOD INCOME LIMIT Unrelated Individuals	LOW INCOME LIMIT Families	LOW INCOME LIMIT Unrelated Individuals
Acadia	$ 15,792	$12,634	$ 8,844	$ 7,896	$ 5,527
Allen	15,685	12,548	8,784	7,842	5,489
Ascension	21,572	17,258	12,080	10,786	7,550
Assumption	17,334	13,867	9,707	8,667	6,067
Avoyelles	11,987	9,590	6,713	5,994	4,196
Beauregard	17,417	13,934	9,754	8,709	6,096
Bienville	13,850	11,080	7,756	6,925	4,848
Bossier	See MSA - Shreveport				
Caddo	See MSA - Shreveport				
Calcasieu	See MSA - Lake Charles				
Caldwell	12,624	10,099	7,069	6,312	4,418
Cameron	20,562	16,450	11,515	10,281	7,197
Catahoula	12,770	10,216	7,151	6,385	4,470
Claiborne	14,538	11,630	8,141	7,269	5,088
Concordia	15,208	12,166	8,516	7,604	5,323
DeSoto	14,887	11,910	8,337	7,444	5,211
East Baton Rouge	See MSA-Baton Rouge				
East Carroll	10,388	8,310	5,817	5,194	3,636
East Feliciana	16,184	12,947	9,063	8,092	5,664
Evangeline	12,540	10,032	7,022	6,270	4,389
Franklin	11,937	9,550	6,685	5,969	4,178
Grant	See MSA-Alexandria				
Iberia	19,268	15,414	10,790	9,634	6,744
Iberville	17,340	13,872	9,710	8,670	6,069
Jackson	13,919	11,135	7,795	6,960	4,872
Jefferson	See MSA - New Orleans				
Jefferson Davis	17,657	14,126	9,888	8,829	6,180
Lafayette	See MSA - Lafayette				
Lafourche	19,947	15,958	11,170	9,974	6,982
LaSalle	15,250	12,200	8,540	7,625	5,338
Lincoln	16,660	13,328	9,330	8,330	5,831
Livingston	See MSA - Baton Rouge				
Madison	10,679	8,543	5,980	5,340	3,738
Morehouse	12,949	10,359	7,251	6,475	4,533
Natchitoches	13,343	10,674	7,472	6,672	4,670
Orleans	See MSA - New Orleans				
Ouachita	See MSA - Monroe				
Plaquemines	19,884	15,907	11,135	9,942	6,959
Pointe Coupee	14,913	11,930	8,351	7,457	5,220
Rapides	See MSA - Alexandria				
Red River	12,482	9,986	6,990	6,241	4,369
Richland	12,112	9,690	6,783	6,056	4,239
Sabine	13,519	10,815	7,571	6,760	4,732

1980 Median Family Income
By Parish and MSA
(Continued)

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT Families	LOW/MOD INCOME LIMIT Unrelated Individuals	LOW INCOME LIMIT Families	LOW INCOME LIMIT Unrelated Individuals
St. Bernard	See MSA - New Orleans				
St. Charles	$23,223	$18,578	$13,005	$11,612	$8,128
St. Helena	11,370	9,096	6,367	5,685	3,980
St. James	21,044	16,835	11,785	10,522	7,365
St. John the Baptist	21,818	17,454	12,218	10,909	7,636
St. Landry	13,893	11,114	7,780	6,947	4,863
St. Martin	16,612	13,290	9,303	8,306	5,814
St. Mary	20,688	16,550	11,585	10,344	7,241
St. Tammany	See MSA - New Orleans				
Tangipahoa	14,315	11,452	8,016	7,158	5,011
Tensas	10,447	8,358	5,850	5,224	3,657
Terrebonne	20,918	16,734	11,714	10,459	7,321
Union	14,027	11,222	7,855	7,014	4,910
Vermilion	16,951	13,561	9,493	8,476	5,933
Vernon	12,951	10,361	7,253	6,476	4,533
Washington	13,641	10,913	7,639	6,821	4,775
Webster	See MSA - Shreveport				
West Baton Rouge	See MSA - Baton Rouge				
West Carroll	10,807	8,646	6,052	5,404	3,783
West Feliciana	14,289	11,431	8,002	7,145	5,002
Winn	12,445	9,956	6,969	6,223	4,356
MSA-Metropolitan Statistical Areas					
Alexandria, LA[1]	$15,741	$12,593	$8,815	$7,871	$5,510
Baton Rouge, LA[2]	21,301	17,041	11,929	10,651	7,456
Lafayette, LA[3]	21,472	17,178	12,024	10,736	7,515
Lake Charles, LA[4]	21,316	17,053	11,937	10,658	7,461
Monroe, LA[5]	17,140	13,712	9,598	8,570	5,999
New Orleans, LA[6]	19,196	15,357	10,750	9,598	6,719
Shreveport, LA[7]	18,158	14,526	10,168	9,079	6,355

Footnotes:

[1]Includes Rapides and Grant Parishes.

[2]Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.

[3]Includes Lafayette Parish only.

[4]Includes Calcasieu Parish only.

[5]Includes Ouachita Parish only.

[6]Includes Jefferson, Orleans, St. Bernard, and St. Tammany Parishes.

[7]Includes Bossier, Caddo, and Webster Parishes.

Source: 1980 Census and Formula provided by U. S. Department of Housing and Urban Development.

Dennis Stine
Commissioner

RULE

Department of Health and Hospitals
Board of Embalmers and Funeral Directors

Under the authority of R.S. 37:840 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Embalmers and Funeral Directors is amending LAC 46:XXXVII.111 in accordance with a notice of intent published in the *Louisiana Register*, Volume 17, No. 8, dated August 20, 1991.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXVII. Embalmers and Funeral Directors
Chapter 1. General Provisions
§111. Mandatory Disclosure

A. Every funeral firm in this state and/or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements, either at need or pre-need, or arranging for the disposition of a dead human body, at the time such arrangements are completed and prior to the time of rendering the service and/or providing the merchandise, a written statement showing to the extent then known:

1. the price of the service that the person or persons have selected and what is included therein;

2. the price of each of the supplemental items of service and/or merchandise required;

3. the amount involved for each of the items for which the firm will advance monies as an accommodation of the family;

4. the method of payment.

B. No funeral firm shall bill or cause to be billed any item that is referred to as a "cash advance" item unless the net amount paid for such item or items by the funeral firm is the same as is billed by the funeral firm.

C. Every funeral firm in this state or funeral service licensee thereof shall have available in their display room and inside the casket within view of the general public, the price of that particular casket and/or services included therein.

D. Should a funeral home be designated in a pre-need funeral arrangement contract and designated further as a beneficiary of funds from any source which are to be used to fund the proposed funeral service, and should a funeral service not be provided, then the said funeral home shall refund the entire amount of the funds received, including principal and interest, to the estate of the deceased, unless directed otherwise within the pre-need funeral arrangement contract.

E. Unless otherwise specified, a prepaid, pre-need funeral arrangement contract provides a time of death guarantee unless previously canceled or revoked under the terms of the agreement.

F. If for any reason the casket and/or merchandise selected at the time of the prepaid, pre-need arrangement contract is not available at the time of death, then the funeral home must offer a similar casket and/or merchandise that is equal to or greater than the at-need cost of the casket and/or merchandise selected at pre-need.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended, LR 17: (November 1991).

Lloyd E. Eagan
Secretary

RULE

Department of Health and Hospitals
Board of Medical Examiners

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270 and 1275, and in accordance with applicable provisions of the Administrative Procedure Act, has adopted a rule providing for a provisional temporary permit to be issued to applicants for medical licensure who are required to possess an H-1 or equivalent visa, but whose application therefor is pending with the U.S. Immigration and Naturalization Service. LAC 46:XLV, Subpart 2, Chapter 3, §401. The rule is set forth below.

§401. Provisional Temporary Permit Pending Application for Visa

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for possessing an H-1 or equivalent visa as may be required by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit and is eligible for an H-1 or equivalent visa under rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

1. 90 days from the date of issuance of such permit;

2. 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or

3. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for.

C. The board may, in its discretion, extend or renew, for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to Subsection B(1) of this Section, in favor of an applicant who holds a provisional temporary permit issued under this Section and who has filed a petition for H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S 37:1270 and R.S. 37:1275.

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

Delmar Rorison
Executive Director

RULE

Department of Health and Hospitals
Board of Medical Examiners

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B)(6) and 37:1360.24, and in accordance with applicable provisions of the Administrative Procedure Act, has adopted amendments to its rules governing the certification and practice of physician's trained assistants. LAC 46:XLV, Subpart 2, Chapter 15, §§1501-1519, Subpart 3, Chapter 45, §§4501-4515. The rules, as amended, are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Profession
Subpart 2. Licensing and Certification
Chapter 15. Physician's Assistants

§1501. Scope of Chapter

These rules govern the certification of physician's assistants in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended LR 17: (November 1991).

§1503. Definitions

As used in this Chapter, the following terms shall have the meanings specified:

Applicant — a person on whose behalf the board has received an application for certification as a physician's assistant.

Approved Application — all of the information, representations, terms, restrictions, and documents contained in or submitted with an application upon which the board has issued a physician's assistant certificate.

Board — the Louisiana State Board of Medical Examiners.

Independent Medical Judgment — the implementation or effectuation of any medical determination where such medical determination is made without the informed concurrence of a physician responsible to the patient for such determination.

Physician — a person possessing a current license to practice medicine in the state of Louisiana.

Physician's Assistant — a person possessing a current physician's assistant certificate issued under this Part.

Proposed Supervising Group of Physicians or *Proposed Supervising Group* — a professional partnership, corporation, or other association which has submitted to the board an application for approval as a supervising group of physicians.

Proposed Supervising Physician — a physician who has submitted to the board an application for approval as a supervising physician.

Supervising Group of Physicians — or *Supervising Group* — a professional partnership, corporation, or other association approved by the board under this Part to employ and supervise one or more physicians' assistants.

Supervising Physician — a person approved by the board under this Part to employ and supervise a physician's assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended LR 17: (November 1991).

§1505. Necessity for Certificate

A. No person may act as or undertake to perform the functions of a physician's assistant unless he has in his personal possession a current physician's assistant certificate issued to him under this Part.

B. Any person who acts or undertakes to perform the functions of a physician's assistant without a current physician's assistant certificate issued under this Part shall be deemed to be engaging in the practice of medicine; provided, however, that none of the provisions of this Part shall apply to:

1. any person employed by, and acting under the supervision and direction of, any commissioned physician or surgeon of the United States Armed Services, or Public Health Services, practicing in the discharge of his official duties;

2. practitioners of allied health fields, duly licensed, certified, or registered under other laws of this state, when practicing within the scope of such license, certificate or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended LR 17: (November 1991).

§1507. Qualifications for Certification and Approval

A. To be eligible for certification under this Chapter, an applicant shall:

1. be at least 20 years of age;

2. be of good moral character;

3. have successfully completed a four-year course of instruction in a high school or with equivalent; and

4. demonstrate his competence to provide patient services under the supervision and direction of a supervising physician by:

a. presenting to the board a valid diploma certifying that the applicant is a graduate of a physician's assistant training program accredited by the Council on Medical Education of the American Medical Association or its successors; or

b. presenting or causing to be presented to the board satisfactory evidence that the applicant has successfully passed the national certificate examination administered by the National Commission on the Certification of Physician's Assistants or its successors, together with satisfactory documentation of certification or recertification by said commission within one year prior to the date of application; or

c. presenting to the board a valid, current physician's assistant license, certificate or permit issued by any other state of the United States; provided, however, that the board is satisfied that the certificate, license or permit presented was issued upon qualifications and other requirements substantially equivalent to the qualifications and other requirements set forth in this Part.

B. To be eligible for approval under this Part, a proposed supervising physician shall, as of the date of the application,

1. hold an unrestricted license to practice medicine in the state of Louisiana;

2. have been in the active practice of medicine for not

less than five years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree; and

3. have been in active practice for at least two years following the completion of any postgraduate medical residency program.

C. The burden of satisfying the board as to the eligibility of the applicant and proposed supervising physician for certification and approval shall be upon the applicant and proposed supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended LR 17: (November 1991).

§1509. Application for Certification; Procedure

A. Application for certification as a physician's assistant and for approval as a supervising physician must be made upon forms supplied by the board and must be submitted by the proposed supervising physician.

B. Application for certification and approval under this Chapter must include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in §1507 of this Chapter;

2. a detailed description of the proposed supervising physician's professional background and specialty, if any; the nature and scope of his medical practice; the geographic and demographic characteristics of his medical practice; the address or location of the office where the applicant is to be employed;

3. a job description, setting forth in detail the specific activities to be delegated to the applicant, the way in which the applicant will be utilized as a physician's assistant, and the methods to be used by the proposed supervising physician to insure responsible direction and control of the activities of the applicant as a physician's assistant;

4. affidavits, notarized and properly executed by the applicant and proposed supervising physician, certifying the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application; and

5. such other information and documentation as the board may require.

C. All documents required to be submitted to the board must be the original or certified copy thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board by a proposed supervision physician shall be accompanied by a fee of $155, of which the sum of $20 will represent a nonrefundable processing fee.

F. Upon submission of a completed application form, together with the documents required thereby, and the payment of the application fee, the applicant and proposed supervision physician shall make a personal appearance before a member of the board or its designee, to be interviewed regarding their qualifications for certification and approval under this Chapter and their understanding of the authority, limitations, obligations and responsibilities imposed on physician's assistants and supervising physicians bylaws and regulations applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:110 (April 1978), amended LR 17: (November 1991).

§1511. Advisory Committees

The board may appoint or designate an advisory committee of physicians and physician's assistants, possessing appropriate qualifications, to review and evaluate the qualifications and competence of any applicant and proposed supervising physician, to review and evaluate job descriptions, whether approved or proposed, and to submit advisory reports and recommendations pertaining thereto. Such committee shall be comprised in the majority by physicians currently engaged in the active practice of medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:110 (April 1978), amended LR 17: (November 1991).

§1513. Issuance of Certificate; Classes and Ratings

A. If the qualifications, requirements and procedures of §§1507 and 1509 are met to the satisfaction of the board, the board shall certify the applicant as a physician's assistant.

B. Each physician's assistant certificate issued under this Chapter shall be endorsed as Class I or Class II as follows.

1. A physician's assistant—Class I certificate shall be issued to an applicant who, being otherwise completely qualified for certification, demonstrates his competence under §1507 by satisfying the requirements of both (A)(4)(a) and (A)(4)(b) thereof.

2. Physician's assistant—Class II certificate shall be issued to an applicant who, being otherwise completely qualified for certification, does not meet the qualifications and requirements for Class I endorsement.

C. Each physician's assistant—Class II certificate issued under this Chapter shall be further endorsed with one or more rating, to be designated by the board, descriptive of the specialty or primary field of practice within which the applicant has demonstrated competence and to which his activities will be restricted. In addition to those specialties recognized by the American Board of Medical Specialties, the board may adopt and designate additional ratings descriptive of the restricted competence of the applicant.

D. Issuance of certification under this Chapter shall constitute approval of the proposed supervising physician in accordance with the class, rating and restrictions of such certification.

E. Issuance of certification under this Chapter shall constitute approval of the proposed supervising group of physicians identified in the application to employ the certified physician's assistant and to act as a supervising group of physicians in accordance with the class, rating and restrictions of such certification.

F. Every certificate issued under this Chapter, of whatever class or rating, is expressly subject to the terms, restrictions and limitations set forth in the approved application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:110 (April 1978), amended LR 17: (November 1991).

§1515. Consent to Examination; Waiver of Privileges; Examining Committee of Physicians

A. An applicant or physician's assistant shall, by applying for or accepting certification under this Chapter, be deemed to have given his consent to submit to physical or mental examinations when so directed by the board and to waive all objections as to the disclosure or admissibility of findings, reports, or recommendations pertaining thereto on the grounds of privileged communication or other personal privileges provided by law.

B. The board may appoint or designate an examining committee of physicians, possessing appropriate qualifications, to conduct physical and mental examinations of a physician's assistant, to otherwise inquire into the physician's assistant's fitness and ability to provide services with reasonable skill and safety to patients, and to submit advisory reports and recommendations to the board, when the board has reasonable cause to believe that the fitness and ability of such physician's assistant is affected by mental illness or deficiency, or physical illness, including but not limited to deterioration through the aging process or the loss of motor skills, and/or excessive use or abuse of drugs, including alcohol.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended LR 17: (November 1991).

§1517. Termination of Certification; Renewals; Modification

A. Initial certification shall expire as of the last day of the year in which such certificate was issued.

B. Every certificate issued under this Chapter shall be renewed annually on or before January 1 by submitting to the board an application for renewal upon forms supplied by the board, together with satisfactory documentation of current certification or recertification by the National Commission on the Certification of Physician's Assistants. Each application for renewal shall be accompanied by a fee of $25.

C. Any certificate issued under this Chapter, whether an initial certificate or renewal thereof, shall terminate on and as of any day that:

1. the supervising physician no longer possesses a current license to practice medicine in the state of Louisiana;

2. the supervising physician, for whatever reason whether voluntarily or involuntarily, ceases the active practice of medicine; or

3. the employment relationship between the physician's assistant and the supervising physician or supervising group is terminated.

D. The board may, in its discretion, at the time of and upon application for renewal of certification, require a review of the current accuracy of the information provided in the approved application and of the physician's assistant's performance thereunder and may modify or restrict any recertification in accordance with the findings of such review.

E. No temporary certification will be issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended LR 17: (November 1991).

§1519. Transfer of Certification

A. A physician's assistant previously certified by the board whose certification has terminated pursuant to §1517(C) hereof by virtue of the cessation or termination of an employment relationship with his or her approved supervising physician may, within six months following such termination of certification, apply to the board for transfer of certification to a new supervising physician pursuant to the provisions of this Section.

B. Application for transfer of certification to a new supervising physician shall:

1. be submitted to the board not more that six months following the termination of certification pursuant to §1517(C) hereof; and

2. include:

a. the information and documentation prescribed by §1509(B)(2) to (5) hereof with respect to the proposed new supervising physician; and

b. a letter from the applicant's current or former supervising physician, if such physician is not deceased at the time of the application, describing and certifying the circumstances under which the physician's assistant's employment relationship was, or is proposed to be, terminated.

C. Each application for transfer of certification shall be accompanied by a fee of $75, of which the sum of $25 will represent a nonrefundable processing fee.

D. Upon submission of a completed application for transfer of certification, together with the documents required thereby, and the payment of the applicable fee, the applicant and proposed new supervision physician shall make a personal appearance before a member of the board or its designee, to be interviewed regarding their qualifications for certification and approval under this Chapter and their understanding of the authority, limitations, obligations and responsibilities imposed on physician's assistants and supervising physicians bylaws and regulations applicable thereto.

E. If the requirements and procedures of this Section are met to the satisfaction of the board, and the applicant and supervising physician demonstrate that the proposed new supervising physician satisfies the qualifications for approval as a supervising physician prescribed by §1507(B), the board shall approve transfer of the applicant's certification to the proposed new supervising physician.

F. Pending final board approval of an applicant for transfer of certification, an applicant who has successfully completed the requirements and procedures prescribed by Subsections B through D of this Section, and whose application and job description is recommended for approval by the member of the board or its designee having interviewed the applicant and proposed new supervising physician, the applicant may be issued a provisional transfer of certification, to be effective until the earlier of the date on which the board takes final action on the application, or 60 days following from the date of issuance of such provisional transfer of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended LR 17: (November 1991).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Profession
Subpart 3. Practice
Chapter 45. Physician's Assistants
§4501. Employment by Supervising Group of Physicians

A. A physician's assistant may be employed by a supervising group of physicians provided that, with respect to any applicant to be so employed, a member, partner or employee of the proposed supervising group is designated in the application as the proposed supervising physician, and such proposed supervising physician meets and satisfies all of the qualifications, procedures and other requirements of this Chapter to the same extent as if the applicant were to be employed individually by the proposed supervising physician.

B. With respect to any physician's assistant employed by a supervising group of physicians, all duties, obligations, and responsibilities imposed by statute or by the rules of this Part on the supervising physician shall be equally and independently assumed and borne by the designated supervising physician and the supervising group.

C. When an applicant is to be employed by a supervising group of physicians, the proposed supervising physician may designate any other member, partner or employee of the proposed supervising group as *locum tenens*, provided that such designee meets the qualifications of §1509 of these rules and the designation otherwise complies with said section.

D. A supervising group of physicians may not employ, at the same time, a greater number of physician's assistants than the number of physicians in the group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended LR 17: (November 1991).

§4503. Employment Relationship; Compensation

A. The physician's assistant shall, with respect to the exercise of any privileges provided for by certification under this Chapter, be the employee, servant and agent of the supervising physician or the supervising group, if applicable.

B. A physician's assistant may receive compensation, salary or wages only from the supervising physician or supervising group of physicians and may neither render a statement for service directly to any patient nor receive any payment, compensation or fee for services directly from any patient; nor shall any physician's assistant receive any compensation, salary, wage or commission calculated as a percentage of the fee rendered to any patient or based upon the number of patients to whom the physician's assistant provides services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended LR 17: (November 1991).

§4505. Authority and Limitations of Physician's Assistant

A. The authority of a physican's assistant pursuant to certification under this Chapter is strictly limited to the functions, activities, and services specified by the supervising physician in the approved application.

B. The following list provides an illustrative enumeration of functions which the board may consider authorizing the physician's assistant to perform. Such listing, however is not intended to and shall not be construed to authorize any physician's assistant to perform any activities, functions or services beyond or in addition to those specifically enumerated in the job description of his approved application. A physician's assistant *may* be authorized by the board to screen patients to determine need for medical attention; elicit routine patient histories; review patient records to determine health status; perform routine physical examinations; record pertinent patient data; perform developmental screening examinations on children; make preliminary decisions regarding data gathering and appropriate management and treatment of patients being seen for initial evaluation of a problem or follow-up evaluation of a previously diagnosed and stabilized condition; prepare patient summaries; initiate request for simple, commonly performed initial laboratory studies; collect specimens for commonly performed blood, urine and stool analyses, perform simple urine analyses, blood counts and other laboratory procedures which the board may specifically approve; identify normal and abnormal findings on history; physical examinations, and commonly performed laboratory studies; initiate appropriate evaluation and emergency management for emergency situations such as cardiac arrest, respiratory distress, burns and hemorrhage; perform clinical procedures such as venipuncture, intradermal tests, electrocardiogram, care and suturing of minor lacerations, casting and splinting, control of external hemorrhage, application of dressings and bandages, administration of medications, intravenous fluids, and transfusion of blood or blood components, removal of superficial foreign bodies, cardio-pulmonary resuscitation, audiometry screening, visual screening, aseptic and isolation techniques; and provide counseling and instruction regarding common patient problems; provided, however, that the foregoing list is merely illustrative of the activities, functions and services which the board may authorize the physician's assistant to perform and shall not be construed to restrict the board's authority hereunder to authorize additional activities, functions, and services.

C. A physician's assistant who is authorized by the board, as part of his or her approved job description, to perform the suturing of minor lacerations, may undertake to do so with respect to a particular patient, only when the patient's laceration has been previously examined in person by the supervising physician and the supervising physician provides specific directions as to the appropriate manner of and procedure for suturing the laceration.

D. A physician's assistant shall not:

1. exercise independent medical judgment, as defined by §1503, except in life-threatening emergencies;

2. issue prescriptions for any medication and/or complete and issue prescription blanks previously signed by any physician;

3. order for administration or administer any medication to any patient except pursuant to the specific order or direction of his or her supervising physician;

4. suture any laceration with respect to any patient until and unless the patient has been previously examined in person by the supervising physician and the supervising physician has provided specific directions as to the appropriate manner of and procedure for suturing the laceration;

5. act as or engage in the functions of a physician's assistant other than in the employment of his supervising physician at the location or locations specified in the approved application;

6. act as or engage in the functions of a physician's assistant when the supervising physician is absent or off duty, unless the personal physical presence of the supervising physician may be secured within thirty minutes;

7. perform laboratory procedures except those specifically listed in the job description approved by the board;

8. perform any activity, function or service beyond the scope of such activities, functions and services as are specified in the approved application; or

9. identify himself, or permit any other person to identify him, as "doctor," nor render any service to a patient unless the physician's assistant has clearly identified himself as a physician's assistant by any method reasonably calculated to advise the patient that the physician's assistant is not a licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended LR 17: (November 1991).

§4507. Authority and Limitations of Supervising Physician

A. The supervising physician is responsible for the responsible supervision, control, and direction of the physician's assistant and retains responsibility to the patient for the competence and performance of the physician's assistant.

B. A supervising physician may not employ more than two physician's assistants at the same time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended LR 17: (November 1991).

§4509. Designation of *Locum Tenens*

A. Notwithstanding other provisions of this Chapter, a proposed supervising physician may, in the application for certification, designate as *locum tenens* a physician who will assume the obligations and responsibilities of the supervising physician when the supervising physician is absent or unavailable as a result of illness, medical emergency or other causes.

B. To be eligible for designation as *locum tenens,* a physician shall:

1. meet the qualifications of §1509(B) of this Chapter; and

2. actively practice in the same specialty as the supervising physician or in a reasonably related field of medicine.

C. Designation of a *locum tenens* must include:

1. a description of the *locum tenens'* professional background and specialty, if any;

2. the address of all office locations used by the *locum tenens*;

3. a detailed description of the specific circumstances under which the *locum tenens* will act for and in place of the supervising physician and the manner in which the *locum tenens* will supervise, direct and control the physician's assistant;

4. a certificate, signed by the designated *locum tenens*, acknowledging that he has read and understands the rules of this Chapter and that he will assume the duties, obligations and responsibilities of the supervising physician under the circumstances specified in the application.

D. The board may, in its discretion, refuse to approve the use of a *locum tenens*, or it may restrict or otherwise modify the specified circumstances under which the *locum tenens* would be authorized to act for and in place of the supervising physician.

E. A physician's assistant shall not, while acting under the direction and supervision of an approved *locum tenens* designated by the supervising physician, attend or otherwise provide any services for or with respect to any patient other than a patient of the supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended LR 17: (November 1991).

§4511. Mutual Obligations and Responsibilities

A. The physician's assistant and supervising physician shall:

1. at all times retain in their personal possession a copy of the physician's assistant job description incorporated in the approved application or such modified or restricted job description as the board may approve;

2. immediately notify the board, in writing, of:

a. the termination of the physician's assistant's employment by the supervising physician or supervising group of physicians;

b. the retirement or withdrawal from active practice by the supervising physician; and

c. any other change in the employment, functions, activities or services of the physician's assistant or the manner or location of their performance;

3. comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities and performance of the physician's assistant and supervising physician;

4. insure that each individual to whom the physician's assistant provides patient services is expressly advised and understands that the physician's assistant is not a licensed physician;

5. insure that, with respect to each patient, all activities, functions, services and treatment measures of the physician's assistant are immediately and properly documented in written form by the physician's assistant. Each and every such written entry, such as on histories, physical examination findings, charts, records and other memoranda, shall be reviewed and countersigned by the supervising physician within 24 hours of the making of such entry.

B. The physician's assistant and the supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in the rules of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended LR 17: (November 1991).

§4513. Causes for Nonissuance, Suspension, Revocation of Restrictions; Fines, Reinstatement

A. The board may refuse to issue, or may suspend, revoke or impose probationary or other restrictions on, any certificate issued under this Chapter for the following causes:

1. conviction of a crime or entry of a plea of guilty or *nolo contendere* to a criminal charge;

2. fraud, deceit, or perjury in obtaining any certificate issued under this Chapter;

3. providing false testimony before the board;

4. habitual or recurring drunkeness;

5. habitual or recurring use of morphine, opium, cocaine, drugs having a similar effect, or other substances which may induce physiological or psychological dependence;

6. aiding, abetting, or assisting any physician in any act or course of conduct enumerated in Louisiana Revised Statutes, Title 37, Section 1285;

7. efforts to deceive or defraud the public;

8. incompetency;

9. immoral conduct in exercising the privileges provided for by certification under this Chapter;

10. persistent violation of federal or state laws relative to control of social diseases;

11. interdiction or commitment by due process of law;

12. inability to perform or function as a physician's assistant with reasonable skill or safety to patients because of medical illness or deficiency; physical illness; including but not limited to deterioration through the aging process or loss of motor skills; and/or excessive use or abuse of drugs, including alcohol;

13. refusing to submit to the examination and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the physician's assistant's physical and mental fitness and ability to provide patient services with reasonable skill and safety;

14. the refusal of the licensing authority of another state to issue or renew a license, permit or certificate to act as a physician's assistant in that state, or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts the functions, activities or services of the physician's assistant in that state; or

15. violation of any provision of this Chapter, or any of any rules and regulations of the board or statute pertaining to physician's assistants.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate suspended or revoked hereunder, required the physician's assistant and/or the supervising physician group to pay all costs of the board proceedings, including investigators, stenographers, and attorney's fees, and to pay a fine not to exceed the sum of $5,000.

C. Any certificate suspended, revoked or otherwise restricted by the board may be reinstated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended LR 17: (November 1991).

Delmar Rorison
Executive Director

RULE

Department of Health and Hospitals
Office of Public Health

(*Editor's Note:* The following rule is being republished in its entirety and replaces the rule which appeared in the October, 1991 *Louisiana Register*, pages 969-970.)

Whereas Chapter XIII of the 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 State Sanitary Code in order to provide regulatory conformity:

CHAPTER XIII
SEWAGE DISPOSAL

Subpart D - Individual Sewage Systems

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:

I.22 Abandoned septic tanks (tanks no longer in active 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 of 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 two and one-half 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 (Individual)

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.

APPENDIX A

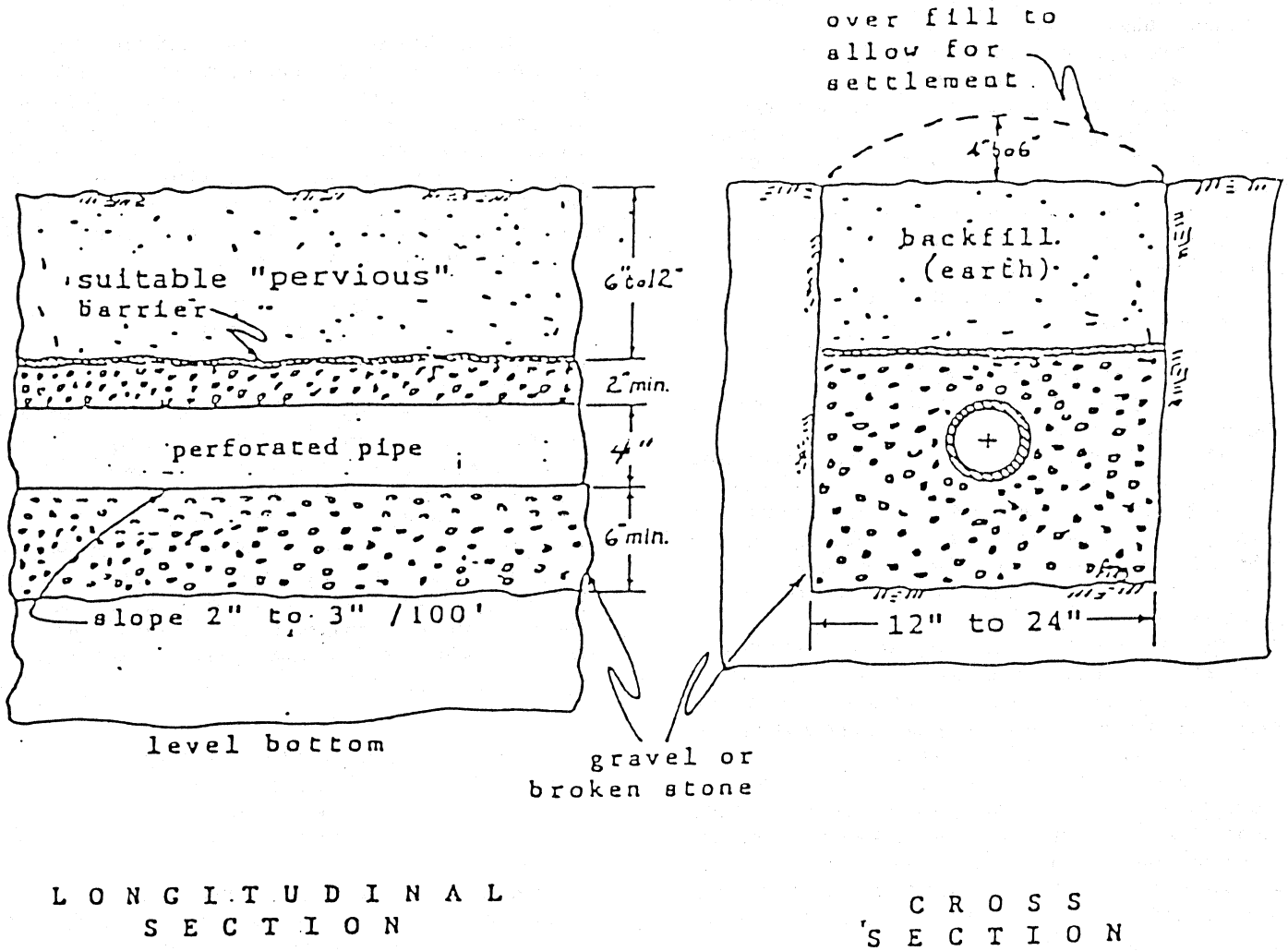


FIGURE 4

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
Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on April 20, 1991 (Volume 17, No. 4, page 422).

RULE

Urine collected and tested for drugs of abuse which may render consequences, either mandatory or discretionary to the individual, must be collected and tested in accordance with the National Institute on Drug Abuse (NIDA) Guidelines as published in final form on April 11, 1988 in the *Federal Register*, and as amended by any subsequent revisions.

Approval of screening laboratories by the Health Standards Section, Bureau of Health Services Financing, Department of Health and Hospitals is contingent upon conformity with the requirements that follow.

Definitions

Aliquot means portion of a specimen used for testing.

CAP-FUDT certified laboratory means a laboratory certified for forensic urine drug testing by the College of American Pathologists.

Chain of custody means procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate chain of custody form be used from the time of collection to receipt by the laboratory and that, upon receipt in the laboratory, an appropriate laboratory chain of custody form account for the sample or sample aliquots within the laboratory. Chain of custody forms shall, at a minimum, include an entry documenting date and purpose each time a specimen or aliquot is handled or transferred and shall identify each individual in the chain of custody.

Collection site means a place designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

Collection site person means a person who instructs and assists individuals at a collection site and who receives and makes a preliminary observation of the urine specimen provided by those individuals. A collection site person shall have successfully completed training to carry out this function.

Confirmatory test means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.

DHH means the Department of Health and Hospitals.

Employee means any person, paid or unpaid, in the service of an employer, as defined in the following definition.

Employer means any person, firm, or corporation, including any governmental entity, that has one or more workers or operators employed, or individuals performing service, in the same business, or in or about the same establishment, under any contract of hire or service, expressed or implied, oral or written; however, "employer" for the purpose of this Chapter shall not include any person, firm or corporation that is subject to a federally mandated drug testing program. For the purpose of this Chapter, an employee who is a person, firm, or corporation that contracts or subcontracts with a principal need not be considered, in whole or in part, to be an employee of such principal.

Initial test or *screening test* means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

Medical review officer means a licensed physician responsible for receiving laboratory results generated by employer or testing entity's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his medical history and any other relevant biomedical information.

Monitor means repeated drug testing of an individual following a positive test to detect the use of drugs.

NIDA means the National Institute on Drug Abuse.

NIDA-certified laboratory means a laboratory certified for forensic urine drug testing by the National Institute on Drug Abuse.

NIDA guidelines means the mandatory guidelines for Federal Workplace Drug Testing Programs as published in the *Federal Register*, Volume 53, No. 69, and any revised guidelines issued by the National Institute on Drug Abuse.

Permanent Record Book means a permanently bound book in which identifying data on each specimen collected at a collection site are permanently recorded in the sequence of collection.

Proficiency Testing Program means performance of testing on specimens containing those drugs and metabolites which each laboratory shall be prepared to assay in concentration ranges that allow detection of the analyte by commonly used immunoassay screening techniques. The Proficiency Testing Program for screening laboratories shall be approved for use by the Department of Health and Hospitals.

Prospective employee means any person who has made application to an employer, whether written or oral, to become an employee.

Reason to Believe means reason to believe that a particular individual may alter or substitute the urine specimen.

Quality assurance means a program to ensure quality standards in all aspects of the testing process, including but not limited to specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, and validation of analytical procedure.

Quality control means procedures designed to assess the conduct of each step of the process for testing of drugs.

Sample means urine, blood, saliva or hair.

Screening laboratories means any building, place or facility in which operations and procedures for the biological, serological, immunological, chemical, immunohematological or other examination of materials derived from the human body are performed for the purpose of drug testing and which is not NIDA-certified or CAP-FUDT-certified for forensic urine drug testing and if the following apply to the drug testing of said "screening laboratory":

(a) if, as a result of such testing, mandatory or discretionary consequences will be rendered to the individual, and

(b) drug testing is performed for any or all of the following classes of drugs: marijuana, opioids, cocaine, amphetamines and phencyclidine.

Secretary means the secretary of the Department of Health and Hospitals or his designee.

Split sample means one urine specimen from one individual that is separated into two containers.

Urine Drug Screening Laboratories

FACILITIES

1. Laboratories shall be in compliance with applicable federal, state and local laws and meet the provisions of these rules and regulations in order to qualify for approval.

2. Approved laboratories shall have the capability of performing initial screening for the following five classes of drugs or their metabolites: marijuana, opiates, cocaine, amphetamines and phencyclidine using an initial acceptable screening procedure.

PERSONNEL

Personnel involved in urine drug screening shall meet the requirements specified in these rules and regulations.

DIRECTOR

1. The laboratory shall have a qualified individual to assume professional, organizational, educational and administrative responsibility for the overall operation of the laboratory.

2. The director shall at a minimum be:

a. a physician or possess a doctoral degree from an accredited institution with a chemical, biological or physical science as a major subject;

b. and subsequent to graduation has had four or more years of full-time laboratory experience of which at least two years were spent acquiring proficiency in toxicology.

3. This individual shall be engaged in and responsible for the overall management of the drug testing laboratory.

4. This individual shall be responsible for ensuring that there are personnel with adequate training and experience to supervise and conduct the work of the drug screening laboratory.

5. This individual shall be responsible for the laboratory's having an approved procedure manual which is complete, up-to-date and available for personnel performing tests. The manual shall be reviewed, dated and signed when procedures are first placed into use or changed or when a new individual assumes responsibility of the laboratory.

6. This individual shall be responsible for maintaining a quality assurance and quality control program to assure the proper performance and reporting of all test results.

LABORATORY SUPERVISOR

A qualified laboratory supervisor shall be on premises during all hours in which tests are performed. This individual shall be responsible for day-to-day operations and supervision of analysts. In the absence of the director, the laboratory supervisor is held responsible for the proper performance of all laboratory procedures.

He shall have training and experience in the theory and practice of the procedures used in the laboratory, resulting in his thorough understanding of quality control practices and procedures; the review, interpretation, and reporting of test results; maintenance of chain of custody; and proper remedial actions to be taken in response to test system being out of control limits or detecting aberrant test or quality control results. Minimum qualifications are:

1. a Bachelor of Science in one of the natural sciences with an adequate undergraduate education in biology, chemistry, or pharmacology or toxicology and certification in forensic toxicology, forensic chemistry, clinical chemistry or medical technology by a recognized national accrediting agency or board, and four years of laboratory experience of which at least two years is in the area of toxicology analyses, or

2. with respect to individuals first qualifying before January 1, 1992, the individual was performing the duties of a laboratory supervisor and has had at least 10 years of laboratory experience within the last 15 years, two years of experience must have been in the area of toxicologic analyses.

OTHER PERSONNEL

Other technical personnel perform only those procedures that require a degree of skill commensurate with their training, education and technical ability.

TRAINING

The laboratory's urine drug testing program shall make available continuing education programs to meet the needs of laboratory personnel.

PERSONNEL RECORDS

Personnel records shall include: verification of education; initial skills orientation program; resumé of training and experience; documentation of continuing education; certification or license, if any; references; job descriptions; records of performance evaluation and advancement; incident reports; and results of tests which establish employee competency.

SECURITY AND SPECIMEN REQUIREMENTS

1. Drug screening laboratories shall be secure at all times and have in place sufficient security measures to control access to the premises, specimen handling and areas where records are stored.

2. Laboratories shall use appropriate internal chain of custody procedures to maintain control and accountability of specimens from receipt through completion of screening, reporting of results, during storage, and continuing until final disposition of specimens.

3. When a shipment of specimens is received, laboratory personnel shall inspect each package for evidence of possible tampering and compare information on specimen bottles within each package to the information on the accompanying chain of custody forms. Any direct evidence of tampering or discrepancies in the information on specimen bottles and the chain of custody forms attached to the shipment shall be immediately reported to the employer and shall be noted on the laboratory's chain of custody form which shall accompany the specimens while they are in the laboratory's possession.

4. Specimen bottles will normally be retained within the laboratory's accession area until all analyses have been completed. Aliquots and the laboratory's chain of custody forms shall be used by laboratory personnel for conducting initial screening.

INITIAL SCREENING

Specimens shall be tested for adulteration by such methods as pH and specific gravity prior to screening.

Initial screening procedures, methodologies or kits shall meet the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs:

Marijuana metabolites . . . . . .50-100 ng/ml
Cocaine metabolites . . . . . .300 ng/ml
Opiate metabolites. . . . . .300 ng/ml

Phencyclidine . . . . . .25 ng/ml
Amphetamines. . . . . .1000 ng/ml

These levels are subject to change by the Department of Health and Hospitals as advances in technology or other considerations warrant identification of these substances at other concentrations.

Specimens that do not receive an initial test within 24 hours of arrival at the laboratory shall be placed in secure refrigeration units where temperatures do not exceed 6°C.

Initial screening shall be completed within 48 hours following receipt of the specimen. If initial screening cannot be completed within 48 hours, the specimen will not be accepted or will be sent to another laboratory for screening.

The screening laboratory shall report all test results to the employer.

Specimens that do not test negative may be forwarded to an appropriate laboratory for confirmation.

All confirmatory testing shall be performed by a laboratory that is CAP-FUDT or NIDA certified if as the result of such testing, mandatory or discretionary consequences will be rendered to the individual, and if drug testing is performed for any or all of the following classes of drugs or metabolites: marijuana, opioids, cocaine, amphetamines and phencyclidine.

STORAGE OF SPECIMENS

The screen laboratory shall retain and place in properly secured frozen storage (-10°C or less) for a minimum of 60 days all specimens that do not test negative.

RECORDS

The screening laboratory shall maintain and make available for at least two years documentation of all aspects of the testing process. Documentation shall include personnel files; chain of custody documents; quality assurance/quality control records; procedure manuals; all test data; reports; performance records on proficiency testing; and hard copies of computer-generated data.

Documents for any specimen under legal challenge shall be retained for an indefinite period.

PROCEDURE MANUAL

The laboratory shall have a procedure manual which includes the principles of each test, preparation of reagents, standards and controls, calibration procedures, derivation of results, sensitivity of the methods, cutoff values, mechanisms for reporting results, controls, criteria for unacceptable specimens and results, remedial actions to be taken when the test systems are outside of acceptable limits, reagent lot numbers and expiration dates, and references. Copies of all procedures and dates on which they are in effect shall be maintained as part of the manual.

INSTRUMENTS AND EQUIPMENT

Volumetric pipettes and measuring devices shall be certified for accuracy or be checked by gravimetric, colorimetric or other verification procedure. Automatic pipettes and dilutors shall be checked for accuracy and reproducibility before being placed in service and checked periodically thereafter.

There shall be written procedures for instrument setup and normal operation, a schedule for checking critical operating characteristics for all instruments, tolerance limits for acceptable function checks and instructions for major trouble shooting and repair. Records shall be available on preventive maintenance.

QUALITY ASSURANCE AND QUALITY CONTROL

The screening laboratory shall have a quality assurance program which encompasses all aspects of the screening process. Quality assurance procedures shall be designed, implemented and reviewed to monitor the conduct of each step of the process of drug screening.

Laboratory quality control requirements for initial screening require that each analytical run of specimens to be screened includes the following:

1. urine specimens certified to contain no drug;
2. positive controls with the drug or metabolite at or near the threshold (cutoff);
3. procedures to ensure that carryover does not contaminate the testing of an individual's specimen;
4. a minimum of 10 percent of all test samples shall be quality control specimens.

STANDARDS AND CONTROLS

Laboratory standards and controls shall be prepared with pure drug standards which are properly labeled as to content and concentration. Standards and controls shall be labeled with the following dates: received; prepared or opened; placed in service and expiration date.

PROFICIENCY TESTING

The laboratory must satisfactorily participate in a state-approved proficiency testing program which contains those drugs and metabolites for which the urine is routinely screened.

Laboratories must satisfactorily participate in one proficiency testing event prior to initial approval and demonstrate continued successful participation to maintain approval. Provisional approval may be issued to a laboratory upon verification of enrollment in an approved proficiency testing program.

The laboratory must authorize the proficiency testing service to send results to the Department of Health and Hospitals for review and maintain records which will document the handling, processing and examination of all proficiency testing samples for a minimum of two years from the date of testing.

The laboratory must assure that proficiency testing samples are analyzed at least quarterly using the same technique as those employed for screening unknown specimens.

The proficiency testing samples must be included with the routine sample run and tested with the same frequency as unknown samples by the individuals responsible for testing unknown specimens.

The laboratory may not engage in discussions or communications concerning proficiency testing results with other laboratories nor may they send proficiency testing samples or portions of the samples to another laboratory for analysis.

SATISFACTORY PROFICIENCY TESTING PROGRAMS

The laboratory must maintain an overall testing event score of at least 80 percent for performance to be considered satisfactory.

Failure to participate in the proficiency testing event will result in a score of 0 percent (zero) for the testing event.

Failure to achieve satisfactory performance in two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

APPROVED PROFICIENCY TESTING PROGRAMS

Laboratories may participate in commercially available proficiency testing programs that are currently available. Ex-

amples of such programs include the College of American Pathologists (CAP), American Association of Clinical Chemistry (AACC), Forensic Urine Drug Testing or Urine Toxicology or the NIOA, National Laboratory Certification Program (NLCP) and American Association of Bioanalysts (AAB). Screening laboratories will only be required to participate in the screening (and not the confirmatory) portions of these programs.

PROTECTION OF EMPLOYEE RECORDS

Consistent with 5 U.S.C. 522a(m) and 48 CFR 24.101-24.104, all laboratory contracts shall require that the contractor comply with the Privacy Act, 5 U.S.C.552a. In addition, laboratory contracts shall require compliance with the patient access and confidentiality provisions of Section 503 of Public Law No. 100-71. The employer shall establish a Privacy Act System of Records or modify an existing system, or use any applicable government-wide system of records to cover both the employer's and the laboratory's records of employee urine drug testing results. The contract and the Privacy Act System shall specifically require that employee records be maintained and used with the highest regard for employee privacy.

INDIVIDUAL ACCESS TO TEST AND LABORATORY APPROVAL RESULTS

In accordance with Section 503 of Public Law No. 100-71, any employee who is the subject of a drug test shall, upon written request, have access to any records relating to his or her drug test and any records relating to the results of any relevant approval, review, or revocation-of-approval proceedings.

INTERIM APPROVAL PROCEDURES

Upon adoption of these rules and regulations employers may continue to submit urine specimens for screening for drugs of abuse to laboratories that have applied for approval to the Department of Health and Hospitals within 60 days for adoption of these rules and regulations for a period of 180 days provided the laboratory has met the certification requirements of the College of American Pathologists (CAP), the Joint Commission on Accreditation of Health Care Organization (JCAHO) or the Department of Health and Human Services (DHHS).

REVOCATION/SUSPENSION

1. General. The secretary shall revoke or suspend the approval of any laboratory approved under these provisions in accordance with these rules and regulations if the secretary determines that revocation or suspension is necessary to ensure the full reliability, accuracy and reporting of drug test results.

2. Factors to Consider. The secretary shall consider the following factors in determining whether revocation or suspension is necessary:

a. unsatisfactory performance in analyzing and reporting the results of drug tests;

b. unsatisfactory participation in proficiency testing or laboratory inspections;

c. conviction for any criminal offense committed as an incident to operation of the laboratory;

d. any other cause which materially affects the ability of the laboratory to ensure full reliability and accuracy of drug tests and the accurate reporting of results.

3. Period and Terms. The period and terms of revocation or suspension shall be determined by the secretary and shall depend upon all the facts and circumstances of the revocation or suspension and the need to ensure accurate and reliable drug screening of the employees.

NOTICES/OPPORTUNITY FOR REVIEW

1. Written Notice. When a laboratory is suspended or the secretary seeks to revoke approval, the secretary will immediately serve the laboratory with written notice of the suspension or proposed revocation by personal service or registered or certified mail, return receipt requested. This notice shall state the following:

a. the reasons for the suspension or proposed revocation;

b. the terms of the suspension or proposed revocation;

c. the period of the suspension or proposed revocation.

2. Opportunity for Informal Review. The written notice shall state that the laboratory will be afforded an opportunity for an informal review of the suspension or proposed revocation as specified in the Administrative Procedure Act.

REAPPROVAL

Following the termination or expiration of any suspension or revocation, a laboratory may apply for reapproval. Upon the submission of evidence satisfactory to the secretary that the laboratory is in compliance with these rules and regulations and any other conditions imposed as part of the suspension or revocation, the secretary may reapprove the laboratory.

If the approval issued to a laboratory has been suspended or revoked because of failure to successfully participate in proficiency testing, the approval may be reinstated only after the laboratory has demonstrated sustained successful performance on three consecutive proficiency testing events.

INSPECTIONS

Prior to a laboratory being approved and at least once a year thereafter, an on-site inspection of the laboratory premises is required. Inspections shall document the overall quality of the laboratory for conducting urine drug testing. The secretary shall reserve the right to perform unannounced inspections of laboratories as well as collection site services.

Notice and Appeal Procedure

NOTICE TO FACILITY OF VIOLATION

When the Department of Health and Hospitals has reasonable cause to believe through an on-site survey, a complaint investigation, or other means that there exists or has existed a reason to revoke/suspend the approval, the department shall give notice of the violation(s) in the following manner:

1. The head of the survey team shall give the laboratory director or his designee oral notice of all violations before leaving the facility.

2. The department shall follow the on-site oral notice with confirmed written notice given by certified mail or hand delivery to the laboratory director.

The written notice given by the department shall:

a. specify the violation(s);

b. cite the legal authority which establishes such violation(s);

c. cite any sanctions which may be assessed if the violation(s) are confirmed;

d. inform the director that the laboratory has 10 days from receipt of notice sent by certified mail or hand delivery

within which to request an administrative appeal and what that appeal must specify;

3. inform the director of the laboratory that the consequences of failing to timely request an administrative appeal will be that the departmental determination is final and no further administrative or judicial review may be had.

REQUEST FOR ADMINISTRATIVE RECONSIDERATION

The laboratory may request an administrative reconsideration of the violation(s) within seven days of receiving notice of the violation(s). This reconsideration shall be conducted by a designated official of the department who did not participate in the initial decision to impose the penalty.

Reconsideration shall be made solely on the basis of the documents before the official and shall include the survey report and statement of violations and all documentation the laboratory submitted to the department at the time of its request for reconsideration. Corrections of a violation shall not be a basis for reconsideration. A hearing shall not be held.

Oral presentations can be made by department spokespersons and laboratory spokespersons. This process is not in lieu of the appeals process and the time will continue to run for filing of an appeal. The designated official shall have authority only to affirm the decision, to revoke the decision, to affirm part and revoke part, or to request additional information from either the department or the laboratory. The official shall render a decision on the reconsideration within three days from the date of receipt of the laboratory's request.

REQUEST FOR ADMINISTRATIVE APPEAL

If the laboratory requests an administrative appeal, such request shall:

1. state which violation(s) the laboratory contests and the specific reasons for disagreement; and

2. be submitted to the Department of Health and Hospitals within 10 days of receipt of the secretary's notice sent by certified mail or hand delivery.

The administrative hearing shall be limited to those issues specifically contested and shall not include any claim or argument that the violation(s) have been corrected. Any violations not specifically contested shall become final. All violations not contested shall become final at the expiration of the appeal request time period.

ADMINISTRATIVE APPEAL PROCESS

1. When an administrative appeal is requested in a timely and proper manner, the Department of Health and Hospitals shall provide an administrative hearing in accordance with the provisions of the Louisiana Administrative Procedure Act. Any party may appear and be heard at any proceeding described herein through an attorney at law or through a designated representative. A person appearing in a representative capacity shall file a written notice of appearance on behalf of the laboratory identifying himself by name, address, and telephone number, and identifying the party represented, and shall have a written authorization to appear on behalf of the laboratory. The administrative law judge conducting the hearing may require the prefiling of any motions by either party no later than the close of business on the third working day prior to the hearing.

2. The requested hearing shall be held within 30 days of the receipt of the request. The administrative law judge shall review all relevant evidence and make a final written determination within 15 days after the administrative hearing.

3. The administrative law judge may assess attorney's fees and costs against the laboratory if it is determined that the laboratory's appeal was frivolous.

4. Although not specifically required for an administrative hearing, the Appeals Bureau may schedule a preliminary conference. The purposes of the preliminary conference, if scheduled, include but are not limited to the following:

a. clarification, formulation and simplification of issues;

b. resolution of matters in controversy;

c. exchange of documents and information;

d. stipulations of fact so as to avoid unnecessary introduction of evidence at the formal review;

e. the identification of witnesses; and

f. such other matters as may aid disposition of the issues.

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

6. Where the preliminary conference resolves all or some matters in controversy, a summary of the findings agreed to at the conference shall be provided by the administrative law judge. Where the preliminary conference does not resolve all matters in controversy, an administrative hearing shall be scheduled on those matters still in controversy. The hearing shall be scheduled to conform to the time limits outlined in these rules on those matters still in controversy.

7. When an administrative hearing is scheduled, the Appeals Bureau shall notify the laboratory and/or its attorney and the agency representative, in writing, of the date, time and place of the hearing. Notice shall be mailed not less than 10 calendar days before the scheduled date of the hearing.

a. The administrative appeal hearing shall be conducted by an administrative law judge from the Appeals Bureau.

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

c. Each party shall have the right to call and examine parties and witnesses; to introduce exhibits, to question opposing witnesses and parties on any matter relevant to the issue even though the matter was not covered in the direct examination; to impeach any witnesses regardless of which party first called him to testify; and to rebut the evidence against him.

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

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

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

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

h. The burden of producing evidence as to a particular fact is on the party against whom a finding on that fact would be required in the absence of further evidence.

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

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

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

l. The administrative law judge may continue the matter when such continuance will not jeopardize the health, safety, rights, or welfare of the laboratory's clients.

m. The administrative law judge may continue a hearing to another time or place, or order a further hearing on his own motion or upon showing of good cause, at the request of any party, provided that the time limits set by these rules are met.

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

i. continue the hearing to a later date and order the party to produce additional evidence; or

ii. close the hearing and hold the record open in order to permit the introduction of additional documentary evidence. Any evidence so submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

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

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

q. At the conclusion of the hearing, the administrative law judge shall take the matter under submission. The administrative law judge shall prepare a written proposed decision which will contain findings of fact, a determination of the issues presented, a citation of applicable policy and regulations, and an order.

r. The administrative law judge shall make specific written findings as to each violation that was contested by the laboratory. The administrative law judge shall have authority to affirm, reverse, or modify the findings or penalties of the department. The administrative law judge shall transmit such findings by certified mail or hand delivery to the laboratory at the last known address within the time periods stated in these rules and by regular mail or hand delivery to the department and other affected parties.

s. If a laboratory representative fails to appear at a hearing, a decision may be issued by the administrative law judge dismissing the appeal hearing and making the departmental findings final. A copy of the decision shall be mailed to each party.

t. Any dismissal may be rescinded upon order of the Appeals Bureau if the laboratory's representative makes written application within 10 calendar days after mailing of the dismissal, provides evidence of good cause for his failure to appear at the hearing, and no delay beyond the time limits outlined in these rules results.

JUDICIAL REVIEW

1. If the results of the administrative hearings are adverse to the laboratory, the laboratory may request a judicial review of such matters to the Nineteenth Judicial District Court within 15 days of receipt of such findings. Such appeal shall be suspensive.

2. At the conclusion of the judicial review, the court shall enter an appropriate order either reversing, modifying, or upholding the Department of Health and Hospitals' findings. Any party aggrieved by the decision may seek further appeals as authorized by the Administrative Procedure Act and the Code of Civil Procedure.

J. Christopher Pilley
Secretary

RULE

Department of Public Safety and Corrections
Office of State Fire Marshal

In accordance with 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 the State Fire Marshal has adopted the following rules relative to the minimum life safety standards for plans and specifications of new construction.

Title 55
PUBLIC SAFETY
Part V. Administrative Rules on Fire Protection

Chapter 1. Preliminary Provisions

§103. General Provisions

* * *

F. With regards to buildings constructed or remodeled between February 19, 1989 and May 31, 1992 or whose construction was timely completed pursuant to plans submitted to the Office of State Fire Marshal prior to May 31, 1992, inspections will be made utilizing the new construction requirements set forth in the 1988 edition of the Life Safety Code of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings published by 1985 edition of the Standard Building Code of the Southern Building Code Congress International, Inc.

G. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1992 will be made utilizing new construction requirements set forth in the 1991 edition of the Life Safety Code of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings pub-

lished by the 1988 edition of the Standard Building Code of the Southern Building Code Congress International, Inc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1578.6.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), LR 9:417 (June 1973), LR 15:96 (February 1989), LR 17: (November 1991).

Chapter 3. Buildings

§303. Plans and Specifications for New Buildings

A. The plans and specifications for all buildings constructed after June 1, 1992, for all existing buildings which were remodeled or renovated after June 1, 1992, and for all structures in which a change of occupancy classification occurs after June 1, 1992, shall be prepared in accordance with the minimum requirements for new construction contained in the 1991 edition of the Life Safety Code of the National Fire Protection Association (NFPA 101) and Section 506-Special Protection for High-Rise Buildings, of the 1988 edition of the Standard Building Code published by the Southern Building Code Congress International, Inc.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1578.6.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:143 (February 1975), amended LR 5:468 (December 1979), LR 6:72 (February 1980), amended by the Office of the State Fire Marshal, LR 7:344 (July 1981), LR 7:588 (November 1981), LR 9:417 (June 1983), and LR 12:116 (February 1989), LR 17: (November 1991).

V.J. Bella
State Fire Marshal

RULE

Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section

Under the authority of R.S. 32:1501 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section hereby adopts revisions to LAC 33:V Chapter 103.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Materials and Hazardous Waste
Subpart 2. Department of Public Safety and Corrections—Hazardous Materials
Chapter 103. Motor Carrier Safety and Hazardous Materials Regulations for Carriage by Public Highway

§10301. General Provisions

A. Through contract between the Department of Public Safety and Corrections and the United States Department of Transportation, the state has agreed to adopt and assume responsibility for enforcing certain federal regulations as required by 49 CFR 350.11 and additional regulations listed below. The authority to adopt such regulations is provided in R.S. 32:1501 et seq.

B. Only the Office of State Police may enforce the regulations adopted or enacted under this Chapter.

C. Any term used in these rules is used in its commonly accepted meaning except where the term has been specifically defined in R.S. 32:1502 or 49 CFR.

D. All rules or parts of rules adopted pursuant to R.S. 32:1504 that relate to highway transportation regulations and promulgated prior to January 20, 1988, are hereby repealed.

E. All authorizations for alternate means of compliance with prior regulations as provided in R.S. 32:1506, and all special permits and exemptions as provided in R.S. 32:1507, which relate to highway transportation and granted prior to January 20, 1988, are hereby revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17: (November 1991).

§10303. Adopted Regulations

A. The following federal Motor Carrier Safety Regulations and Hazardous Materials Regulations promulgated by the United States Department of Transportation, revised as of June 30, 1991, and contained in the following parts of CFR 49, as now in effect or as hereafter amended, are made a part of this Chapter.

HAZARDOUS MATERIALS REGULATIONS

Part 171 - General Information, Regulations, and Definitions
Part 172 - Hazardous Materials Tables and Hazardous Materials Communications Regulations
Part 173 - Shippers - General Requirements for Shipping and Packagings
Part 177 - Carriage by Public Highway
Part 178 - Shipping Container Specifications
Part 180 - Qualification and Maintenance of Packagings

MOTOR CARRIER SAFETY REGULATIONS

Part 383 - Commercial Drivers' License Standards
Part 390 - Federal Motor Carrier Safety Regulations: General
Part 391 - Qualifications of Drivers
Part 392 - Driving of Motor Vehicles
Part 393 - Parts and Accessories Necessary for Safe Operation
Part 395 - Hours of Service of Drivers
Part 396 - Inspection, Repair, and Maintenance
Part 397 - Transportation of Hazardous Materials, Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17: (November 1991).

§10305. Applicability of Regulations

A. For the purpose of this Chapter, the federal regulations, as adopted or amended herein, shall govern all carriers, drivers, persons or vehicles:

1. to which the federal regulations apply;

2. engaged in the transportation of hazardous materials within this state.

B. For the purpose of this Chapter, the federal motor carrier safety regulations, as adopted or amended herein, shall also govern all carriers, drivers, persons or vehicles not

subject to the federal regulations if the operated vehicle has a single or combined gross vehicle weight rating greater than 20,000 pounds and is used in commerce or industry.

C. The adopted federal regulations applicable to all carriers, drivers, persons or vehicles set forth in Subsections A and B of this Section shall be amended as follows.

1. For the adopted regulations governing all carriers, drivers or vehicles as specified in Subchapter B, substitute "20,000 pounds" for all references made to "10,000 pounds."

2. Part 391.11(b)(1) shall read, "is at least 21 years old, or is at least 18 years old and lawfully possesses an appropriately classified driver's license secured from the Louisiana Department of Public Safety and Corrections."

3. If a driver has been regularly employed by a motor carrier for a continuous period of no less than three years immediately prior to January 20, 1988, such driver is exempt from complying with Sections 391.21, 391.23, 391.33 and 391.41(b)(1), (2), (3), (4), (5), (10) and (11). The medical examiner's certificate must display upon its face the inscription "MEDICALLY UNQUALIFIED OUTSIDE LOUISIANA" when a driver is qualified in accordance with the provisions stated herein. However, should such a driver be no longer regularly employed by the carrier that qualified the driver for exemption from any of the noted regulations, the driver shall reapply, transfer or be subject to the provisions stated herein.

4. When applicable, the words "Louisiana Department of Public Safety and Corrections" and/or "Office of State Police" shall be substituted where "U.S. Department of Transportation," "Federal Highway Administration," "Federal Highway Administrator," "Director," "Bureau of Motor Carrier Safety," or "Office of Motor Carrier Safety" appear.

5. Where special U.S. Department of Transportation forms or procedures are specified or required, substitute the compatible Louisiana Department of Public Safety and Corrections forms or procedures if such are required by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 14:298 (May 1988), LR 17: (November 1991).

§10307. Assessment of Civil Penalties

A. Any person who is determined by the secretary of the Department of Public Safety and Corrections, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of R.S. 32:1501 et seq., or adopted or promulgated regulations as provided in this Chapter, is subject to a civil penalty not to exceed the amount determined by applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17: (November 1991).

§10309. Recovery of Civil Penalties

A. To enforce the collection of a civil penalty levied after due process upon a person determined by the secretary of the Department of Public Safety and Corrections to have committed an act that is a violation of R.S. 32:1501 et seq. or adopted or promulgated regulations as provided in this Chapter, the secretary:

1. may order the removal of the offending vehicle's license tag if the registration is from this state;

2. may seize any vehicle not registered within the state which is owned by the person or company in violation;

3. shall have the driver's or operator's license suspended for a violation(s) committed by the driver or operator.

B. The secretary shall enforce the provisions of Subsection A as follows:

1. The removal of a vehicle's license tag shall be completed and, upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

2. When the person or company fails to remit a levied civil penalty within 90 days subsequent to the seizure of a vehicle as authorized in this Section, the Department of Public Safety and Corrections shall collect the penalty in a manner consistent with applicable portions of R.S. 32:521 et seq.

3. The suspension of a driver's license shall be completed and, upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 14:448 (July 1988), LR 17: (November 1991).

§10311. Records of Violations

Records of violations of adopted or promulgated regulations as provided in this Chapter shall not be subject to the requirements of R.S. 32:393.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17: (November 1991).

Marlin A. Flores
Deputy Secretary

RULE

Department of Social Services
Office of Community Services

Title 67
Part V. Office of Community Services
Chapter 1. Low Income Home Energy Assistance Program

§101. Authority

The Low Income Home Energy Assistance Program (LIHEAP) Block Grant provides grants to states for financial assistance to low income families to reduce the burden of home energy costs. The Low Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981) authorized LIHEAP.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§103. Program Goals

A. The primary goal of the Low Income Home Energy Assistance Program (LIHEAP) is to assist eligible households to meet the cost of home energy for heating and cooling.

B. The second goal is to conserve energy and reduce energy costs of these households through the weatherization of their dwelling units.

C. The third goal is to provide for energy crisis intervention in instances of weather-related and supply shortage emergencies.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§105. Funding Utilization

A. From the funds made available to the State of Louisiana annually under the Low Income Home Energy Assistance Block Grant, the Office of Community Services (OCS) may make allocations to other programs according to federal law and subject to the approval of a state plan adopted by the state of Louisiana and approved by the U.S. Department of Health and Human Services.

B. Prior to the adoption of a state plan by the agency, the report is made available for public review and written comments and at least one hearing is conducted in a major metropolitan area of the state.

C. The plan is available for review at the Office of Community Services, 1755 Florida Boulevard, Baton Rouge, LA. Costs for copies are established by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§107. Administration

LIHEAP is administered by the Department of Social Services through the Office of Community Services (OCS). Assistance is delivered through contracts negotiated by the Office of Community Services with designated community action agencies, local governmental units and qualifying recognized Indian tribal organizations.

A. Office of Community Services Responsibilities

The Office of Community Services is responsible for:

1. Development of the State Plan in accordance with Section 2605 of Title XXVI of Public Law 97-35.

2. Establishing policy and providing policy interpretations relating to contract compliance, overall program issues and federal regulations.

3. Developing, monitoring and managing contracts for service delivery with providers and providing the providers with technical assistance.

4. Monitoring and evaluating the statewide LIHEAP program, utilizing on-site visits, field data collection instruments and service reports in the evaluation process.

B. Responsibilities of Home Energy Assistance Providers

In accordance with state policy and Section 2605 (b)(7) of Title XXVI of the Low Income Home Energy Assistance Act of 1981, as amended, home energy assistance providers are:

1. To conduct outreach activities designed to assure that eligible households, particularly households with elderly individuals or handicapped individuals, are made aware of energy related assistance.

2. To take applications.

3. To determine eligibility.

4. To notify participating households of the amount of assistance paid to vendors on their behalf.

5. To make payments to energy suppliers on behalf of participating households.

6. To effect a written agreement with local home energy suppliers such that the home energy suppliers agree:

a. not to charge eligible assisted households more than the difference between energy assistance payments and actual outstanding home energy bills, or actual monthly rent, should the applicant be a renter and the energy cost is included in the rent;

b. not to treat eligible households adversely because of such assistance under applicable provisions of state law or public regulatory requirements;

c. not to discriminate in the cost of the goods supplied or the services provided against eligible households on whose behalf payments are made.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§109. Eligibility for Services

A. Definitions relating to eligible households:

1. Household means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common, or who make payments for energy included in the rent;

2. Income means all non-exempt gross income received by members of a household on a regular or predictable basis for one month, or all annualized non-exempt income received by members of a household on an irregular or fluctuating basis;

3. Housing unit means a house, a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

B. Eligible Categories. Home Energy Assistance services are targeted to two eligible categories of individuals:

1. Categorically eligible households are households in which one or more individuals are receiving the following during the month of application and there is no additional income:

a. AFDC (Aid to Families with Dependent Children)

b. SSI (Supplemental Security Income)

c. Food Stamps

d. Veterans and VA Survivors Pensions under Section 415, 512 or 542 of Title 38 of the United States Code.

2. Income eligible households are households with gross incomes which do not exceed 150 percent of the poverty level as established by the U.S. Department of Health and Human Services.

C. Eligibility Factors. LIHEAP service eligibility depends upon a household having a defined need for the service. Any household at least partially responsible for meeting its residential energy costs is considered vulnerable. Households are eligible when the household:

1. is categorically eligible, or

2. is income eligible, and

3. is considered to be vulnerable.

AUTHORITY NOTE: Promulgated in accordance with

Pub. L. 97-35, Sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§111. Allowable Home Energy Payments

The amount of the energy assistance paid to energy suppliers on behalf of eligible households is based on a formula which is published in a state plan developed by the Office of Community Services in compliance with Title XXVI.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§113. Service Delivery

A. Administrative responsibility for reviewing eligibility and certifying households for home energy assistance and weatherization services rests with the individual community action agencies under contract to provide such services. Identification of provider agencies in each parish is contained in the state plan which is available for review at the Office of Community Services.

B. Service Delivery Requirements

1. All property owners and renters shall be treated equitably.

2. A uniform eligibility criterion will be applied to all households requesting heating and cooling benefits.

3. To the degree possible, an application form will be completed at the time an individual requests services and eligibility will be determined at the time the application is taken.

4. In no instance may an eligibility decision (disposition of application) exceed 30 calendar days from the date of application.

5. To the degree possible, a service should be delivered within 15 consecutive working days after the client is notified of his eligibility.

6. In no instance may the date of the service delivery exceed 60 calendar days from the date of the eligibility decision (disposition of application).

7. If the requested service cannot be provided, the client's request for the service shall be denied and he shall be notified in writing of the denial and given the right to a fair hearing.

8. Recipients of home energy assistance may apply every six months from the previous date of eligibility certification.

9. Notification of amount of assistance paid to vendors on their behalf must be sent to participating households.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§115. Available Information

The LIHEAP State Plan is available for review at local delivery sites and the Office of Community Services, 1755 Florida Boulevard, Baton Rouge, LA. Costs for copies are set by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

May Nelson
Secretary

RULE

Department of Social Services
Office of Community Services

Title 67
Part V. Office of Community Services
Chapter 2. Social Services Block Grant Program

§201. Authority

The state administers the Social Services Block Grant through the Department of Social Services, Office of Community Services in accordance with Title XX of the Social Security Act as amended by the Omnibus Budget Reconciliation Act of 1981 (PL 97-35), and with applicable federal regulations including 45 CFR Part 96 - Block Grants. The Office of Community Services of the Department of Social Services is responsible for the administration and delivery of services through direct provision and purchase of services.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§203. Federal Goals of Block Grant Program

The Goals of the Block Grant Program are:

A. Achieving or maintaining economic self-support to prevent, reduce or eliminate dependency;

B. Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

C. Preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families;

D. Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care or other forms of less intensive care;

E. Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§205. Services

A. Services provided under the Social Services Block Grant are defined annually in the final Intended Use Report which complies with Section 2004 of the Block Grant Statute and other federal regulations approved by the U.S. Department of Health and Human Services.

B. Prior to the adoption of the Intended Use Report by the agency, the report is made available for public review and written comments and at least one hearing is conducted in a major metropolitan area of the state. Notices are published in the official state journal and other major newspapers announcing public review.

C. Provision of services is based on the following categories of priorities:

1. Priority 1. - life support services which if denied would place individuals at life threatening risk;

2. Priority 2. - essential services, although non-life support, would maintain individual health and support the family unit; and

3. Priority 3. - those services which are important but do not meet the criteria of 1 and 2 above or are available from another source.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§207. Eligibility

A. Certain individuals and categories of individuals may be eligible for services according to federal regulations. These are:

1. Individuals, without regard to income, who are in need of adoption, child protection investigations, family services and/or foster care/residential habilitation services.

2. Individuals without regard to income who are recipients of Title IVE Adoption Assistance as amended by U.S. Public Law 96-272 including adoption assistance recipients who relocate to Louisiana from another state that is signatory to the Interstate Compact on Adoption and Medical Assistance.

3. Individuals without regard to income who are currently certified as classmembers in the federal class action judgement *Gary W. et al v. State of Louisiana et al*, United States District Court, Eastern District of Louisiana, Civil Action No. 74-2412, who are in need of any service (including children's day care) provided under the Intended Use Report.

4. Recipients of Aid to Families with Dependent Children (AFDC) and those persons whose needs were taken into account in determining the needs of AFDC recipients.

5. Recipients of Supplemental Security Income payments, or state supplemental payments, and blind and disabled individuals eligible for such payments except for their earned income.

6. Families with gross incomes which do not exceed 150 percent of the poverty level, as published yearly by the U.S. Department of Health and Human Services in the *Federal Register. Family* is defined as the basic family unit consisting of one or more adults and children, if any, related by blood or law and residing in the same household.

a. Where adults other than spouses reside together, each is considered a separate family.

b. Cohabitating non legal spouses are considered separate families.

c. When children are present in the home with non legal spouses, the parent who has primary responsibility for the care of his/her natural children are considered as being in the same family unit with the children.

d. Emancipated minors, foster children and children living under the care of individuals not legally responsible for their care are considered one person families.

7. Title XIX (Medicaid) recipients and applicants for Title XIX (Medicaid) vendor payment for Skilled Nursing Facility or Intermediate Care Facility services, residing within the state, are eligible for any appropriate service except Day Care for Children which requires applicants meet additional eligibility criteria which are described in the final Intended Use Report.

8. Residents of the Housing Authority of New Orleans projects and related sites are group eligible for necessary and available services with the exception of Day Care for Children, which maintains special eligibility criteria which are described in the final Intended Use Report.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§209. Responsibility for Eligibility Determination

A. Administrative responsibility for determining individuals eligible for direct delivered service and vendor services, and for certifying groups eligible for services, rests with the Office of Community Services.

B. Administrative responsibility for certifying individual applicants eligible for purchased social services rests with individual providers, unless otherwise specified.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§211. Copayments

A. The Office of Community Services may allow for copayments to be collected from recipients of certain services when the cost of providing the services exceeds the Office of Community Services reimbursement rate according to sliding fee scales which may be established by the Department of Social Services. Any sliding fee scales which are adopted during a year are available to the public for review at the Office of Community Services.

B. The copayment collected from a service recipient plus the Office of Community Services' reimbursement rate may meet but shall not exceed the actual cost or usual fee for delivering the service. The family/client will be furnished a copy of the sliding fee scale for their information.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§213. Funding

The appropriation and allocation of funds are subject to legislative and gubernatorial approval as well as the availability of federal and state funds. Louisiana's federal allotment of Social Services Block Grant funds is determined each fiscal year.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§215. Available Information

The final Intended Use Report is available for review at the Office of Community Services, 1755 Florida Boulevard, Baton Rouge, LA. Costs for copies are established by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

May Nelson
Secretary

RULE

Department of Social Services
Office of Community Services

Title 67
Part V. Office of Community Services
Chapter 3. Weatherization Assistance Program

§301. Authority

The Weatherization Assistance Program provides grants to states for material and labor to weatherize dwelling units of low income households, especially the handicapped and elderly. The program was established by Public Law 94-385 of 1976 (42 USC 6861 et seq.) and is funded through Department of Energy appropriated funds, Petroleum Violation Escrow funds and Low Income Home Energy Assistance funds.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§303. Goals of the Weatherization Assistance Program

A. To reduce national energy consumption, particularly imported oil.

B. To reduce the impact of higher fuel costs.

C. To improve the comfort level of low income families, especially the elderly and handicapped.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§305. Administration

A. The Department of Social Services, Office of Community Services administers the Weatherization Program through contractual agreements with non-profit contractors located throughout the state. The Office of Community Services is responsible for:

1. preparation of the State Plan and Federal Grant Application;
2. selection of contractors;
3. development of policies and procedures within the parameter of federal regulations;
4. interpretation of policies relating to federal regulations, program issues and compliance;
5. negotiating and monitoring contracts;
6. federal reporting and grants management.

B. Contractors are responsible for the development and implementation of the Weatherization Program which serves the eligible persons in their designated parish.

C. Contractors are selected and evaluated on experience and performance in weatherization, experience in assisting low income persons in the area to be served and the capacity to undertake a timely and effective weatherization program.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§307. Contractor Responsibilities

Contractors are responsible for performing the following in accordance with U.S. Department of Energy pursuant to 10 CFR 440 regulations and policies and procedures by and available from the Office of Community Services.

A. Outreach activities designed to assure that eligible households, particularly households with elderly or handicapped individuals, are made aware of the Weatherization Assistance Program.

B. Determination of eligibility and documentation of eligibility determination for applicant households.

C. Provision of weatherization improvements to residences of eligible low income households.

D. Adherence to fiscal specifications regarding expenditures per dwelling unit.

E. Coordination of activities with similar and related programs administered by the state and federal government.

F. Establishment of fiscal control and fund accounting procedures necessary to assure proper disbursal of and accounting of federal funds paid.

G. Preparation and submittal of reports and information required by state and federal program administrators.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§309. Eligibility Factors

Eligibility for the Weatherization Assistance Program is based on verified documented alien status, categorical or income eligibility and dwelling unit eligibility.

A. Alien Status. Certain aliens who have been granted lawful status under Section 245A and Section 210A of the Immigration and Nationality Act are temporarily excluded from participating in the Weatherization Assistance Program. An alien verification form must be completed.

B. Categorical Eligibility. Households are categorically eligible if it is verified that one or more persons are, at the time of application or within the 12 months prior to the application, receiving at least one of the following, and there is or has been no counted income:

1. Aid to Families with Dependent Children (AFDC);
2. Supplemental Security Income (SSI);
3. Food Stamp Benefits;
4. Veterans and Veterans Survivor's Pensions under

Section 415, 512, 541 or 542 of Title 38 of the U.S. Code.

C. Income Eligibility. Income eligible applicants are those individuals whose household income is at or below 150 percent of the poverty level determined in accordance with the criteria established by the U.S. Director of the Office of Management and Budget. Income means total annual cash receipts before taxes from all sources including:

1. money wages and salary;
2. net income from non-farm self employment;
3. net income from farm self employment;
4. Social Security pensions, survivor's benefits and permanent disability insurance;
5. dividends, interest on savings or bonds and unearned income;
6. pensions and annuities;
7. unemployment compensation;
8. worker's compensation;
9. alimony;
10. child support;
11. veteran's pension.

D. Dwelling Unit Eligibility

1. A single family unit shall be eligible if:

a. it is occupied by a family unit who is income eligible;

b. contains a member who was categorically eligible during the 12-month period preceding the determination of eligibility;

c. has been pre-inspected and found to need one or more of the priority measures under §315.

2. A multi-family unit containing rental dwelling units is eligible if all requirements for a single family dwelling unit are met and it meets the following additional criteria.

a. The applicant resident is income or categorically eligible.

b. The contractor has obtained written permission of the owner to weatherize the dwelling units.

c. A certain percent of the families (as specified in the state plan) living in the dwelling units are eligible under income guidelines.

d. The dwelling units are eligible or will become eligible within 180 days under a federal, state or local government program for rehabilitating the building.

e. The contractor has insured the following:

i. rent shall not be raised because of the increased value of the dwelling units due solely to weatherization assistance provided;

ii. no undue enhancement shall occur to the value of the dwelling units.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§311. Application Process

A. Applicants for weatherization services should apply to the contractor for the parish in which the applicant resides.

B. The application process includes:

1. a determination of eligibility as per §309;

2. a pre-inspection of the dwelling unit by the contractor to estimate the quantity and cost of materials and labor needed to perform weatherization services;

3. assignment of a priority ranking to the applicant. Applicants are ranked using guidelines which include the following and give priority to the elderly and handicapped:

a. applicant's age,

b. household income,

c. handicap,

d. type of fuel used,

e. length of time application has been on file,

f. condition of the dwelling unit,

g. other factors which in the discretion of the interviewer are not covered in the ranking but take into account other important existing conditions;

4. disposition of the application;

a. Households are certified only if they meet all eligibility tests, and a Notice of Eligibility is sent to the applicant.

b. If the requested service cannot be approved, the request is denied, and the applicant is notified in writing giving the reason for the denial and informing the applicant of his right to appeal the decision by requesting a fair hearing.

c. Applications are considered incomplete rather than service denied if the applicant fails to follow through in providing necessary verifications.

5. notification of the right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§313. Updating Eligibility Information

A. An applicant who is determined eligible remains eligible for one year with no new documentation required unless new information is acquired that indicates a change in status that could render the applicant ineligible.

B. If one year elapsed since eligibility was determined or if there was a change in status of the applicant, new documentation and a new determination of eligibility is made before any weatherization work is begun.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§315. Types of Weatherization Work

A. The following is a list of mandatory retrofits which must be in place or accounted for before a unit can be reported as a completed unit to the state and U.S. Department of Energy:

1. General heat waste measures (caulking, weatherstripping, replacement panes, windows and doors, hot water heater blanket, set back thermostat, low flow showerhead);

2. Insulation of ceilings (R-19);

3. Skirting of exposed foundations or floors.

B. The following optional measures are allowable after the mandatory retrofits have been addressed:

1. Insulation of floors;

2. Insulation of walls;

3. Insulation of partially insulated ceilings;

4. Storm windows (allowable only if the cost of materials and installation does not exceed per foot cost ceilings established by the U.S. Department of Energy).

C. Limits on expenditures per dwelling unit are established by federal regulations issued by the U.S. Department of Energy at 10 CFR Part 440. Within expenditure limits, an average of at least 40 percent must be spent for materials and no more than 60 percent can be spent on program support. Within established limits, incidental repairs necessary for the effectiveness or preservation of weatherization measures and materials can be done.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§317. Weatherization Standards

A. The Weatherization Assistance Program requires the use of audit procedures to determine the most cost effective weatherization measures. Project Retro Tech is used in Louisiana's Weatherization Assistance Program.

B. Standards for materials and installation are established by the U.S. Department of Energy.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§319. Evaluation of Contractors

Contractors are evaluated by the Office of Community Services based on financial and programmatic reports submitted by contractors and results of monitoring and financial reviews conducted by the Office of Community Services personnel.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

§321. Available Information

Specific information relating to standards for installation and program regulations are contained in the Weatherization Assistance Program State Plan and the Weatherization Assistance Program Policy and Procedure Manual which are available for review in the Office of Community Services, 1755 Florida Boulevard, Baton Rouge, LA. Costs for copies are established by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17: (November 1991).

May Nelson
Secretary

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

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

The Louisiana Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

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

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

Size Limit: 15 inch - 19 inch slot

Daily Take: 8 fish - of which no more than two fish may exceed 19 inches maximum total length.*

Possession Limit: On Water - Same as daily take
Off Water - Twice the daily take

A 15 - 19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

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

Size Limit: 14 - 17 inch slot

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

Possession Limit: On Water - Same as daily take
Off Water - Twice the daily take

A 14 - 17 inch slot means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

* Maximum total length - The distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

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

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:489 (May 1991), amended LR 17:

James H. Jenkins, Jr.
Chairman

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission hereby amends the Joint Louisiana/Texas Toledo Bend and Caddo Lake Sportfishing Reciprocal Agreement that became effective April 1, 1991.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing
§110. Toledo Bend Reciprocal Agreement

The daily creel limit, (daily take), for black bass (*Micropterus spp.*) is set at eight fish and the minimum total length is set at 14 inches in Toledo Bend Reservoir and Caddo Lake.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (c), 326.3, 673.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 14:548 (August 1988), amended LR 17:278 (March 1991), LR 17: (1991).

James H. Jenkins, Jr.
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Forestry
and
Department of Revenue and Taxation
Tax Commission

The Department of Agriculture and Forestry, Office of Forestry, and the Department of Revenue and Taxation, Tax Commission, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of their intent to amend LAC 7:XXXIX.20101, Stumpage Values, as follows:

Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry

Chapter 201. Timber Values
§20101. Stumpage Values

The Office of Forestry and the Tax Commission, as required by R.S. 3:4343, adopts the following timber stumpage values, based on current average stumpage market values, to be used for severance tax computations for 1992:

1. Pine Sawtimber	$ 191.95 per M bd. ft.
2. All Hardwoods	$ 89.91 per M bd. ft.
3. Pine Pulpwood	$ 21.83 per Cord
4. Hardwood Pulpwood	$ 9.12 per Cord

Interested persons may submit written comments to: Don Feduccia, Office of Forestry, Box 1628, Baton Rouge, LA 70821-1628. Comments will be accepted through the close of business at 4:30 p.m. on Friday, December 27, 1991.

Paul D. Frey, State Forester
Office of Forestry

Mary K. Zervigon, Chairman
Tax Commission

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Timber Stumpage Values for 1992

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

There are no additional implementation costs or savings to state or local units as a result of this rule change.

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

Estimated revenue for calendar year 1991 for timber severance taxes should be approximately $8.5 million. For calendar year 1992, pine sawtimber will be assessed at $191.95/MBF, pine pulpwood assessed at $21.83/cord, hardwood sawtimber will be assessed at $89.91/MBF and hardwood pulpwood assessed at $9.12/cord. Assuming production levels during 1992 will increase roughly one percent expected revenue from timber severance should increase to approximately $8.7 million. The State Treasury receives 25 percent of this tax and the parish from which the timber is severed receives 75 percent.

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

Purchasers of timber will be affected. However, the exact dollar amount is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The requirement of this office to assess market values of severed forest products and timber, with the approval of the parish governing authority and the Louisiana Tax Commission, has been in effect for many years. The prevailing rate at which these values will be taxed has not changed. There should be negligible, if any, effect on competition and employment.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Agriculture and Forestry

In accordance with R.S. 49:950 et seq., the Department of Agriculture and Forestry gives notice that rulemaking

procedures have been initiated for the adoption of L.A.C. Title 7, Part I, Chapter 1, Section 105. This rule will establish form and procedure for persons wishing to submit petitions for adoption, amendment or repeal of rules.

This rule complies with provisions of R.S. 49:953 (C).

Title 7
AGRICULTURE AND ANIMALS
Part I. Administration
Chapter 1. Administrative Procedure
§105. Petitions for adoption, amendment or repeal of rules; form and procedure

A. Petitions for the adoption, amendment or repeal of rules or regulations shall be submitted to the Commissioner of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806.

B. Petitions must be in writing and shall state the name and address of an individual who may be contacted relative to the contents of the petition.

C. Petitions shall fairly state the action sought. If the petitioner seeks to amend or repeal an existing rule or regulation, the petitions shall cite said rule or regulation.

D. In the case of adoption of wholly new rules and regulations, petitions shall state the law granting the authority for the adoption of the proposed rules and regulations.

E. Petitions for the adoption, amendment or repeal of rules or regulations shall be considered within the time period provided for in the Louisiana Administrative Procedure Act. Petitions shall either be denied in writing, stating reasons for the denial, or rule making proceedings initiated in accordance with said Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, LR 18:

A public hearing on these proposed regulations will be held on December 30, 1991 in Baton Rouge, LA at the Department of Agriculture and Forestry Building at 5825 Florida Boulevard at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at that hearing. Interested persons may submit data, views or arguments in writing to: R.S. Stark, Legal Division, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Petition for adoption, amendment or repeal of rules; form and procedure

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

No costs or savings to state or local governmental units is anticipated as a result of implementing the proposed rule.

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

No effect on revenue collections of state or local governmental units is anticipated.

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

No costs and/or economic benefits to directly affected persons is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Richard Allen
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Board of Architectural Examiners

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rule-making procedures have been initiated to amend LAC 46:I.1117 pertaining to continuing education and accreditation therefor. The board proposes to clarify and simplify the existing rule, and replace it with the following:

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 11. Administration
§1117. Continuing Education Accreditation

A. The Louisiana State Board of Architectural Examiners at the time of granting a new license, or upon renewal of a license, shall issue a certificate of Board Continuing Education Accreditation to every architect who furnishes satisfactory evidence of having achieved the board's requirements for such continuing education accreditation.

B. The term "Louisiana Board Continuing Education Accredited" or its abbreviation "Continuing Ed. Accredited" followed by the current year, when used by an architect licensed to practice in Louisiana, shall mean that the architect is recognized by the board as having attained continuing education credits currently required by rules of the board. No architect shall use such term during any year in which the architect has not received the accreditation described herein.

C. Qualifying for Board Continuing Education Accreditation

To qualify for Board Continuing Education Accreditation a candidate must furnish proof of not less than 1.2 Continuing Education Units (CEUs). Only CEUs earned between January 1 and December 31 of the year immediately prior to applying for accreditation will be recognized.

D. Continuing Education Units

One CEU is the equivalent of 10 contact hours of instruction. CEUs may be expressed in tenths, e.g., 10 contact hours = 1.0 CEUs. For each contact hour of participation in an approved program, as defined herein, the candidate for continuing education credits will receive credit for .1 CEU. A contact hour consists of at least 50 minutes of instruction. Contact refers to time learners spend with an instructor.

The board will not approve continuing education credit

for any program which has not been approved prior to its presentation.

E. Approved Programs

An approved program is a program which has been approved by the board prior to its presentation. The approved program sponsor will issue a Credit Certification Form to each person attending such program certifying each candidate's participation in such program and the number of CEUs earned. The program sponsor will also certify each person's participation to the board.

Course Sponsors who propose to offer approved programs shall submit the following information on forms provided by the board for approval by the board.

1. Course Sponsor - name, address, phone number.

2. Course Description - detailed description of subject matter and course offering; length of instructional period; instruction format; lecture, seminar, conference, workshop; and presentation method, electronic, visuals, and printed materials.

3. Course Instructor/Leader - names, addresses and phone numbers of instructor/leader; educational and professional credentials for each; professional references.

4. Time, Place and Cost - date, time and location of course offerings; and attendance fees and cost of course materials.

5. Course Completion Certification - sponsor's method for verifying attendance, participation and achievement of program learning objective.

6. Course Information Dissemination - method for informing architects of program offering; the course sponsor is responsible for submitting such information sufficiently in advance of the program so that the board may comprehensively analyze and question same.

F. Board Approval

The board is authorized to approve programs. Special consideration will be given to programs which help to remedy problems connected with newly discovered risks and risks for which there are few or no available courses in existing architectural curricula in Louisiana. Once a program has been approved, the board shall not have the authority to disapprove CEUs earned in such program.

The board will not approve continuing education credit for any program which has not been approved prior to its presentation.

The board shall annually promulgate an official Summary of Continuing Education Program Subjects to accomplish its continuing education objectives. Copies of the board's current Summary of Continuing Education Program Subjects is available upon request.

G. Procedure for Obtaining Certificate of Accreditation

On or prior to February 1 of the year following completion of the required courses, a candidate for Board Continuing Education Accreditation shall submit a completed application for Board Continuing Education Accreditation Form along with Credit Certification Forms from the program sponsors for approved programs, and an administrative fee of $25 payable to the Louisiana State Board of Architectural Examiners. Upon request by the candidate the board shall provide Application for Board Continuing Education Accreditation Forms. It shall be the responsibility of the candidate to obtain and submit timely said form and fee.

The board will not accept partial submittals from candidates at other times during the year and will not accumulate a record of CEUs for candidates as they accrue.

H. Record of Continuing Education Credits

The board shall maintain a record of those architects who are awarded the Board Continuing Education Accreditation for a period of five years; provided, however, the board will not keep a record of any architect whose license has expired for longer than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:6 (June 1991); amended LR 18:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Continuing Education Accreditation

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

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed 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 associated with this proposed rule.

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

An economic benefit to those architects who choose to participate in this purely voluntary program is that the proposed rule reduces the number of contact hours required for accreditation from 20 hours to 12 hours and thereby reduces the expense associated with obtaining said hours.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment associated with this proposed rule.

Mary "Teeny" Simmons
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Office of Commerce and Industry
Financial Incentives Division

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 37:3111 et seq., the Department of Economic Development, Office of

Commerce and Industry, is hereby giving notice of its intent to amend rules and regulations for the Louisiana Capital Companies Tax Credit Program.

R.S. 51:1923(5) provides "The department shall promulgate rules to determine what constitutes equity...". The additions to Section 703 define equity to enable a BIDCO to make investments which will meet certified Louisiana capital company program requirements. The addition to Section 717 provides a formal reporting format. Section 701(C) is self-explanatory.

Title 13
ECONOMIC DEVELOPMENT
Part I. Commerce and Industry
Subpart I. FInance

Chapter 7. Louisiana Capital Companies Tax Credit Program

§701. General

* * *

C. Nothing in these rules shall be construed as overriding or superseding any rules adopted by the Office of Financial Institutions relative to the regulations of banks or BIDCOs, or any other rules adopted by any other state agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended LR 18:

§703. Definitions

* * *

5. *Equity* in a qualified Louisiana business is defined as an ownership interest in the business. An equity investment may include a security which has the characteristics of debt but which provides for conversion into equity at a future date.

a. An *equity investment*, as provided in R.S. 51:1923(5), may include debt which also includes features or elements which provide: conversion rights, royalty rights, net profit interests, warrants for future ownership, or equity sale participation rights. The predominant feature or features of the investment must be a true equity position, i.e. a residual or ownership interest.

b. *royalty right* is defined as a right to receive a percent of gross or net revenues, may be either fixed or variable, may provide for a minimum or maximum dollar amount per year or in total, may be for an indefinite or fixed period of time, and may be based upon revenues in excess of a base amount.

c. *net profit interest* is defined as a right to receive a percent of operating or net profits, may be either fixed or variable, may provide for a minimum or maximum dollar amount per year or in total, may be for an indefinite or fixed period of time, and may be based upon operating or net profits in excess of a base amount.

d. *warrant for future ownership* is defined as an option on the stock of the Qualified Louisiana Business. The Qualified Louisiana Business may repurchase a warrant (a "call") or the Qualified Louisiana Business may be required to repurchase a warrant (a "put") at some fixed amount or an amount based on a pre-agreed upon formula.

e. *equity sale participation right* is defined as a conversion option of debt, to convert all or a portion of the debt to the Qualified Louisiana Business' stock, then to participate in the sale of the stock of the Qualified Louisiana Business.

f. Equity Investments shall not include any investment in a business engaged primarily in relending or reinvesting activities, long-term leasing activities or to any passive business. A passive business is one that is not engaged in a regular or continuous operation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1923.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1051 (December 1989), amended LR 18:

§717. Requirements For Continuance Of Certification

* * *

F. In accordance with Subsection A of this Section, at year three and year five after the date on which the capital company was designated as certified, each certified Louisiana capital company shall report all investments made. The report shall be in the format suggested by, or on forms provided by, the Office of Commerce and Industry. The report must contain the following: the company name and location; a statement that the company invested in is or is not a Qualified Louisiana Business; the date the investment was made; the type of investment and whether it is a qualified investment, how it qualifies, and the amount; the percentage the qualified investment represents compared to the total certified capital. The report must contain a statement that the certified capital company has met the requirements of this Section or, a statement explaining why the company is not in compliance and how and when compliance will be achieved; a statement certifying that the information submitted is true and correct. The report must be signed by an officer of the company, and must be notarized.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1053 (December 1989), amended LR 18:

Written comments may be addressed to Robert G. Berling, Program Administrator, Office of Commerce and Industry, Financial Incentives Division, Box 94185, Baton Rouge, LA 70804-9185.

Robert G. Berling
Program Administrator

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Louisiana Capital Companies Tax Credit Program

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

No additional implementation costs will be incurred by state or local governments. Implementation will be done by existing Office of Commerce and Industry staff. This program will continue to be administered by the Financial Incentives Division, Office of Commerce and Industry,

from self-generated revenues.

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

The proposed rules will have no additional impact on state revenues. This program does not impact local government revenues.

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

R.S. 51:1923(5) provides "the department shall promulgate rules to determine what constitutes equity...". The additions to Section 703 define equity to enable a BIDCO to make investments which will meet certified Louisiana capital company program requirements. The addition to Section 717 provides a formal reporting format. Section 701(C) is self-explanatory.

The proposed rules will have no impact on affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The primary purpose of the Louisiana Capital Companies Tax Credit Program is to provide assistance in the formation and expansion of new businesses which create jobs in the state by providing for the availability of venture capital financing to entrepreneurs, managers, inventors, and other individuals for the development and operation of "qualified Louisiana businesses."

R. Paul Adams
Financial Incentives Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Real Estate Appraisal Subcommittee

Notice is hereby given that the Department of Economic Development, Real Estate Appraisal Subcommittee intends to adopt rules and regulations pertaining to investigations and adjudicatory proceedings, LAC 46:LXVII. Subpart 11, Chapter 105.

The text of these rules is published in its entirety in the emergency rule section of the November, 1991 *Louisiana Register.*

Interested persons may submit written comments to Stephanie C. Fagan, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898 through the close of business on Friday, December 20, 1991.

Jane H. Moody
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Investigations and Adjudicatory Proceedings

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

There are no estimated implementation costs (savings) to state or local governmental units. This phase of the appraisal certification law will be administered by the investigative team currently housed within the Louisiana Real Estate Commission. Proposed language includes a method for recovery of the costs of any adjudicatory proceedings. (Section 10507.D)

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

Proposed language includes a method for recovery of the costs of any adjudicatory proceedings (Section 10507.D); however, there is no measurable way to estimate the effect on revenue collections.

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

There is no measurable way to estimate the cost of adjudicatory proceedings for which, under the provisions of Section 10507.D, the respondent may be assessed the cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment. Adjudicatory hearings may result in the suspension/revocation of a certification, but there is no way to measure the probability of this happening.

Jane H. Moody
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Louisiana Model
Career Options Program Guide

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 amendment to page 15 of the Louisiana Model Career Options Program (MCOP) Guide:

Delete: "If funds are available from the Louisiana 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.

This amendment was adopted as an emergency rule, effective October 20, 1991.

Interested persons may comment on the proposed policy changes in writing, until 4:30 p.m., January 8, 1992 at the following address: Eileen Bickham, 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: Louisiana Model Career Options Guide

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The rule change will necessitate the printing and mailing of the new guide.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings to local governmental units resulting from the proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no effects to local government funding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no effects on competition and employment by this change.

John Guilbeau
Acting Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Teacher Shortage Areas in Louisiana

The Student Financial Assistance Commission advertises that teacher shortage areas have been designated for the State of Louisiana by the U.S. Department of Education. The deferment of Stafford and SLS loan repayment is available to new borrowers that teach in an approved shortage area. Under the Guaranteed Student Loan Program, for purposes of this deferment, a new borrower is defined as a first-time borrower for periods of enrollment beginning on or after July 1, 1987. Teaching in the approved shortage areas will reduce teacher payback for the Paul Douglas Teacher Scholarship Program.

Item A4 will be added to Procedure 43 of the Loan Program Manual as follows:

> In the State of Louisiana during the 1990-91 and 1991-92 elementary and secondary school years the special education areas designated by the State Superintendent of Education and approved by the U.S. Department of Education as teacher shortage areas are: Specific Learning Disabled (K-12), Cross-Categorized (K-12) and Speech/Language Impaired (K-12).

Chapter V, G 4 a ii (d) of the Scholarship/Grant Program Manual will be amended to provide:

> Paul Douglas Teacher Scholarship recipients who teach two years for each year of scholarship assistance shall have their obligation reduced by one-half when they teach in a teacher shortage area that is designated by the U.S. Department of Education.

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., January 20, 1992 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack Guinn
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Designation of Shortage Areas in Louisiana for GSL Teacher Deferment and Reduction of Teaching Obligation under Paul Douglas Teacher Scholarship Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs are anticipated from the adoption of this policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No change in revenue collections is anticipated from the adoption of this policy.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Teachers in designated shortage areas in Louisiana will benefit from the right to defer repayment of their guaranteed student loans for a total of three years. Those who received Paul Douglas Teacher Scholarships will qualify for reduction of their teaching obligation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This deferment of guaranteed student loan repayment and reduction of teaching obligation for teachers in designated shortage areas should assist such teachers by enabling them to more readily accept employment in the shortage area.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Procedure for Determining Financial Need for Students Continuing in the Tuition Assistance Program (TAP)

The Student Financial Assistance Commission advertises its intention to amend the Scholarship/Grant Policy and Procedure Manual, VI C (3) by adding item g to define the procedure for determining financial need for students continuing in the Tuition Assistance Plan (TAP) as follows:

A "financial need" base year maximum is set for each new applicant, which is the maximum allowable average income for the student to qualify at the time of initial application. The student will continue to be found in financial need as long as the family's most current two year average adjusted gross income does not exceed the base year maximum. In the event that the family size were to increase due to an additional birth in the family or the applicant's family status changes from dependent to independent, the base year maximum would be recomputed based on the criteria of an initial applicant.

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., January 20, 1992 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: Procedure for Determining Financial Need for Students Continuing in the Tuition Assistance Program (TAP)

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

Adoption of this procedure will result in an additional 19 renewal recipients being funded, increasing 1991-92 TAP disbursements by $34,000, assuming all 19 students continue to enroll full-time for the Spring 1992 term. This amount is within the current budget allocation.

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

No change in revenue collections would result from adoption of this procedure.

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

Students who benefit from adoption of this procedure would be enabled to continue their higher education. Situations may arise with families being given unequal consideration. A scenario of this inequality is as follows: A family with one child with an income of $26,000 is initially ineligible for the Tuition Assistance Plan Scholarship. On the other hand, a family with two children, an income of $29,500, one child having previously established program eligibility, the other child attains the age of 21, the participating child would continue to remain eligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated from adoption of this procedure.

Jack L. Guinn
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, LA R.S. 30:2001, et seq., particularly LA R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, LA 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.4891, (Log Number AQ41).

This proposed rule is identical to 40 CFR 60, Subpart VVV with changes to the outline and internal references to match the Louisiana Administrative Code (LAC). It does not deviate from the CFR except for the format. This proposed rule defines the volatile organic compound (VOC) emission standards for polymeric coating of supporting substrates facilities, compliance provisions, monitoring requirements, test methods and procedures, alternate methods of compliance, and recordkeeping and reporting requirements. See *Federal Register* dated September 11, 1989, 54 FR 37534, Number 174.

These proposed regulations are to become effective on February 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on December 30, 1991, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 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 Thursday, January 2, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log Number AQ41. Copies of this proposed regulation are available from the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095 and also at the following locations from 8 a.m. until 4:30 p.m.: Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810; Department of Environmental Quality, 804 31st Street, Monroe, LA 71203; Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601; Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002; Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Standards of Performance for Polymeric Coating of Supporting Substrates Facilities, AQ41, (LAC 33:III.4891)

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 EMPLOYMENT (Summary)

There is no expected effect on competition or employment from the implementation of the proposed rule.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

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.3155. (Log AQ32).

This proposed rule is identical to 40 CFR 60. Subpart Dc with changes to the outline and internal references to match the Louisiana Administrative Code (LAC). It does not deviate from the CFR except for the format. This proposed rule defines the emission standards for small industrial-commercial-institutional steam generating units (Equal to or less than, 29 MW but equal to, or greater than 2.9 MW) monitoring requirements, test methods and procedures, and recordkeeping and reporting requirements See *Federal Register* dated September 12, 1990, 55 FR 37683, Number 177.

These proposed regulations are to become effective on February 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register.*

A public hearing will be held on December 30, 1991, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 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 Thursday, January 2, 1992, 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 AQ32. Copies of the proposed regulations are available from the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095 and also at the following locations from 8 a.m. until 4:30 p.m.: Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810; Department of Environmental Quality, 804 31st Street, Monroe, LA 71203; Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601; Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002; Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units

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

There are no costs or savings expected from this proposal.

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

No impact is expected on revenue collections.

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

No estimated costs and/or economic benefits are expected from this proposal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There isn't any anticipated effect on competition and employment.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

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.4881. (Log AQ38).

This proposed rule is identical to 40 CFR 60. Subpart QQQ with changes to the outline and internal references to match the Louisiana Administrative Code (LAC). It does not deviate from the CFR except for the format. This proposed rule defines the emission standards for drain systems, oily-water separators, closed vent and control systems, delay restrictions for repair or compliance, alternate standards and how to obtain permission to use alternates, and recordkeep-

ing and reporting requirements. See *Federal Register* dated November 23, 1988, 53 FR 47616, Number 226.

These proposed regulations are to become effective on February 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on December 30, 1991, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 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 Thursday, January 2, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log Number AQ38. Copies of the proposed regulations are available from the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095 and also at the following locations from 8 a.m. until 4:30 p.m.: Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810; Department of Environmental Quality, 804 31st Street, Monroe, LA 71203; Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601; Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002; Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems AQ38 (LAC 33:III.4881)

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 EMPLOYMENT (Summary)

There is no expected effect on competition or employment from the implementation of the proposed rule.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Division of Administration
Office of Risk Management
Patient's Compensation Fund Oversight Board

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41, et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., advertises its intent to adopt a set of comprehensive rules, LAC 37:I. Subpart 4, providing for and governing the organization, administration and defense of the Patient's Compensation Fund ("the fund") by the Patient's Compensation Fund Oversight Board, setting forth the requirements and procedures for enrollment with the fund by qualified health care providers, setting forth the requirements for maintaining financial responsibility and continuing enrollment with the fund by enrolled health care providers and providing for the recordkeeping, accounting and reporting of claims and claims data by the fund and enrolled health care providers.

Copies of these proposed rules may be obtained from the Office of the State Register, 1051 Riverside North, Capitol Annex Building, Suite 512, Baton Rouge, LA 70802 or from Suanne Grosskopf, Executive Director, Patient's Compensation Fund Oversight Board, 200 Lafayette Street, #600, Baton Rouge, LA 70801.

Interested persons may submit written comments on the proposed rules until 4:30 p.m., December 20, 1991, to Suanne Grosskopf, Executive Director, Patient's Compensation Fund Oversight Board, 200 Lafayette Street, #600, Baton Rouge, LA 70801 and/or to Larry M. Roedel, General Counsel, Patient's Compensation Fund Oversight Board, 2237 South Acadian Thruway, Suite 504, Baton Rouge, LA 70808.

A public hearing on these proposed rules will be held on December 27, 1991, at the Insurance Building, 950 North Fifth Street, Baton Rouge, LA 70804, in the Hearing Room on the Plaza Level at 2 p.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Suanne Grosskopf
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Patient's Compensation Fund Oversight Board R.S. 40:1299.41, et seq.

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

Once implemented, these rules should be cost/revenue neutral. The costs to implement the rules will include printing, copy charges, and associated costs of publication, administrative and overhead expenses, and legal fees, all of which should not exceed $12,500. This amount will be paid by the Patient's Compensation Fund, R.S. 40:1299.44 et seq., from statutory dedications, i.e., absorbed/paid from available monies in the budget FY 91-92. There is no need at this time for increased staff to handle the implementation of the rules.

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

The rules should have no effect on revenue collections

for any state or local governmental units.

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

These rules provide for and govern the organization, administration and defense of the Patient's Compensation Fund (the Fund or PCF) by the Louisiana Patient's Compensation Fund Oversight Board (the Board), within the Office of the Governor; the requirements and procedures for enrollment with the fund by qualified health care providers; the maintenance of required financial responsibility and continuing enrollment with the fund by enrolled health care providers; recordkeeping, accounting and reporting of claims and claims data by the fund and enrolled health care providers; and defense of the fund and the payment of judgments, settlements and arbitration awards by the fund. These rules are promulgated by the board to provide for and implement its authority and responsibility to administer and defend the Patient's Compensation Fund pursuant to the Louisiana Medical Malpractice Act, R.S. 40:1299.41-1299.48. These rules are not intended to cost anything once implemented other than becoming part of the administrative functioning of the Patient's Compensation Fund. In terms of economic benefits, the rules assist the Patient's Compensation Fund in the orderly administration of the statutory goals set by the Louisiana Medical Malpractice Act, R.S. 40:1259.41-1299.48.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules will have no effect on competition with respect to employment, the only effect will be upon existing staff of the Patient's Compensation Fund to the extent those employees will have administrative duties in the implementation and application of these rules.

Suanne Grosskopf
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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, 49:950 et seq., the Board of Examiners for Nursing Home Administrators, hereby gives notice of its intent to promulgate rules and regulations relative to licensing and regulating nursing home administrators.

It is the intent of the board that the rules and regulations supersede all previous rules and regulations promulgated by the board.

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

Interested persons may submit written comments on the regulations until 3:30 p.m., December 20, 1991, at the following address: Winborn E. Davis, Executive Director, Board of Examiners for Nursing Home Administrators, Suite 115 A, Baton Rouge, LA 70806.

Winborn E. Davis
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Nursing Home Administrators Licensing and Regulating

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

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

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

There will be no effect on revenue collections of state and local governmental units.

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

There will be no added costs or economic benefits to affected persons or non-governmental units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Winborn E. Davis
Executive Director

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 to implement Act 394 of the 1991 Regular Session of the Louisiana Legislature.

This rule provides a mechanism to provide financial assistance to expand access to community-based health care for low-income and rural populations now underserved in Louisiana.

Major provisions of Act 394 being implemented include: (1) limited funds up to $150,000 to establish, expand, or enhance primary care health clinics to serve indigent and low-income persons; (2) physician salary subsidies up to $50,000 to match local funds to encourage primary care physicians to practice in local communities or rural areas; (3) matching funds for demonstration project(s) to establish new primary health services in local communities or rural areas, provided such projects shall be required to secure other local or federal funding; and (4) matching funds for federal grants to provide community-based health services to indigent or low-income persons.

A previously published notice implements another pro-

vision of Act 394, Section 2196(1): grants up to $75,000 for rural hospitals to increase access to emergency health services.

(1) The Department of Health and Hospitals' Division of Policy and Program Development will accept letters of intent from applicants who are interested in applying for primary care clinic grants. Eligible applicants include existing federally funded community health centers or public or private organizations located in federally designated medically underserved areas. All interested applicants must submit a letter of intent prior to submitting a completed application kit.

Primary care clinic grant application kits used by the Department of Health and Hospitals will include the following major sections: project description, project plan and project budget. Application kits may be obtained by sending letters of intent to the Department of Health and Hospitals' Division of Policy and Program Development, P. O. Box 1349, Baton Rouge, LA 70821-1349. Completed application kits must be returned to the same address.

Applications for primary care clinic grants will be competitive. The Department of Health and Hospitals will select from competing applications using the following evaluation criteria: Justification/need for the project—degree of medical underservice in the proposed project service area (15 points); degree to which the project targets the medically underserved population identified in the needs assessment section of the proposal (15 points); description of delivering and networking quality primary health services, including services for patients without the ability to pay (15 points); verification and description of sound management and finance plans, including reasonable project budget (15 points); assurance(s) regarding project success—description of clinical performance and clinical outcome indicator (15 points); degree of community-based support for the project (15 points); and the applicant's previous experience in the delivery of primary care services (15 points).

Primary care clinic grants awarded by the Department of Health and Hospitals may not exceed $150,000 apiece.

(2) The Department of Health and Hospitals will accept requests from local health agencies or communities for state matching funds for physician salary guarantees of $100,000 annually in salary and benefits, to assist in recruiting or retaining primary care physicians in local communities and rural areas. State salary subsidies may not exceed $50,000, and the local agency/community must demonstrate its ability to at least match the state amount. The local agency/community match may include but is not limited to cash; fringe benefits; rent; clerical, medical records, and billing support; continuing education stipend(s); and medical malpractice coverage.

In implementing this provision of Act 394, the Department of Health and Hospitals will contract directly with local health agencies, who in turn contract with physicians. As such, local health agencies must submit with their request for assistance under this provision, a copy of a proposed contract with a physician. Such contract must address the $100,000 guarantee.

It should be noted that the Department of Health and Hospitals anticipates that it will make no payments under this recruitment/retention incentive until the physician's actual received income and benefits are reconciled against his/her contract guarantees.

Should the number of requests under this provision exceed the available funds, the Department of Health and Hospitals reserves the right to prioritize requests based on the health professional shortage area's ratio of population to primary care physicians.

(3) The Department of Health and Hospitals will accept letters of intent from existing federally-funded community health centers or public or private organizations located in local communities or rural areas that are interested in obtaining a demonstration grant to fund a project designed to innovatively, efficiently, and effectively develop and provide needed primary health care.

The Department of Health and Hospitals anticipates awarding demonstration grant(s) to innovatively develop primary care services in rural areas and local communities, including but not limited to such projects as the establishment or acquisition of mobile health clinics. The amount of available funds for this purpose is limited, and the grantee will be required to provide a 25 percent match to the funds; i.e., $300,000 state and $100,000 applicant.

Completed proposals must be sent to the Division of Policy and Program Development, P. O. Box 1349, Baton Rouge, LA 70821-1349. The proposal format should be determined by the applicant and should clearly describe the proposed project's goals and objectives, and strategies to accomplish the goals and objectives. Additionally, the proposal should address a needs assessment, a management plan, a detailed budget, and a budget justification. The proposal, including any appendices, may not exceed 50 typed double-spaced letter-size pages.

(4) The Department of Health and Hospitals will entertain requests for state matching funds for federal grants for projects to provide community-based health services to indigent or low-income persons, as proposed in a federal grant application proposal.

It should be noted that the provisions of this notice are contingent upon the availability of funds.

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: Community-Based and Rural Health Program

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

$1,531,411 in SFY 1991-92 is based on following anticipated budget: $600,000 for primary care clinic start-ups ($150,000 × 4 start-ups), plus $350,000 to match approximately seven physician salary subsidies to recruit to rural health professional shortage areas, plus $381,411 for one demonstration project(s) to innovatively develop needed rural health care plus $200,000 for matching funds for federal grants.

$1,531,411 in SFY 1992-93 and 1993-94 is based on the aforementioned.

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

It is anticipated that local hospitals or health agencies

will collect revenue as a result of community-based health services projects funded partially by state funds provided under Section 2196(5) of Act 394 of 1991, addressed in this notice. The anticipated revenue will be both federal grants and local funds.

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

Rural health care providers will receive financial assistance to expand health care and medical services access to local communities and rural areas for indigent and low-income citizens of the state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is believed that additional physicians and other health care professionals will be recruited and retained for employment in primary care health clinics and through other community-based health services.

J. Christopher Pilley
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

The Department of Health and Hospitals, Office of Public Health, proposes to adopt the following rule in accordance with Louisiana ACT 1054 of the 1991 Regular Legislative Session regarding confidentiality, consent, and disclosure of HIV testing.

The purpose of ACT 1054 is to create guidelines for HIV testing which will assist health providers by clarifying procedures which will assure the confidentiality of HIV results in order to retain the full trust and confidence of those being tested so as to encourage the expansion of voluntary confidential testing.

Title 48
PUBLIC HEALTH - GENERAL
Part I. General Administration
Subpart 7. Human Immunodeficiency Virus/AIDS

Chapter 135. HIV/AIDS Testing

§13501. Definitions

A. An HIV-related test is a test which is performed solely for the purpose of identifying the presence of antibodies or antigens indicative of infection with Human Immunodeficiency Virus (HIV).

B. HIV test result is the original document, or copy thereof, transmitted to the medical record from the laboratory or other testing site the result of an HIV-related test. The term shall not include any other note, notation, diagnosis, report, or other writing or document.

C. Contact is a sex-sharing or needle-sharing partner, a person who has had contact with blood or body fluids to which universal precautions apply through percutaneous inoculation or contact with an open wound, non-intact skin, or mucous membrane, or a person who has otherwise been exposed to an HIV infected person in such a way that infection may have occurred as defined by the Department of Health and Hospitals regulations based upon Center for Disease Control guidelines.

§13503. Consent for Testing

A. Informational Provisions. Prior to the execution of informed consent, the person requesting the performance of an HIV-related test shall provide to the subject of an HIV-related test or, if the subject lacks capacity to consent, to a person authorized by law to consent to health care for the subject, an oral, videotaped, or written explanation of the nature of AIDS and HIV-related illness, as well as oral, videotaped, or written information about behavior known to pose risks for transmission and contraction of HIV infection. The consent form developed by the Department of Health and Hospitals, Office of Public Health, contains the minimal requirements for meeting these provisions as does the informational brochure developed for this purpose. If the information is given orally to the subject it should describe at a minimum:

1. the voluntary nature of the test;
2. measures for the prevention of exposure to, and transmission of, HIV;
3. the accuracy and reliability of testing for HIV;
4. the significance of the results of such testing, including the potential for developing the Acquired Immunodeficiency Syndrome;
5. encouraging the individual, as appropriate, to undergo such testing;
6. the benefits of such testing, including the medical benefits of diagnosing HIV disease in the early stages and the medical benefits of receiving early intervention services during such stages;
7. the possibility that the subject may suffer discrimination if the results of the test are disclosed inappropriately.

B. Written Informed Consent. No person shall order the performance of an HIV-related test on a person who is a client of a licensed hospital (inpatient or outpatient) without first receiving the written informed consent of the subject of the test if the individual has capacity to consent or, when the subject lacks capacity to consent, that of the designated person pursuant to law to consent to health care for such individual except as provided, specifically authorized, or required by a state or federal law. The form developed by the Department of Health and Hospitals, Office of Public Health, has been developed to fulfill the requirements of this provision. Adherence to these rules, regulations, and forms shall constitute a legal presumption that consent for testing was validly obtained.

C. Verbal Informed Consent. If a person is ordering an HIV-related test on a client who is in a setting other than a licensed hospital, he/she has the option of either first receiving the written informed consent of the subject (or authorized person as indicated above) as in 'A' above, or receiving the verbal informed consent of the subject contemporaneously documented in writing in the medical record. Verbal Informed Consent should be immediately and contemporaneously documented in writing in the medical record of the person being tested. Minimal requirements of valid verbal consent include a discussion of the topics as contained in the written consent form as summarized by the following:

1. the voluntary nature of the test;
2. measures for the prevention of exposure to, and transmission of, HIV;
3. the accuracy and reliability of testing for HIV;
4. the significance of the results of such testing, in-

cluding the potential for developing the Acquired Immunodeficiency Syndrome;

5. encouraging the individual, as appropriate, to undergo such testing;

6. the benefits of such testing, including the medical benefits of diagnosing HIV disease in the early stages and the medical benefits of receiving early intervention services during such stages;

7. the possibility that the subject may suffer discrimination if the results of the test are disclosed inappropriately. Both the written consent form and the informational brochure developed by the Department of Health and Hospitals, Office of Public Health, contain (independently) the necessary written information which can be provided to the person being tested. The informational brochure contains some additional information which must be used by those persons carrying out testing using Ryan White C.A.R.E. Act funding. Use of this brochure is required only for entities carrying out HIV testing using Federal Funds Appropriated under the Ryan White C.A.R.E. legislation. For other providers its use is recommended but not mandatory.

D. Anonymous Testing. A patient requesting the performance of an HIV-related test shall be provided an opportunity to remain anonymous by the use of a coded system with no correlation or identification of the individual's identity to the specific test request or results. A health care provider that is not able to provide this service shall refer, at no extra charge to the individual seeking anonymity, to a site which does provide anonymous testing. These anonymous provisions do not apply to inpatients in hospitals. Sites where this testing can be done anonymously can be located through the Louisiana AIDS Hotline at 1-800-99AIDS9 or the local parish health unit.

E. HIV Testing not Requiring Informed Consent. Informed consent is not necessary as follows:

1. by a health care provider/facility in procuring a human body part for transplantation;

2. for accredited research such that the identity of the subject remains anonymous and cannot be retrieved by the researcher;

3. on a deceased person to determine the cause of death or for epidemiologic purposes;

4. if, in the opinion of the physician requesting the test, the request for consent would be medically contraindicated;

5. on a child taken into custody of the Department of Social Services where department officials have cause to believe the child is infected with HIV;

6. on a child when the child's attending physician reasonably believes such test to be necessary in order to properly diagnose or treat the child's medical condition and documents such reason in the child's medical record;

7. on any person arrested, indicted, or convicted for crimes of aggravated rape, forcible rape, simple rape, or incest when required by a court to undergo an HIV-related test.

§13505. Disclosure of HIV-Related Test Results

A. Provision for Refusal of Disclosure. Except as otherwise provided by law, no person who obtains, retains, or becomes the recipient of confidential HIV test results in the course of providing any health or social service or pursuant to a release of confidential HIV test results may disclose such information pursuant to a written authorization to release medical information when the authorization contains a refusal to release HIV test results. The form developed by the Department of Health and Hospitals, Office of Public Health, for the "AUTHORIZATION FOR THE RELEASE OF CONFIDENTIAL FORMATION" has been developed in accordance with the Administrative Procedure Act for the release of medical information allowing a person to refuse to disclose HIV test results.

B. Disclosure of HIV Test Results Without the Subject's Consent. HIV test results may be released to the following entities without written authorization from the subject (or the person authorized by law to consent to health care for the subject):

1. to any person to whom disclosure of medical information is authorized by law without the consent of the patient;

2. to a health care facility/provider which

a) is permitted access to medical records;

b) is authorized to obtain HIV test results; or

c) maintains or processes medical records for billing or reimbursement purposes;

3. to a health care facility/provider when knowledge of HIV test results is necessary to provide appropriate care or treatment and afford the provider an opportunity to protect themselves from transmission of the virus;

4. to a health care facility/provider in relation to use of body parts for medical education, research, therapy, or transplantation;

5. to a health facility staff committee, accreditation or oversight review organization authorized to access medical records;

6. to a federal, state, parish, or local health officer when the disclosure is mandated by federal or state law;

7. to an agency or individual in connection with the foster care programs of the Department of Social Services or to an agency or individual in connection with the adoption of a child;

8. to any person to whom disclosure is ordered by a court of competent jurisdiction;

9. to an employee or agent of the Board of Parole of the Department of Public Safety and Corrections (or of its office of parole) to the extent the employee or agent is authorized to access records containing HIV test results;

10. to a medical director of a local correctional institution to the extent he/she is authorized to access records containing HIV test results;

11. to an employee or authorized agent of the Department of Social Services, Office of Rehabilitative Services;

12. to an insurer, insurance administrator, self-insured employer, self-insurance trust, or other person or entity responsible for paying or determining payment for medical services to the extent necessary to secure payment for those services.

C. Disclosure of HIV Test Results by a State, Parish or Local Health Officer. A state, parish or local health officer may disclose confidential HIV test results when disclosure is specifically authorized or required by state law, disclosure is made pursuant to a release of confidential HIV test results, disclosure is requested by a physician pursuant to Subsection E below, or disclosure is authorized by a court order.

D. Disclosure by Persons to whom HIV Test Results have been Disclosed. Except for the individual or a natural person who is authorized to consent to health care for the individual, no person to whom confidential HIV test results

have been disclosed pursuant to this Part shall disclose the information to another person except as authorized by this Part.

E. Notification of Contacts. A physician may, but is not obligated to, notify a contact of an HIV infected person if:

1. the physician reasonably believes the disclosure is medically appropriate and there is a significant risk of infection to the contact;

2. the physician has counseled the infected patient regarding the need to notify the contact, and the physician reasonably believes the patient will not inform the contact;

3. the physician has informed the patient of his or her intent to make such a disclosure and has given the patient the opportunity to express a preference as to whether the disclosure should be made by the physician directly or to a public health officer for the purpose of disclosure. This preference shall be honored by the physician. When making the disclosure, the physician or the public health officer shall not disclose the identity of the patient to the contact. A physician shall have no obligation to identify or locate any contact.

F. Other Disclosures Authorized by Law. A physician may, upon the consent of the parent or guardian, disclose confidential HIV test results to a state, parish or local health officer for the purpose of reviewing the medical history of a child to determine fitness of the child to attend school. A physician may disclose confidential HIV test results pertaining to a patient to a person authorized by law to consent to health care for the patient when the physician reasonably believes the disclosure is medically necessary in order to provide timely care and treatment for the patient and, after appropriate counseling as to the need for such disclosure, the patient has not and will not inform the person authorized by law to consent for health care. The physician shall not make such disclosure if, in the judgment of the physician, the disclosure would not be in the best interest of the patient or of the individual authorized by law to consent for such care and treatment. Any decision or action by a physician pursuant to this Paragraph and the basis thereof shall be recorded in the patient's medical record. A physician may choose not to disclose the results of a confidential HIV test to a person upon whom such a test has been performed when in the medical opinion of the physician the disclosure of such results would be medically contraindicated.

G. Court Authorization for Disclosure of Confidential HIV Test Results

1. Only a court of competent jurisdiction shall issue an order for the disclosure of confidential HIV test results.

2. A court may grant an order for disclosure if:

a. there is a compelling need for adjudication;

b. there is clear and imminent danger to an individual;

c. there is clear and imminent danger to the public health;

d. the applicant is lawfully entitled to the disclosure.

3. The court order authorizing disclosure shall direct communications to be sealed and shall direct further proceedings to be conducted in camera so as to protect the subject's confidentiality.

4. Adequate notice shall be given to those from whom disclosure is requested to allow them to prepare a written or personal response unless there is a clear and imminent danger to an individual. A court must weigh the compelling need for disclosure against the privacy interest of the protected individual and against the public interest which may not be served by disclosure which deters future testing or treatment or which may lead to discrimination.

5. An order shall limit disclosure to necessary information and limit disclosure to those persons whose need for the information is the basis for the order and specifically prohibit additional disclosure by such persons to other persons, regardless of whether they are parties to the action.

§13507. Forms

The use of forms developed by the Office of Public Health of the Department of Health and Hospitals for written informed consent and for disclosure of HIV test results constitutes a legal presumption that consent for HIV testing was validly obtained. Health facilities and health care providers may use forms for informed consent or secure verbal informed consent for HIV-related testing and for the release of confidential HIV test results other than those forms developed by the Office of Public Health of the Department of Health and Hospitals, provided, however, there shall be no legal presumption that consent secured through such means will be deemed valid.

A. Informed Consent Form

See Appendix 1

B. Release of Confidential Information form

See Appendix 2

C. HIV Testing Informational Brochure

See Appendix 3

Interested persons may submit written comments until January 6, 1992 on the proposed rules to the following address: Mark Dal Corso, MD, MPH, Medical Director, HIV/AIDS Services Program, Office of Public Health, Department of Health and Hospitals, 325 Loyola Ave. Room 618, New Orleans, LA 70112. A public hearing will be held December 20, 1991, at 10 a.m. in the Auditorium of the Department of Transportation and Development Building, 1201 Capitol Access Road, Baton Rouge, LA.

APPENDIX 1

INFORMED CONSENT AND AGREEMENT TO HIV TESTING

With my signature below I acknowledge that I have read (or have read to me) and understand the following information:

FACTS ABOUT HIV TESTING (HIV-1 ANTIBODY OR OTHER HIV TESTS)

I HAVE BEEN TOLD THAT: (1) My blood will be tested for signs of an infection by the Human Immunodeficiency Virus, the virus that causes AIDS; (2) My consent to have my blood tested for HIV should be FREELY given; (3) I understand that the results of this test are confidential and will not be released to anyone who would not legally have access to my medical record except by my signed consent or as otherwise allowed by law but that confidentiality cannot be guaranteed; (4) If I wish to be tested anonymously I can ask my health care provider. If he/she is unable to do so I can call the Louisiana AIDS Hotline at 1-800-99AIDS9 or my local parish Health Unit to find out where I can be.

WHAT A POSITIVE TEST MEANS:

A. A positive HIV test means that I have the HIV infection and can spread the virus to others by having sex or sharing needles.
B. A positive test DOES NOT mean that I have AIDS - other tests are needed.
C. If my test result is positive, I may experience emotional discomfort and, if my test result becomes known in the community, I may experience discrimination in work, personal relationships, and insurance.

WHAT A NEGATIVE RESULT MEANS:

A. In most instances, a negative test means that a person is not infected;
B. However, it can take 3 to 6 months (or longer) for the HIV ANTIBODY test to become positive AFTER infection.
C. Although I have a negative test now, I can still become infected by having unprotected sex or by sharing needles.

WHAT SHOULD BE DONE IF MY TEST IS POSITIVE?

A. I should seek medical care as monitoring and treatment of the HIV infection will improve my quality of life and lead to a longer life.
B. I will be told how to keep from spreading the HIV infection by: (1) Avoiding sexual intercourse, or practicing SAFER sex; (2) Not sharing drug needles - better still, getting off drugs; (3) Not donating or selling my blood, plasma, organs, or sperm; (4) Avoiding pregnancy or (if I'm a male) not causing a woman to get pregnant; and (5) Not breastfeeding or donating breast milk;
C. If further testing reveals that I have AIDS, my name will be reported to the State Office of Public Health to assist me in obtaining services and to help the health department understand and control the AIDS problem;
D. I know that the Office of Public Health or my doctor may assist me in notifying and referring my partners for medical services - without giving my name to my partners; and
E. If I refuse to notify my partners, my doctor may either notify them or have the Office of Public Health do so. In this case, my name will not be used.

I have had a chance to have my questions about this test answered.
I hereby agree to have my blood drawn for the HIV (antibody, or _____) test.
specify

_____	_____	_____
Signature	Date	Signature of Provider

APPENDIX 2

AUTHORIZATION FOR THE RELEASE OF CONFIDENTIAL INFORMATION

I authorize _____ and the physicians
Name of Hospital/Physician/Facility

who treated _____ to release to
Full name of Patient

_____
Name of Hospital, Physician, Service Agency or Third Party

_____
Street City State Zip Code

my medical record.

By placing and "X" in the following box I am indicating that I DO NOT authorize the above named Hospital/Physician/Facility to release HIV Test Results. An HIV Test Result is the original document, or copy thereof, transmitted to the medical record from the laboratory or other testing site with the result of an HIV-related test. It does not include any other note, notation, diagnosis, report, or other writing or document. An HIV-related test is a test which is performed solely for the purpose of identifying the presence of antibodies or antigens indicative of infection with Human Immunodeficiency Virus.

I **DO NOT** authorize release of HIV Test Results ☐

I understand that I may revoke this consent at any time, and that in any event, it will expire one (1) year from this date, unless sooner revoked, and that upon the fulfillment of the above-stated purpose this consent will automatically expire without my express revocation.

Signed _____ Witness

Signed _____ Patient

Signed _____ Next of Kin

_____ Patient's date of Birth

_____ Relationship

_____ Date of Signature

In Patient _____ Date(s)

Emergency Room _____ Date

Outpatient _____
Date(s)/Type of Service

APPENDIX 3

HIV TESTING - INFORMATIONAL BROCHURE

PURPOSE OF THIS BROCHURE

This brochure is written so that you will know more about HIV (Human Immunodeficiency Virus), the virus which causes AIDS. It will also give you information which you need to know if you are being tested for this virus.

WHAT IS HIV? WHAT IS AIDS?

HIV is a virus which destroys the body's immune system. When this happens the body cannot fight off infections and cancers which it normally would. After a person has been infected with HIV, their immune system progressively becomes less effective. After a period of time, usually years, they develop infections and cancers and are then classified as having AIDS.

HOW DOES ONE BECOME INFECTED WITH HIV?

One can become infected in the following ways:

* By having sex with an infected person.
* By sharing needles used for injecting drugs.
* A baby can become infected during pregnancy or delivery if the mother is infected.
* Blood used in transfusions is now tested for HIV but there remains a remote possibility of infection by transfusion.
* If blood from an infected person enters the blood stream or contacts mucous membranes of another during a medical or dental procedure, transmission of infection is possible.

THINGS YOU NEED TO KNOW
-REDUCING THE RISK OF AIDS-

You can reduce your risk of infection by:

* Abstaining from sex.
* Having sex in a monogamous relationship with a person who is not infected.
* Using Condoms every time you have sex - from start to finish.
* Not using drugs, especially injectable.
* If you do inject drugs - do not share needles with others.
* If you use a needle which has been used by another, it must be rinsed out with bleach prior to use. Contaminated needles used in ear piercing and tattooing can also transmit infection.

-ABOUT THE TEST-

If a person has been recently infected with HIV, the test may not detect the infection. If you believe that you have been exposed to HIV within the last 6 months you must repeat the HIV test 6 months after the last exposure to be sure that the test result is correct. Even then, this test as with any laboratory test is not 100% accurate.

-WHY SHOULD I BE TESTED-

If, in consultation with your health care worker, you decide that there is a possibility that you may be infected, it is beneficial to be tested. A person that is infected should receive medical care which can improve the length and quality of the person's life.

WHO WILL KNOW ABOUT MY TEST?

Your test result may be placed in your medical record. Others who would normally have access to your medical record may see it. Present law states that the test result should not be released to others without your written consent except for the following exceptions:

1. To any person to whom disclosure of medical information is authorized by law without the consent of the patient.
2. To a health care facility or provider which is permitted access to medical records, is authorized to obtain HIV test results, or maintains or processes medical records for billing or reimbursement purposes.
3. To a health care facility or provider when knowledge of HIV test results is necessary to provide appropriate care or treatment and afford the provider an opportunity to protect themselves from transmission of the virus.
4. To a health care facility or provider in relation to use of body parts for medical education, research, therapy, or transplantation.
5. To a health facility staff committee, accreditation or oversight review organization authorized to access medical records.
6. To a federal, state, parish, or local health officer when the disclosure is mandated by federal or state law.
7. To an agency or individual in connection with the foster care programs of the Dept. of Social Services or in connection with the adoption of a child.
8. To any person to whom disclosure is ordered by a court of competent jurisdiction.
9. To an employee or agent of the Board of Parole of the Department of Public Safety and Corrections (or of it's office of parole) to the extent the employee or agent is authorized to access records containing HIV test results.
10. To a medical director of a local correctional institution to the extent he/she is authorized to access records containing HIV test results.
11. To an employee or authorized agent of the Department of Social Services, Office of Rehabilitative Services.
12. To an insurer, insurance administrator, self-insured employer, self-insurance trust, or other person or entity responsible for paying or determining payment for medical services to the extent necessary to secure payment for those services.

-IF YOU WISH TO BE TESTED ANONYMOUSLY, YOU SHOULD DISCUSS THIS WITH YOUR HEALTH CARE PROVIDER - You can call the Louisiana AIDS Hotline at 1-800-99AIDS9 or your local parish health unit to find out about anonymous testing.

-WHAT PROTECTION DOES THE LAW GIVE TO A PERSON WHO IS HIV INFECTED?-

The Federal Fair Housing Act prohibits discrimination on the basis of disability in the rental or purchase of housing. HIV disease is considered a disability covered by this act. Federal and state laws prohibit discrimination in the workplace against handicapped persons. Federal laws have been interpreted to cover persons with HIV disease and persons who are perceived to be "at risk" of contracting HIV disease. Employers must make reasonable efforts to accommodate handicapped employees under these laws such as adjusting work hours or work assignments as long as these reasonable efforts do not unduly burden the employer. Federal law also prohibits employers from discharging employees to prevent them from claiming benefits to which they are entitled. Employers with less than 15 employees are not subject to either state or federal laws unless they receive federal or state funds. The Americans with Disabilities Act which will extend the reach of federal discrimination laws into the private sector goes into effect July, 1992. If you feel that you have been discriminated against you may call the U.S. Department of Health and Human Services, Office for Civil Rights, (214)-767-4056. (END BROCHURE)

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Confidentiality, Informed Consent and Disclosure in HIV Testing

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

There should be no measurable costs in implementing these rules. Health care providers in the state system should be obtaining informed consent for HIV testing at present as it is the standard of care. These rules will standardize the consent form and the release of information form, simply replacing those now in use. The time to use the forms should not differ from present methods of obtaining informed consent and obtaining permission from patients for release of information.

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 government units.

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

Health Care providers will need to document informed consent before HIV testing and verify that patients wish their test results released with other medical records. Providers will need to copy the forms and explain them to the patients for whom they are used. If they are not already obtaining informed consent, the increase in time spent per patient will increase by 5 to 15 minutes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Dr. Joel L. Nitzkin, D.P.A.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary
Department of Social Services
Office of the Secretary

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, is hereby giving notice of its intent to initiate rulemaking for cash subsidy payments under the program entitled Family and Community Support System. This program was established by Act 378 of the 1989 Regular Session of the Louisiana Legislature which provided for the development of a plan for a system of community and family supports for persons with developmental disabilities and their families. Act 1011 of the 1991 Regular Session of the Louisiana Legislature authorized provision of those services. This rulemaking establishes policies and procedures for the payment of a cash subsidy to eligible families of children with developmental disabilities to offset the costs of services and equipment. The proposed rule is as follows:

Title 48
PUBLIC HEALTH
Part I. General Administration
Subpart 7. Community and Family Support System
Chapter 1. Community and Family Support System Cash Subsidy

§101. Introduction

The first and primary natural environment for all people is the family. Children, regardless of the severity of their disability, need families and enduring relationships with adults in a nurturing home environment. As with all children, children with developmental disabilities need families and family relationships to develop to their fullest potential. Services for persons with developmental disabilities should be responsive to the needs of the individual and his family, rather than fitting the person into existing programs. Family Supports are those supports that enable a family to keep their child with developmental disabilities at home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§103. Definitions

A. *Agency* means the Department of Health and Hospitals, Office of Human Services, Division of Mental Retardation/Developmental Disabilities or Division of Mental Health, or the Office of Public Health, Handicapped Children's Services, which will administer the cash subsidy program for the population it is designated to serve.

B. *Cash subsidy* means a monetary payment to eligible families of children with developmental disabilities to offset the costs of services and equipment.

C. *Child* means an individual under the age of eighteen.

D. *Department of Education 1508 Evaluation* means the evaluation completed on a child for the purpose of determining eligibility for special educational services and classifying the child by his primary disability. For infants and toddlers this may be called Multi-Disciplinary Evaluation for Part H Services.

E. *Developmental disabilities* means a severe, chronic disability of a person which:

1. is attributable to a mental or physical impairment or combination of mental and physical impairments;

2. is manifested before the person attains age twenty-two;

3. is likely to continue indefinitely;

4. results in substantial functional limitations in three or more of the following areas of major life activity: self care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency; and,

5. reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

F. *Individualized Education Program (IEP)* means a written statement for each child with a disability which is developed in a meeting by a representative of the local educational agency, the teacher, the parents or guardian of such child, and that child, whenever appropriate.

G. *Family supports* means those supports that enable

a family to keep their child with developmental disabilities at home.

H. *Parent/Guardian* means a child's natural or adoptive mother or father or the person who is legally responsible for the care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§105. Eligibility for Cash Subsidy

A. All applicants must meet the criteria herein established for "developmental disability" and/or severity of disability.

B. There shall be no financial criteria for eligibility for the cash subsidy.

C. The child must be residing, or expected to reside, with his or her parent or guardian. The family must maintain residence in the state of Louisiana to be eligible for the cash subsidy.

D. Adopted children are eligible for the cash subsidy, including those families who are receiving a specialized adoption subsidy.

E. Families who have more than one child who meet the eligibility criteria will be eligible for the cash subsidy amount for each child.

F. Children residing in foster care or specialized foster care are not eligible for the family cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§107. Application Procedures and Waiting List for Cash Subsidy

A. Funding for the cash subsidy shall be divided among the three participating agencies, the Office of Human Service, Division of Mental Retardation/Developmental Disabilities and Division of Mental Health and the Office of Public Health, Handicapped Children's Services Program, according to a method of distribution established by the Department of Health and Hospitals.

B. Families receiving cash subsidies through the two family support pilot projects funded by the Louisiana State Planning Council on Developmental Disabilities shall receive priority in allocations of cash subsidies in those regions in which they have established eligibility. Application must be made according to guidelines established in this document.

C. Completed applications will be accepted with a postmark date no earlier than November 15, 1991.

D. Applications for cash subsidy will be available from the regional offices of the Division of Mental Retardation/Developmental Disabilities and the Office of Public Health, Handicapped Children's Services Program, or regional mental health offices of the Division of Mental Health. Applications may be requested by phone and will be mailed by the next working day.

E. Applications shall be completed by the parent or guardian.

F. The Program/Services page of the child's Individualized Education Program (IEP) which states the child's primary exceptionality must be attached to the application; if an IEP has not yet been completed on the child, the parent may attach the child's Department of Education 1508 Evaluation or Multi-Disciplinary Evaluation for Part H Services in place of the IEP Program/Services page. The application will not be deemed complete in the absence of one of these two reports.

G. The application shall be mailed to one of the offices listed above, where they will be logged in according to the postmark date. Applications will not be accepted in person.

H. If all applicable items are not complete, the parent will be notified that additional information is needed and the application will not be logged in for review until the information is received.

I. If multiple applications are received with the same postmark date, a random process will be used to assign the order in which applications are processed.

J. Eligibility will be determined and families will be added to a waiting list on an ongoing basis. There shall be no closing date for applications.

K. If an applicant is determined eligible for the cash subsidy but funding is not available, the approved application will be placed on a waiting list for available funding. Families will be notified within thirty days of the status of their application.

L. In the event that funding becomes available, either through terminations of contracts or additional funding, the next approved applicant from the list will be notified of the effective date of their participation.

M. Every six months, the regional offices of the Division of Mental Retardation/Development Disabilities and the Office of Public Health, Handicapped Children's Services Program, or the regional mental health offices of the Division of Mental Health, will issue a letter to approved applicants, confirming their active application.

N. Completion of a new application will be required annually or at the time that new funding becomes available if the original application is more than a year old.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§109. Eligibility Determination

A. Applicants considered automatically eligible are those identified by the Department of Education Bulletin 1508 categories: autism, deaf/blind, profoundly mentally handicapped, severely mentally handicapped, and multi-handicapped. Children so identified are not subject to the screening process listed below.

B. Children who are classified by the Department of Education's Bulletin 1508 with the following handicapping conditions will be screened to determine their categorization as developmentally disabled and the severity of their disability: behavior disordered/emotionally disturbed, orthopedically handicapped, health impaired, handicapped infants and toddlers and non-categorical preschool handicapped.

C. Both the developmental disability checklist and a screening instrument specific to category of disability must be completed for all applicants who are subject to the screening process. The screening instrument specific to category of disability contains a minimum number of criteria for determination of severity of disability for each of the handicapping conditions listed, and must be completed in its entirety.

D. Children who meet both the developmental disabilities definition and the severity of disability criteria for categories listed above, are eligible for the family cash subsidy.

E. The applicant is to be notified in writing of the eligibility determination and of their right to appeal the decision and the process of appeal as well as other services that are available through the regional office systems of the Division of Mental Retardation/Developmental Disabilities and Office of Public Health, Handicapped Children's Services Program, and regional mental health offices of the Division of Mental Health.

F. If an application is received by an agency that cannot serve the child because of the nature of the disability, the agency will forward the application to the appropriate agency by the next working day, with a memorandum which includes the original envelope so that the original postmark can be used by the agency properly receiving the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§111. Terminations

A. Reasons for terminations from the cash subsidy program include: family moves out of state; family requests termination of subsidy; child is placed out of the home; the child dies; the child turns age 18; the child is judicially removed from the home; termination of or limitation in funding for the program; and, the family fails to comply with the terms of the cash subsidy contract.

B. Families may also be terminated from participation in the cash subsidy program for fraud, defined as a misrepresentation or a suppression of the truth made with the intention either to obtain an unjust advantage for one party or to cause a loss or inconvenience to another. Fraud may also result from silence or inaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§113. Appeals

A. All persons applying to the family cash subsidy program shall have access to an appeals process in accordance with procedures outlined by the Department of Health and Hospitals in cooperation with the Department of Social Services.

B. Individuals and their families will be informed of their rights of appeal at the point of application for subsidy, eligibility determination, termination of subsidy and at the point of annual review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§115. Cash Subsidy Payment Procedures

The cash subsidy payment is provided for the purpose of assisting families in meeting those needs and expenses that enable their child to remain at home and to keep the family intact.

A. The amount of the cash subsidy shall be equivalent to the monthly maximum Supplemental Security Income payment available in Louisiana for an adult disabled recipient living in the household of another. Changes in this rate will be tied to the figure in SSI payments in the state.

B. No third party agreement will be entered into by the agency; no advance payments will be authorized.

C. If, for any reason, a contract is overpaid, the situation shall be handled in accordance with the Department of Health and Hospitals established procedures for recoupment.

D. It is the payee's responsibility to notify the originating office if a payment check is lost, stolen or not received by the eighth day of the month.

E. If for any reason a payment check is not located and has not been cashed ten working days after the original agency notification, the agency will either issue a replacement check or defer action until more information can be obtained.

F. The first cash subsidy payments will begin in January, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§117. Program Records

A. Each agency shall have a written policy concerning confidentiality of and access to records and the time period for maintaining the record.

B. Each agency shall maintain a record on each applicant for cash subsidy payments regardless of the final determination of eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§119. Annual and Ongoing Contract Review

A. Each cash subsidy record shall be reviewed annually.

B. The originating office shall mail an annual parent report to the family, three months prior to the termination of the contract, to be returned to that office.

C. If a family fails to return their annual parent report by their anniversary date, their subsidy payment will be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§121. Ongoing Monitoring

Staff from the originating office will maintain contact with families at least every 90 days. If the child is enrolled in a licensed case management program, the responsible case manager will maintain this frequency of contact and report changes in status to the originating office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

§123. Annual External Program Evaluation

An annual external evaluation which shall be based on consumer satisfaction and performance indicators shall be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258 (E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 18:

Interested parties may submit written comments on this proposed rule to Edwin Wright, Acting Deputy Assistant Secretary, Division of Mental Retardation/Developmental Disabilities, Box 3317, Bin 21, Baton Rouge, LA 70821-3317. He

is the person responsible for responding to inquiries regarding this proposed rule.

J. Christopher Pilley
Acting Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Community and Family Support Cash Subsidy

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

Estimated cost for implementation for FY '92 is $541,000. This amount reflects partial year funding of 600 families with a subsidy of $258/month. Implementation would require 100 families per month from January '92 through June '92.

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

Implementation of this rule would require state general funds only for the purpose of the cash stipends.

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

Families of children with severe disabilities would be affected. There would be no additional cost to these families, however they would be required to execute contract/agreement with the Office of Human Services or appropriate agency. Each family would receive a monthly subsidy of $258 or $3,096 annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

J. Christopher Pilley
Acting 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, proposes to adopt the following rule in the Medical Assistance Program.

A notice of intent has previously been published in the *Louisiana Register* on April 20, 1991 outlining proposed regulations for the review of urine drug screening laboratories. During the Third Extraordinary Session, 1991 of the Louisiana Legislature the Louisiana Senate passed Senate Concurrent Resolution Number 5 which urges and directs the Department of Health and Hospitals to adopt rules and regulations which conform to the substance of Senate Bill number 899 of the 1991 Regular Session of the Louisiana Legislature. This bill proposed the creation of two classes of urine drug screening laboratories, Class A which contains all laboratories which provide urine drug screening services that are not contained in Class B, and Class B which contains employer testing programs only. Class A Laboratories shall be required to meet the personnel standards outlined in the rule as published. Class B laboratories shall meet different personnel standards as outlined in this proposed rule, otherwise both classes of laboratories shall meet the same requirements for approval by the Department of Health and Hospitals.

PROPOSED RULE

In accordance with Senate Concurrent Resolution Number 5 of the Third Extraordinary Session of the Louisiana Legislature, 1991 revising the law enacted as Act 1036 of the 1990 Legislative Session there shall be two classes of urine drug screening laboratories in Louisiana. Class A which contains all laboratories which provide urine drug screening services that are not contained in Class B, and Class B which contains employer testing programs only. Class A Laboratories shall be required to meet the personnel standards outlined in the notice as published in the *Louisiana Register*, April 20, 1991, page 422. Class B laboratories shall meet the following personnel standards outlined below. Other requirements for approval by the Department of Health and Hospitals remain the same for both classes.

PERSONNEL

Personnel involved in urine drug screening in Class B laboratories shall meet the requirements specified in this section of the rules and regulations. Class B screening laboratories shall meet either of the following:

1. employ an on-site technical laboratory supervisor who shall assume professional, organizational, educational, and administrative responsibility for the overall operation of the employer testing program, and who shall, at a minimum, have earned a Bachelor of Science degree; have at least two years employment experience in toxicologic analysis; and annually attend at least 16 hours in continuing education courses in the field of forensic urine drug testing; and have earned a high school diploma or equivalent; have a degree of skill commensurate with his or her training, education and technical ability; and annually attend at least eight hours in continuing education courses in the field of forensic urine drug testing, or

2. employ a laboratory drug screening technician who shall, at a minimum, have earned a high school diploma or equivalent; have a degree of skill commensurate with his or her training, educational and technical ability; and, if using drug-testing instrumentation, complete a manufacturer's training program that shall assure competency in test performance, and annually attend at least 16 hours in continuing education courses in the field of forensic urine drug testing.

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 December 27, 1991, in the auditorium, First Floor, Department of Transportation and Development, 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: Class A and B Urine Drug Screening Laboratories

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

The estimated implementation cost is included in the cost estimates published with the original rule on regulating urine drug screening laboratories in the April 20, 1991 issue of the *Louisiana Register*, page 422. No additional costs are anticipated with this change.

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 no change in revenue.

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Regulations concerning sanctions for nursing facilities, non-compliance with federal and state regulations, conditions of participation in the Medicaid program and accepted health care standards have previously been published. The purpose of the proposed rule is to provide public notice of the conditions and progression of severity in administering sanctions. Available remedies have been identified and the conditions under which they may be applied are spelled out, depending on the severity of the violation(s).

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 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 Friday, December 27, 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.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Administration of Nursing Facility Sanctions

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

Implementation costs are estimated to be $100 for manual revisions and provider notification, of which $50 is the projected cost to the state for FY 90/91.

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 provision of manual materials and provider notification.

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

The amount of economic benefit to Title XIX recipients who are residents of nursing facilities which have been found to be deficient cannot be predicted as occurrences which would necessitate such action are unpredictable in frequency and severity.

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 Public Safety
Board of Private Security Examiners

In accordance with R.S. 37:3270 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Private Security Examiners gives notice of intent to repeal existing rules under LAC 46:LIX, Chapters 1-9 and promulgate new rules. These rules pertain to the operation and governing of the board and the regulation and licensing of contract security companies, instructors and security officers in the state.

The proposed new rules will include structural revisions, changes in rule recodification, establishment of a modular classroom training program, provisions and training requirements for semi-automatic handguns and additions to the administrative penalty schedule.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Board of Private Security Examiners
Part LIX. Private Security Examiners
Chapter 1. Definitions, Organization, Board Membership and General Provisions

§101. Definitions

A. *Date of Hire* - date applicant begins performing the functions and duties of a security officer.

B. *Dog handler* - an individual who is accompanied by a trained protection dog while performing the duties of a security officer as defined in R.S. 37:3272. He shall be considered unarmed unless he falls under the definition of an armed security officer.

C. *Special event* - a temporary security assignment lasting 20 days or less.

D. *Weapon* - any firearm or baton approved by the board.

E. In addition to the above definitions, terms outlined in these rules shall be found in R.S. 37:3272.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:

§103. Organization, Board Membership and General Provisions

A. The private security regulatory and licensing law (R.S. 37:3270, et seq.) shall be administered by the Board of Private Security Examiners, hereinafter referred to as the "board".

B. The official seal of the board consists of the Louisiana state seal with a pelican in the middle.

C. The board shall consist of nine members appointed by the governor for a term concurrent with the term of office of the appointing governor. No member of the board shall be employed by a person or company who employs any other member of the board.

D. The chairperson shall exercise general supervision of the board's affairs, shall preside at all meetings when present, shall appoint members to committees as needed to fulfill the duties of the board, and shall perform all other duties pertaining to the office as deemed necessary and appropriate.

E. The vice-chairperson shall perform the duties of the chairperson in his absence or other duties assigned by the chairperson.

F. Standing committees of the board are:

1. general committee - duties to include special projects as authorized by the chairperson;

2. finance committee - duties include periodic review of the budget, recommendations regarding the establishment of fees charged by the board, and recommendations to the board regarding all expenditures requested by the executive secretary in excess of $500; and

3. ethics committee - duties to include review of allegations and recommendations to the board regarding any alleged misconduct, incompetence or neglect of duty by board members.

G. Each board member shall have one vote on all motions. Proxy voting is not allowed.

H. The board shall appoint an executive secretary to serve as the chief administrative officer of the board. The executive secretary serves at the pleasure of the board and is a full-time employee of the board. He shall act as the board's recording and corresponding secretary and shall have custody of the records of the board; cause written minutes of every meeting to be kept and open to inspection to the public; keep the board's seal and affix it to such instruments and matters that require attest and approval of the board; act as treasurer and receive and deposit all funds; attest all itemized vouchers for payment of expenses of the board; make such reports to the governor and legislature as provided for by law or as requested by same; keep the records and books of account of the board's financial affairs; give at least 15 calendar days prior notice to all persons who are to appear before the board; sign off on Cease and Desist Orders; and any other duties as directed by the board.

I. The executive secretary may spend up to $500 for board purchases without prior approval by the board or chairperson, and in accordance with the Division of Administration's rules governing purchases.

J. Meetings shall be announced and held in accordance with the Administrative Procedure Act commonly referred to as the public meetings law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:

§105. Consumer Information

A. Minutes of all board meetings shall be made available to the public upon written request to the board. A monetary fee may be assessed in accordance with Division of Administration rules and regulations.

B. Complaints to the board shall be in writing, signed by the individual making the complaint, and include a means by which to contact the individual for investigative purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety, Board of Private Security Examiners, LR 18:

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. Licensing information packages may be obtained from the board by submitting in writing a request for such package. Request shall include the name, address and phone number of the person requesting this information.

B. An applicant for licensure shall meet all of the qualifications and requirements specified in R.S. 37:3276 in addition to the rules herein.

C. Applicant must possess a high school diploma, GED or equivalent work experience.

D. Applicant shall fill out and file with the board a notarized application form provided and approved by the board. If the applicant is a corporation, it shall be subscribed and sworn to by the qualifying agent.

E. In addition to the completed application, the following documentation shall be submitted to the board:

1. one set of classifiable fingerprints of the applicant or qualifying agent and/or of each officer, partner or shareholder who owns a 25 percent or greater interest;

2. letters attesting to good moral character from three

reputable individuals, not related by blood or marriage, who have known the applicant or qualifying agent for at least five years;

3. copy of applicant's or qualifying agent's DD-214 military discharge papers showing type of discharge, if applicable;

4. copy of company's badge and insignia;

5. copy of occupational license from each city or parish that company or branch has security operations, if applicable;

6. a certificate of general public liability insurance in an amount of at least $25,000 with the state of Louisiana named as an additional insured;

7. articles of incorporation, if incorporated, and certificate of authority from the Louisiana Secretary of State; and

8. $200 licensing fee, $20 application fee, $50 examination fee and $10 fingerprint processing fee.

F. It shall be unlawful for any individual to make an application to the board as qualifying agent unless that person intends to maintain and continues to maintain that supervisory position on a regular, full-time basis.

G. All material changes of fact affecting a company licensee must be communicated to the board in writing within ten calendar days. These changes of facts include the following:

1. change in any of the principal corporate officers or noncorporate owners who hold a 25 percent or greater interest in the company, or qualifying agent, or any partner in a partnership;

2. change of business name, address or telephone number; and

3. change of ownership if the business is a sole proprietorship.

H. Any change of the current listed principal officers in a corporation that is a licensee must be accompanied with a copy of the minutes electing the new officers and verification that these changes have been recorded with the Secretary of State's office.

I. Branch Office

A branch office of a board-licensed company may voluntarily register with the board by submitting the following documentation:

1. a letter from the licensee authorizing the board to register the branch office under the licensee. Letter shall also include the name of the designated branch manager, branch office address and phone number;

2. a current list of active security officers, and their social security numbers, who are to be registered with the designated branch officer;

3. $100 annual licensing fee to cover administrative costs;

4. the board shall issue a license certificate to the branch office with an identifying branch office number.

J. Examination

1. All applicants who apply to the board for licensure are required to successfully pass a written examination administered by the board. The examination tests the applicant's knowledge of R.S. 37:3270 et seq., the board's rules and regulations and the security profession.

2. Applicants required to take the examination are those:

a. applying for an initial company license;

b. reinstating an expired license; and

c. applying as a new qualifying agent for an approved, licensed company.

3. The passing grade of the exam shall be 70 percent.

4. An applicant who does not successfully pass the examination may reapply to take the examination twice within a six-month period. If the applicant does not successfully pass the examination as required, the application shall be denied.

K. Insurance Renewal

1. On or before the expiration date of the required general liability insurance policy, licensee shall submit to the board a new certificate of insurance showing that insurance has been renewed and there has not been any lapse in coverage.

L. License Renewal

1. A company license shall expire annually on the date of issuance. Date of issuance means the date application was submitted to the board.

2. To renew a company license, licensee must submit a $200 annual renewal fee to the board 30 days prior to the expiration date of license. If there have been any changes in the status of the company, then a new company application must also be submitted, along with a $20 application fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration.

A. An applicant for registration shall meet all of the qualifications and requirements specified in R.S. 37:3283 in addition to the rules herein.

B. Applicant shall meet all of the qualifications of a licensee as defined in R.S. 37:3276, with the following exceptions:

1. may be a resident alien;

2. must be at least 18 years of age if registered unarmed, or if registered to carry a baton; and

3. must be at least 21 years of age if registered armed.

C. Applicant shall fill out and file with the board an application form provided and approved by the board.

D. In addition to the completed application, the following documentation on the applicant shall be submitted to the board:

1. one set of classifiable fingerprints;

2. copy of DD-214 military discharge papers showing type of discharge, if applicable; and

3. application fee and fingerprint processing fee.

E. Applicant must sign the application to verify that the information he is providing the board is correct.

F. Licensee shall review the application to insure that it has been properly completed and signed by the applicant. Licensee shall sign the application to certify that the applicant will be given the required training.

G. Licensee shall cut off the portion of the application identified as "temporary registration card," have the applicant complete required information, and instruct applicant to carry temporary registration card at all times while on duty. Temporary registration card is valid until applicant receives a permanent registration card from the board.

H. An applicant who will be registered to carry a weapon must be trained in that weapon prior to carrying such weapon on a job site and verification of training must be submitted by the licensee to the board at the time application is made. If the applicant has not been trained, then the licensee shall register the applicant as unarmed until such time as required training has been received and proof of training submitted to the board. If the applicant receives the required weapons training within 30 days from their date of hire, and submits proof of such training on a board training verification form, then the board will change the status of the applicant from unarmed and no fee will be required. If the training is received after 30 days, then a $10 status change fee must be submitted in accordance with the rule for status changes.

I. Licensee shall notify the board in writing within 10 calendar days of any change in an applicant's status, eligibility, address or phone number.

J. Dual Registration

1. A security officer who works for more than one licensed security company must register with the board for each individual company.

2. Each company a security officer is employed with shall submit an application marked "dual registration" and required application fee to the board within 20 days from date of hire.

3. Each company that a security officer is employed with is responsible for insuring that officer is trained in accordance with R.S. 37:3284 and the rules herein.

K. Registration Card

1. A registration card will not be issued until an investigation determines that the applicant meets the requirements to become registered and verification of training has been received by the board that the applicant has successfully completed required training.

2. A registration card is valid for two years based on date of hire. It shall be in the form of a pocket card and shall be issued to the registrant through the licensee with whom he is employed. Registrant must sign the back of the card immediately upon receipt.

3. A registration card is the property of the Louisiana State Board of Private Security Examiners and must be surrendered to the board upon request.

4. Registration card classifications are as follows:

a. unarmed;

b. firearms;

c. firearms/straight baton;

d. firearms/PR-24 baton;

e. straight baton; and

f. PR-24 baton.

5. If lost or mutilated, registrant is held responsible. A $10 fee will be assessed to issue a replacement card and registrant shall submit in writing to the board his name, social security number, registration card number and circumstances surrounding loss or mutilation of card.

6. Prior to or after issuance of any registration card, the board may require documented evidence verifying the applicant meets, or continues to meet, all requirements to be registered with the board.

L. Reinstatement

1. A registrant who terminates employment from a licensee and is rehired within 30 calendar days by the same licensee may be reinstated by licensee submitting in writing a request to have registrant reinstated, accompanied by a $10 reinstatement fee.

2. Written request must provide the security officer's name, social security number, date of termination and date of reinstatement.

M. Renewal

1. The board will notify the licensee 60 days prior to the expiration date of the registration card of each registrant in their employ.

2. A renewal application and required renewal fee must be submitted to the board within 30 days prior to the expiration date of the registration card.

N. Special Event

1. Unarmed security officers may work special events a maximum of twenty days within a six-month period of time prior to registering with the board.

2. Armed security officers must be registered with the board and have received all firearms training.

3. Licensee shall provide to the board within five days after the event a list of security officers and their social security numbers who worked a special event.

O. Status Change

1. A registrant's status may be changed from unarmed to armed, or vice versa, by submitting a letter to the board requesting a status change with a $10 status change fee.

2. Firearms training verification must be received by the board before the officer's status can be changed to armed.

P. Transfer

1. When a registrant transfers from one licensee to another, the new licensee is responsible for insuring that the officer is trained, or has been trained in accordance with R.S. 37:3284 and the rules herein, and that proper documentation is, or has been, received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:

Chapter 4. Training

§401. Training Programs

A. All training shall be administered by a licensed instructor and the board shall approve all training programs and shall develop training criteria outlining specific curriculum to be used in the instructing and training of all security officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:

§403. Classroom Training

A. Any security officer employed after September 1, 1985 shall complete, within 30 days from his date of hire, eight hours classroom training under a board-licensed classroom instructor.

B. Security officer, within three months from date of hire shall complete an additional eight hours classroom training program which has been approved by the board.

C. Upon completion of each of the eight-hour segments of the prescribed training, a 50 question examination

shall be given to each security officer by the board-licensed instructor. The first eight-hour examination shall be different than the second eight-hour examination, cover the required training topics, and be approved by the board prior to being administered. Minimum passing score is 70 percent.

D. All scores of such examinations must be recorded and submitted to the board on its prescribed training verification form within 10 calendar days from completion of training.

E. Security officers who have been registered in other states who have licensing requirements similar to Louisiana, and law enforcement officers identified in R.S. 37:3284 may attend a four-hour modular training program administered by a board-licensed instructor. Upon completion of the four-hour modular training, the officer shall take a 50 question examination and if the security officer successfully passes the examination, this modular training shall be considered the equivalent to the classroom training provided for in R.S. 37:3284 and rules herein. If the security officer does not successfully pass the examination, then he must go through the entire classroom training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety, Board of Private Security Examiners, LR 18:

§405. Firearms Training

A. Armed security officers, in addition to the training requirements outlined in R.S. 37:3284 and in the rules herein, shall complete twelve hours of firearms training and range qualifications by a board-licensed firearms instructor prior to working an armed assignment.

B. Upon completion of the prescribed firearms training, a written examination will be given to each security officer by the board-licensed firearms instructor. The examination shall cover the required training topics and be approved by the board. Minimum passing score is 70 percent.

C. Successful completion of firearms training also includes the security officer passing the board-required firearms proficiency course by achieving a minimum marksmanship qualifying score of 75 percent.

D. Annual refresher firearms training is due one year from the date of the last firearms training recorded at the board office.

E. Authorized Weapons

The following weapons are the only weapons authorized and approved by the board:

1. straight baton or PR-24 baton;

2. .357 caliber revolver, minimum four inch barrel with .357 or .38 caliber ammunition or .38 caliber revolver, minimum four inch barrel with .38 caliber ammunition only; and

3. 9 mm semiautomatic, minimum four inch barrel, double action.

F. Handgun Proficiency Course:

1. 75 percent required to qualify, 188 points out of 250 points.

2. standard police or security firearms target only.

3. the caliber weapon trained with must be the same caliber weapon security officer carries while on duty.

4. four yards; 12 shots, unsupported, point shooting, without sights; 45 seconds.

six shots, strong hand only

six shots, weak hand only

seven yards; two shots, unsupported, two-handed with sights; five seconds. (indexing these rounds)

12 shots, unsupported; 60 seconds. two-handed with sights

12 shots, unsupported; 60 seconds. two-handed with sights

15 yards; 12 shots, barricade, strong hand, 60 seconds. Two-handed with sights

six shots, standing right barricade

six shots, standing left barricade.

G. Semiautomatic Handgun

1. A semiautomatic handgun may only be carried if the client requests it and documentation shall be submitted to the board showing proof that the client has requested the officer carry such weapon.

2. Security officer must have successfully completed the board-required 12 hours initial firearms training with a revolver prior to being trained with a semiautomatic handgun.

3. A board-licensed semiautomatic firearms instructor must train the officer in the use of a semiautomatic handgun prior to him carrying such weapon on a job site. The board-licensed semiautomatic firearms instructor must meet the same qualifications of a firearm instructor as required by R.S. 37:3284 must possess a National Rifle Association Security of Police Firearms Semiautomatic Instructor certificate, Department of Energy Semiautomatic Transitional Instructor certificate or P.O.S.T. Firearms Semiautomatic Instructor certificate.

4. Semiautomatic proficiency course used by the firearms instructor must be certified by the National Rifle Association, Department of Energy or P.O.S.T. and proof of such certification shall be submitted to the board for approval and verification.

H. Shotgun

1. Training in use of shotgun is to be taught only if the security officer is required to carry a shotgun in the performance of his duties.

2. Course of fire:

a. five shots buckshot (nine pellets only), five shots slugs, 60 percent required to qualify out of 100 points possible on a NRA B-27 target. B-29 target may be used for 25 yards at 15 yards.

b. Scoring: two points for each hit (pellets or slugs) within the seven ring. One point for each hit outside the seven ring, in the black.

c. At the end of each stage of firing, all firearms will have their actions open, safeties on, with barrels up and muzzle above head.

d. Buckshot stage:

i. 15 yards; two rounds, standing from the shoulder; 10 seconds.

ii. 25 yards; three rounds total from the shoulder; one round standing, two rounds kneeling. Time includes loading time with the shotgun starting from the "cruiser-safe" position. (Chamber empty, magazine loaded, safety on.) 20 seconds.

e. Slug stage:

i. 25 yards, two rounds total from the shoulder, one round kneeling, one round standing; 15 seconds;

ii. 25 yards, three rounds total, from the shoulder; one round standing, two rounds kneeling. Starting from the "cruiser-safe" position; 20 seconds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety, Board of Private Security Examiners, LR 18:

§407. Baton Training

A. Security officers carrying a straight baton as a weapon must successfully complete a minimum of eight hours of an initial straight baton training course approved by the board and administered by a board-licensed straight baton instructor prior to carrying such weapon on duty. Security officer must also successfully complete a four-hour annual refresher straight baton training program approved by the board.

B. Security officers carrying a PR-24 baton as a weapon must successfully complete a minimum eight hours of a pre-basic PR-24 baton training course approved by the board and administered by a board-licensed PR-24 baton instructor prior to carrying such weapon on post. Security officer must also successfully complete a four-hour annual refresher PR-24 baton training program approved by the board.

C. The board licensed baton instructor must meet the same qualifications of a classroom instructor as required by R.S. 37:3284 must possess a recognized police impact weapon system certification for straight baton and Monadnock PR-24 certification for PR-24 baton.

D. Annual baton refresher training is due one year from the date of the last baton training recorded at the board office.

E. Security officers trained in baton must successfully pass a written examination administered by a board-licensed baton instructor and achieve a minimum passing score of 70 percent. Examination score must be recorded and submitted to the board on its prescribed verification form within 10 calendar days from completion of training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Board of Private Security Examiners, LR 18:

§409. Instructor Requirements, Responsibilities and Liability

A. Instructor fees:

1. application fee - $20;
2. inhouse/outside classroom license fee - $50;
3. inhouse/outside firearms license fee - $75;
4. inhouse/outside baton license fee - $50;
5. transfer application fee - $20;
6. inhouse/outside classroom renewal license fee - $50;
7. inhouse/outside firearms renewal license fee - $75;
8. inhouse/outside baton renewal license fee - $50;
9. examination fee - $25; and
10. reexamination fee - $15.

B. An applicant applying for an instructor license who does not successfully pass the required examination may reapply to take the examination twice within a six-month period. If the applicant does not successfully pass the examination as required, he shall be denied.

C. Instructor responsibilities and liability

1. An inhouse instructor who is covered under his employer's company insurance policy shall be required to have his employer submit a letter to the board stating that he is covered under the company policy for the teaching of security officers.

2. Licensed instructors are required to keep on file records for three years of training tests and any other documented information that verifies the test scores achieved by security officers they trained.

D. License renewal

1. Instructor licenses issued by the board shall be valid for two years. Expiration date is based on the date the license is approved and issued.

2. To renew an instructor license, instructor shall submit to the board a renewal application form provided by the board and the required renewal fee 30 days prior to the expiration date of license.

E. Insurance renewal

1. On or before the expiration date of the general liability insurance policy, instructor shall submit to the board a new certificate of insurance showing that insurance has been renewed and there has not been any lapse in coverage.

F. License classification

Instructor licenses are categorized as follows:

1. *Inhouse* - licensed with a security company and may only teach security officers employed with that company.

2. *Outside Limited* - licensed to teach students at a training academy or educational institution. Instructor may only teach students of that particular school.

3. *Outside* - licensed to train anyone in the state of Louisiana.

G. License transfer

1. An instructor may transfer his license to another company by submitting to the board a transfer application, $20 transfer fee, and proof of general liability insurance coverage.

2. An inhouse instructor who desires to become an outside instructor shall submit a new instructor application, $20 application fee, proof of general liability insurance and training program that will be used to teach the students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Board of Private Security Examiners, LR 18:

Chapter 5. Criminal Background Checks

§501. Criminal background checks

A. Dispositions

1. If an applicant has been convicted of any crime that would prevent him from meeting the qualifications of a licensee or registrant as specified in R.S. 37:3276, it shall be incumbent upon the applicant to submit with his application documentation showing proof that he has been pardoned for that crime.

2. If an applicant possesses an arrest record as issued by the Louisiana State Police, Bureau of Identification, without the disposition thereof, it shall be incumbent upon the applicant, within 30 days, to provide the written disposition of his arrest from the district attorney's office or the criminal clerk of court's office from the judicial district in which the arrest occurred.

3. If the applicant does not provide the written disposition as required, the board shall have sufficient cause to deny the application.

B. Denial of application due to conviction

1. If an applicant has a felony conviction, as evi-

denced by the background check run by the Louisiana State Police Bureau of Identification, then his employment as a security officer must be terminated immediately unless he has provided the board with documentation showing proof that he has received a pardon or similar relief.

2. The board will notify the employer that the officer has been denied and it is incumbent upon the employer to submit to the board a termination notice within 10 calendar days after denial notification.

3. If the background check reveals a misdemeanor conviction that would disqualify the applicant under the provisions of R.S. 37:3270 through 3298 and the rules herein, he may continue to work pending the outcome of the appeal process.

4. If the applicant does not appeal the board's denial of his application due to his misdemeanor conviction, then the applicant must be terminated 30 days after receipt of written notice of denial from the board.

5. The board will notify the applicant and his employer if the application is denied and the reason therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:

Chapter 6. Disciplinary Action

§601. Contested Proceedings

A. Before revoking or suspending a license or registration card, or imposing fines or costs over $500, the board will afford the applicant an opportunity for a hearing after reasonable notice of not less than 15 days, except in a case of a failure to maintain the required insurance or when a registrant is found carrying an unauthorized weapon while performing the duties of a security officer.

B. All requests for a hearing must be submitted in writing to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 18:

§603. Final Decision and Orders

1. All final decisions and orders of the board shall be in writing and signed by the executive secretary or chairperson.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety, Board of Private Security Examiners, LR 18:

Chapter 7. Insignias, Markings, Restrictions

§701. Restrictions

A. No badge or insignia with the initials "SP" or "SO" may be worn on the uniform of a registrant.

B. A licensee shall not display red or blue emergency lights on any vehicle used on a security assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), LR 18:

Chapter 8. Licensee Suitability, Records, Investigations and Registrant Violations

§801. Licensee's Suitability and Business Relationships

A. The board may deny an application, suspend, revoke or restrict a licensee upon the vote of four concurring members when it finds that the licensee or business entity is unsuitable for the purpose of its license or endangers the health, safety or welfare of the citizens of this state.

B. In determining the suitability of an applicant or licensee or other persons or business entities, the board may consider the following:

1. general character, including honesty and integrity;

2. financial security and stability, competency, and business experience in the capacity of the relationship; and

3. refusal to provide records, information, equipment, or access to premises to any authorized representative of the board, or any law enforcement officer when such access is reasonably necessary to insure compliance with R.S. 37:3270 through 3298 and the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:

§803. Employee Records Required to be Kept and Subject to Inspection

A. The licensee is required to keep on file the following documentation on each registrant in their employment. Such documentation is subject to inspection as may reasonably be required by an authorized representative of the board during reasonable business hours.

1. current residence and phone number of all registrants;

2. copy of the application submitted to the board;

3. copy of training verification form submitted to the board and original training tests completed by any registrant trained by such company, and any other documented information on required training;

4. copy of registration card issued by the board; and

5. copy of termination notice.

B. An authorized representative of the board shall be defined as the executive secretary, investigator or staff member of the board. Board members are not authorized to inspect employee records of licensees without the voting approval of the majority of the board at a public board meeting.

C. Licensee shall make available to any authorized representative of the board for inspection such employee records and other information as the board may reasonably require to insure compliance with R.S. 37:3270 through 3298 and the rules herein.

D. The board shall notify the company in writing 15 days prior to the conducting of a routine inspection of employee records.

E. The board shall notify in writing three days prior to conducting an inspection of their employee records brought on by a complaint.

F. A company will have no more than 30 days to comply with the board's written findings as a result of an inspection, in addition of paying any assessed administrative fines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), LR 18:

§805. Investigations

A. The board may investigate the actions of any licensee. The investigation shall be conducted for the purpose of determining whether a licensee is in compliance with R.S. 37:3270 through 3298 and the rules herein.

B. An investigation conducted by a duly authorized representative of the board is not to be construed as an inspection of files as described in Chapter 7, Section 707 C. It is an investigation of alleged violations by a licensee or registrant as a result of a complaint, and is exempt from written and verbal notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Board of Private Security Examiners, LR 18:

§807. Violations by Registrants

A. In addition to violations specified in R.S. 37:3270 et seq. and the other parts of these rules, the following shall be considered violations by a registrant:

1. performing security duties for any other person other than the licensee with whom he is registered;

2. failure to sign registration card;

3. failure to affix a photograph to registration card;

4. failure to timely surrender registration card when required to do so;

5. possession or use of any registration card which has been improperly altered;

6. defacing of a registration card; and

7. allowing improper use of a registration card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Board of Private Security Examiners, LR 18:

Chapter 9. Administrative Penalties

§901. Administrative Penalties Pursuant to R.S. 37:3288

A. Any person who is determined by the board, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of R.S. 37:3270 et seq., or any rule herein is subject to an administrative penalty of not more than $500 per violation; and/or denial, suspension or revocation of a license or registration card; and/or imposition of probationary conditions or other restrictions including assessment of administrative costs incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), LR 18:

§903. Administrative Penalties Pursuant to R.S. 37:3288(B)

A. Licensees and registrants who violate provisions of R.S. 37:3270 et seq. and the rules herein may be assessed administrative penalties by the executive secretary in lieu of, but not limited to, bringing licensee or registrant before the board at a hearing.

B. Assessed administrative fines may be appealed by submitting to the board a written request to appear before the board at the next scheduled board meeting.

C. In accordance with R.S. 37:3288(B), administrative penalty schedule is as follows:

1. licensee's failure to submit security officer application, fingerprint card, and/or necessary registration fees within prescribed time period - not to exceed $25;

2. licensee's failure to resubmit fingerprint card after two written requests by the board when a deadline date is given - not to exceed $25;

3. licensee's failure to notify the board in writing within prescribed time period of security officers in their employ who have been terminated - not to exceed $25;

4. licensee's or registrant's failure to submit information as requested by the board when a deadline date is given - not to exceed $25. If information is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed $500;

5. licensee's failure to submit company license renewal fee prior to expiration date - not to exceed $25/day, up to $500;

6. licensee's failure to submit renewal application and renewal fee for a registrant in their employ prior to expiration date - not to exceed $25;

7. licensee's failure to have registrant in their employ trained within prescribed time period - not to exceed $25;

8. licensee's failure to submit to the board a training verification form on a registrant in their employ within prescribed time period - not to exceed $25;

9. registrant's failure to carry on his person a temporary or permanent registration card while on duty - not to exceed $25;

10. Registrant carrying an unauthorized weapon while on duty - not to exceed $25;

11. licensee or registrant's submission of a check to the board that is returned from the bank deemed non-sufficient funds - $25;

12. fingerprint cards repeatedly rejected by the Department of Public Safety as non-classifiable due to smudges, not being fully rolled, etc. - not to exceed $25; and

13. falsification of any application submitted to the board - not to exceed $500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), LR 18:

The proposed rules are printed in their entirety. Additional copies may be obtained from the Office of the State Register, 1051 Riverside North, Baton Rouge, LA 70804 and from the Board of Private Security Examiners, 3071 Teddy Drive, Baton Rouge, LA 70809, (504) 925-1755.

Inquiries and comments regarding these amendments should be addressed to Cynthia Fonté-Breaux, Executive Secretary, Board of Private Security Examiners, at the above address. Comments will be accepted until 5 p.m. December 10, 1991.

Cynthia Fonté-Breaux
Executive Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC-Title 46, Part LIX
Professional & Occupational Standards
Private Security Examiners

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

The existing staff can handle the workload associated with the implementation of these rule changes. Initial costs for holding the public hearing, printing and distributing copies of the rule changes to the industry and interested public, and attorney costs to research and review rules to insure they meet all legal authority are the only anticipated costs for FY 91/92. No increase or decrease in costs is anticipated to occur in FY 92/93 and FY 93/94.

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

The Louisiana State Board of Private Security Examiners anticipates a minimal increase in revenues from instructor applications, licensing and renewal fees for semi-automatic firearms instructors and administrative penalties for violations added to the penalty schedule. The additional fees and penalties will be utilized in the operations of the board.

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 that are anticipated as a result of these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known impact on competition and employment in the public and private sectors as a result of these rule changes.

Cynthia Fonté-Breaux	David W. Hood
Executive Secretary	Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police

The Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section in compliance with and under authority of R.S. 49:950 et seq., and R.S. 33:4862.1 et seq., hereby gives notice of its intent to adopt rules and regulations pertaining to the operation of Video Draw Poker devices and the regulation and licensing of manufacturers, distributors, owners/operators, service entities, and other establishments wishing to participate in the Video Draw Poker gaming industry in Louisiana as outlined below:

Chapter 21. Video Draw Poker
- 2101. POLICY
- 2103. DEFINITIONS
- 2105. LICENSES
  - A. Application
  - B. Requirements
  - C. Reinstatement Requirements
  - D. General Provisions
- 2107. GAMES
  - A. Video Draw Poker
  - B. Operations of Video Draw Poker Games
  - C. Unauthorized Wagers
  - D. Inspections
- 2109. REVENUES
  - A. License Fees
  - B. Franchise Payments
  - C. Net Facility Revenue
  - D. Parish/Municipal
  - E. Supplement Purses for Horsemen
  - F. Methods of Payment
  - G. Authority to Audit Records
- 2111. REGULATORY COMMUNICATIONS & RESPONSIBILITIES
  - A. Licensees of Licensed Establishments
  - B. Licensed Manufacturers
  - C. Licensed Distributors
  - D. Licensed Device Owner
  - E. Contracts
- 2113. DEVICES
  - A. Device Specifications
  - B. Enrolling Procedures
  - C. Inspection of Devices
  - D. Testing of Video Gaming Devices
  - E. Device Seizures
  - F. Maintenance
  - G. Security
  - H. Contraband Equipment/Unregulated Devices or Gray Area Devices
- 2115. GAMING ESTABLISHMENTS
  - A. Facility License
  - B. Operations of Facilities
  - C. Security
  - D. Prizes
  - E. Device Locations
  - F. Illicit Activities Prohibited
- 2117. ACTIVITIES AFFECTING GENERAL PUBLIC
  - A. Minors
  - B. Notification of Gaming Activities
  - C. Solicitations
  - D. Advertising
- 2119. FORMS AND REPORTING REQUIREMENTS
  - A. Forms
  - B. Applications
  - C. Reporting Requirements
- 2121. CODE OF CONDUCT OF LICENSEES
  - A. Required Cooperation with the Division
  - B. Public Relations
  - C. Prohibited Relations
- 2123. INVESTIGATIONS
  - A. General
  - B. Background Investigations
  - C. Information
  - D. Inspections
  - E. Compliance
  - F. Gaming Activity
  - G. Criminal Activity
- 2125. MISCELLANEOUS
  - A. Special Investigations and Inspections
  - B. Written Reprimands and Required Meetings
  - C. Amendments to Rules and Regulations

2127. HEARINGS, PROCEDURES AND PENALTIES
A. General
B. Procedure

Copies of these proposed rules and regulations may be obtained from the Office of State Register, 1051 Riverside Drive-North, Baton Rouge, LA 70804, or from the Office of State Police, Video Gaming Division, Box 66614 (Mailslip #52), Baton Rouge, LA 70896 (504) 925-1900.

A public hearing will be held on the proposed rules and regulations on December 30, 1991, commencing at 1 p.m., at the Louisiana State Police Training Academy Auditorium, 7901 Independence Boulevard, Baton Rouge, LA.

Interested persons may submit written comments to the following address: Office of State Police, Video Gaming Division, Box 66614 (Mailslip #52), Baton Rouge, LA 70896. Lieutenant Riley Blackwelder is the person responsible for responding to the inquiries regarding the proposed rules and regulations. Written comments will be accepted through the close of business, 4:30 p.m., on December 20, 1991.

Colonel Marlin A. Flores
Deputy Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Video Draw Poker Rules and Regulations

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

Implementation costs cover a total of 43 positions and associated costs which are required to license and regulate the Video Draw Poker industry. The large one-time expenditure in acquisitions is to purchase an on-line computer system which will be connected to all video devices in order to track amounts of money deposited in each device. Additional acquisitions cover vehicles for commissioned personnel and office equipment for the personnel.

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

Estimated revenue increase to state units will be approximately $11,364,136.

Estimated revenue increase to local units will be approximately $3,788,045.

In addition, the state will collect 22.5 percent of net device revenues from the licensed device owners which will be dispersed in a proportion of 75 percent to state government and 25 percent to local government.

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

No costs except installation costs of video devices are expected and those costs will be borne by the licensees. Economic benefit can be expected for non-governmental groups or persons as a result of employment or free enterprise in the video poker industry in their respective areas.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Increased revenues will bring employment for area businesses and enterprises. Competition among licensed establishments will increase due to the gaming.

Marlin A. Flores
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Revenue and Taxation
Tax Commission

In accordance with provisions of the Administrative Procedure Act R.S. 49:950, et seq., notice is hereby given that the Tax Commission intends to amend a section of the Real/Personal Property rules and regulations as found in LAC 61:V.909, Appendix A, Table 909.(A).

The action being taken is in compliance with statutory law administered by this agency as set forth in R.S. 47:1837.

Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation

Chapter 9. Oil and Gas Properties
§909. Tables - Oil and Gas

[Tables can be found in Appendix A.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by Louisiana Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 18:

APPENDIX A

§909. (A)

OIL, GAS AND ASSOCIATED WELLS

The Cost - New schedules below cover only that portion of the well subject to ad valorem taxation. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence shall be given.

If economic and/or functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

See explanations elsewhere in this section regarding the assessment of multiple completion wells.

PRODUCING DEPTHS	COST - NEW VALUE BY DEPTH PER FOOT		**15% OF COST-NEW BY DEPTH PER FOOT	
	Region 1*	Region 2*	Region 1*	Region 2*
0- 1,249 ft.	$ 3.00	$ 3.30	$ .45	$ .50
1,250- 2,499 ft.	4.74	5.17	.71	.78
2,500- 3,749 ft.	7.14	7.83	1.07	1.17
3,750- 4,999 ft.	9.07	9.80	1.36	1.47
5,000- 7,499 ft.	16.93	18.11	2.54	2.72
7,500- 9,999 ft.	20.08	21.51	3.01	3.23
10,000-12,499 ft.	25.84	25.84	3.88	3.88
12,500-14,999 ft.	38.04	38.04	5.71	5.71
15,000-17,499 ft.	57.91	57.91	8.69	8.69
17,500-19,999 ft.	83.57	83.57	12.54	12.54
20,000-Deeper ft.	127.38	127.38	19.11	19.11

*Refer to List of Parishes located in Region 1. All parishes

not listed as located in Region 1 are considered to be located in Region 2.

**These 15% values must be multiplied by the percent good factors, based on the age of each well, to obtain the assessed value exclusive of additional obsolescence consideration.

PARISHES LOCATED IN REGION 1

Bienville	Franklin	Red River
Bossier	Grant	Richland
Caddo	Jackson	Sabine
Caldwell	LaSalle	Tensas
Catahoula	Lincoln	Union
Claiborne	Madison	Webster
Concordia	Morehouse	West Carroll
DeSoto	Natchitoches	Winn
East Carroll	Ouachita	

PROCEDURE FOR ARRIVING AT ASSESSED VALUE

1. Multiply the appropriate percent good factor based on age of the well as found on the serial number chart below.

2. Shut-in wells with future utility (Status Code 1) as listed on the year-end Office of Conservation Oil Well Potential Report (Form DM 1 R) or Gas Well Deliverability Test (Form DT 1) are to be allowed a deduction of 10 percent for obsolescence. Shut-in wells with no future utility (Status Code 2) are to be allowed a deduction of 75 percent for obsolescence.

3. Deduct any additional obsolescence as warranted to reflect fair market value (i.e. Well Status Codes 27, 41, 42, 43, 63, etc. in Conservation Department data files).

SERIAL NUMBER TO PERCENT GOOD CONVERSION CHART

YEAR	BEGINNING SERIAL NO.	ENDING SERIAL NO.	25 YEAR LIFE PERCENT GOOD
1991	212881	AND UP	98%
1990	211174	212880	95%
1989	209484	211173	93%
1988	207633	209483	90%
1987	205211	207632	87%
1986	202933	205210	84%
1985	197563	202932	81%
1984	189942	197562	78%
1983	184490	189941	75%
1982	179370	184489	71%
1981	173109	179369	68%
1980	166724	173108	64%
1979	162463	166723	60%
1978	158114	162462	56%
1977	154410	158113	52%
1976	150983	154409	48%
1975	147695	150982	44%
1974	144502	147694	39%
1973	141817	144501	34%
1972	138757	141816	30%
1971	135746	138756	26%
1970	131757	135745	23%
1969	127405	131756	21%
1968	AND LOWER	127404	20%
VAR.	900000	AND UP	20%

Interested persons may submit written comments on the proposed rules until 4 p.m., December 5, 1991, at the following address: E. W. "Ed" Leffel, Property Tax Specialist, Louisiana Tax Commission, Box 66788, Baton Rouge, LA 70896.

Mary K. Zervigon
Chairman

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Ad Valorem Taxation - Oil and Gas Properties

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

Implementation costs to the agency are the costs of reproduction and distribution of updated regulations. These costs are estimated as $455 for the 1991-92 fiscal year.

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

These revisions will generally decrease 1992 Oil, Gas and Associated Wells assessment tax base for property of similar age and condition in comparison with equivalent assessments in 1991 by $70.5 million.

However, these revisions will not necessarily affect revenue collections of local government units, as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the State Constitution, R.S. 47:1925.4 and Opinion Number 89-526 of the Attorney General's Office.

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

The effects of these new rules on assessments of individual items of equivalent personal property will generally be lower in 1992 than in 1991. Specific assessments will depend on the age and condition of the property subject to assessment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments are relatively small, the impact is thought to be minimal.

E. W. "Ed" Leffel
Property Tax Specialist

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services
Office of Community Services

The Department of Social Services, Office of Community Services proposes to adopt a rule in the Adoption Program. This rule is mandated by Act 519 of the 1991 Session of the Louisiana Legislature which amends and re-enacts 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. The following rule was published as an emergency rule in the October 20, 1991 issue of the *Louisi-*

ana Register. The rule published in the June 20, 1983, pages 415-416, issue of the *Louisiana Register* is hereby amended to reflect this change.

PROPOSED 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.

Interested persons may submit written comments through December 31, 1991, to the following address: Brenda L. Kelley, Assistant Secretary, Box 44367, Baton Rouge, LA 70804. She is the person responsible for responding to inquiries.

May Nelson
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Voluntary Registry

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

The costs will be $26,584 in FY 91-92, $26,422 in FY 92-93, and $27,325 in FY 93-94.

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

There will be no effect on revenue collections of state or local government units.

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

There will be no costs or benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of this rule.

Robert J. Hand
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services
Office of Community Services

The Department of Social Services, Office of Community Services proposes to adopt the following rule in the Child Protection Investigation Program.

This rule is necessary to bring the Child Protection Investigation Program into conformity with the Louisiana Children's Code, Title VI, Child in Need of Care, Article 612, Investigation of Reports.

PROPOSED RULE

Effective January 1, 1992, the Office of Community Services will tape record all interviews of the child or his parents conducted in the course of a Child Protection Investigation, if required by the parent or parents.

Interested persons may submit written comments through December 31, 1991, to the following address: Brenda L. Kelley, Assistant Secretary, Box 44367, Baton Rouge, LA 70804. She is the person responsible for responding to inquiries.

May Nelson
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Child Protection Investigations

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

Implementation costs to the Office of Community Services will be for $121,000 for tapes and printing. There will be no savings to OCS.

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

There will be no effect on revenue collections of state or local government.

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)

There is no impact on competition or employment. There are no transfer funds to any governmental or private entity.

Robert J. Hand
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of the Treasury
Board of Trustees of the
State Employees' Retirement System

The Board of Trustees of the State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rule for voluntary deductions from retiree benefits payroll.

PROPOSED RULE

POLICY OR VOLUNTARY DEDUCTIONS
FROM RETIREE BENEFITS PAYROLL

APPLICATION PROCESS

1. Application shall be made by the company, corporation or organization which is the provider of coverage, product, service or recipient of monies and shall be signed by two officers of the applicant company, corporation or organization. The completed application must be submitted to the Louisiana State Employees' Retirement System (LASERS).

2. The following type providers of services will be considered for approval:

a. the State Group Benefits program;

b. the group insurance plan administered by the Department of Employment and Training;

c. the Retired State Employees' Association;

d. general insurance companies and other providers that are included on the Annual Listing maintained by the Office of State Uniform Payroll;

e. credit unions formed for the primary purpose of serving state employees that have a payroll deduction for employees of the member agencies;

f. other member or retiree associations approved by the Board of Trustees; and

g. vendors receiving payment through voluntary deductions on the effective date of this policy.

3. Applicant shall designate a "coordinator" to act as primary contact with LASERS for resolution of invoicing, refund and reconciliation problems; and resolving claims problems for retirees.

4. All vendors shall file annual renewal applications with LASERS.

5. Applications must be received by LASERS between June 1 and July 30 of each year.

APPLICANT AND VENDOR REQUIREMENTS

1. General insurance vendors must meet the requirements established by the Division of Administration and must be included on the Annual Listing maintained by the Office of State Uniform Payroll.

2. Any provider who qualifies to submit an application under Section 2.e or g above must meet the regulatory requirements of the appropriate federal or state regulatory agency.

NOTIFICATION, IMPLEMENTATION AND TRANSITION

1. LASERS will notify applicant whether applicant is approved as a vendor.

2. Vendor must enroll retirees for a monthly deduction amount.

3. Participation must be at least 100.

4. Vendors participating in payroll deduction on the effective date of this rule shall continue to be approved as a vendor; however, they must complete an annual application form.

5. Vendors will be allowed eighteen months after initial approval to meet the minimum participation requirements.

DEDUCTION AUTHORIZATION

1. Vendors shall be responsible for obtaining and maintaining appropriate deduction authorizations from individual retirees. Copies must be made available to LASERS upon request.

2. Any disclaimer, contract, or term of participation agreement between the retiree and the vendor or provider shall not be binding on LASERS.

3. A retiree shall have only one monthly deduction (which may cover more than one benefit) for a single vendor effective at any one time.

4. Vendor is responsible for submitting a computer tape of monthly deductions to LASERS by the twelfth day of the month preceding the deduction using the tape format and specifications established by LASERS. All deductions for one vendor must be submitted on one monthly tape.

5. A retiree may discontinue any voluntary payroll deduction amount by providing written notification of that intent to the vendor.

6. A retiree cannot authorize total deductions which exceed the amount of the benefit less $5.

SOLICITATION OF STATE RETIREES

1. Retirees may be solicited for payroll deduction only after the vendor has been notified that the application has been approved. Materials used for solicitation must be approved in advance by LASERS and must include a disclaimer that the product offered is not endorsed by LASERS. Solicitation materials are to be submitted with the annual renewal application.

VENDOR RESPONSIBILITIES

1. Vendor coordinator shall be responsible for dissemination of information such as the requirements of this rule to vendor representatives and must submit solicitation material to LASERS for approval.

2. Vendor shall use invoice/billing identification structure specified by LASERS to facilitate the monthly reconciliation.

3. Vendor shall be responsible for preparing a reconciliation of monthly payroll deduction.

4. Monthly reconciliation shall include total monthly invoice amount, remittance amount, and a listing of all changes since the last invoice amount to include a listing of exceptions between the invoice and deduction/remittance by system.

5. Monthly reconciliation exception listing shall identify the retiree by social security number.

6. Vendor must furnish evidence of monthly reconciliation to LASERS unless specifically exempted by LASERS.

7. Vendors failing to provide accurate and timely reconciliation verification will be barred from active solicitation until satisfactory certification is submitted to LASERS.

8. Vendors shall not be authorized to submit any deduction which was obtained from a retiree for the purpose of transmitting any part of that deduction to a third party.

9. Vendors must designate/identify specific products or basic services provided on the application form. Vendors must indicate whether the request (for each product or service) is for continuation/renewal or new/not previously approved for payroll deduction. Vendors shall not add products or services to payroll deduction which are not indicated on currently approved application.

10. The vendor is responsible for refunding any amounts deducted in error to the individual retiree.

11. Any information received from LASERS must be handled in a confidential manner.

LASERS RESPONSIBILITIES

1. LASERS will approve or reject solicitation material presented by designated coordinators of approved vendors.

2. LASERS shall be responsible for making the monthly deductions in the amount that are timely submitted by the vendor.

3. LASERS will remit the amount deducted to the vendor and will provide a listing of all exceptions.

REPORTING

1. Vendors shall report within ten days of final approval any change in the name, address, company status, principal officers, and designated coordinator to LASERS.

2. Vendors shall provide as required by LASERS data disks, mailers, labels, postage, or other supplies necessary to avoid cost to the system in providing deduction information.

3. Annual renewal applications shall list specific products or services provided. Deductions will be made only for the products or services listed on the annual application.

4. Vendors are required to report the dismissal of any representative participating in retiree payroll deduction to LASERS.

FEES

1. Data, information, reports, labels, or any other service provided to any vendor or any other party shall be subject to payment of a fee for the cost of providing the data, information, reports labels, and/or services as established by LASERS.

2. Fees assessed shall be satisfied in advance of receipt of the requested data.

TERMINATION OF PAYROLL DEDUCTION

1. Unethical conduct or practices of the vendor will result in the termination of deduction authority for that vendor.

2. Unethical or unprofessional conduct of any vendor representative shall result in that individual being barred from participation in retiree payroll deduction for any vendor.

3. Payroll deduction authority shall be revoked for any vendor that is removed from the annual listing maintained by UPS.

4. Payroll deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

GENERAL

1. Payroll deduction authorization shall not be transferred.

2. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor or its products or services.

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: Retiree Voluntary Deductions

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)

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

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 rules governing the harvest and manner by which mayhaws shall be collected on department owned wildlife management areas.

Title 56
WILDLIFE AND FISHERIES
Part III. State Game and Fish Preserves Sanctuaries

Chapter 1. Responsibilities, Duties and Regulation

§107. Collection of Mayhaw Fruit

A. All persons gathering mayhaw fruit on wildlife management areas (WMA) for commercial or home consumption shall abide by the following rules and regulations:

1. Everyone must abide by all rules and regulations in effect on the WMA.

2. Access routes and vehicle use must conform to rules and regulations established for the respective WMA.

3. Damage to mayhaw trees (trunk and branch) and surrounding vegetation is prohibited.

4. The use of mechanical harvesters, including shakers, is prohibited.

5. Mayhaw harvest is prohibited on wildlife management areas when turkey seasons are in progress.

6. Persons may only take five gallons per person per day for home consumption. Collecting in excess of five gallons per person per day is defined as a commercial activity. Anyone wishing to collect in commercial quantities must obtain a permit from the district office and notify the department as to where collection will take place.

7. If the department deems that collection of mayhaw is detrimental to a specific area then the department may close that portion to all mayhaw collection.

These rules are being implemented to allow for harvesting of the fruit and still protect the resource for future use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and HB 976 of the 1991 Legislature.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:

Persons interested in commenting on the proposed rules may do so publicly at regularly scheduled commission meetings December - February. Written comments may be submitted until 4:30 p.m., January 15, 1992 to Hugh Bateman, Administrator, Game Division, 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: Collection of Mayhaw Fruit

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

Implementation of rules governing the harvest of mayhaw berries will require no expenditure of funds by the department.

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

Since no permit will be required, no revenue shall be derived by the department if the rule is implemented.

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

Collection of mayhaw berries has been occurring on department owned Wildlife Management Areas for years. In recent time, commercial interest in this natural resource has escalated. No directly affected person will be monetarily affected. Rule pertains to how the product may be gathered.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No one will be precluded from harvesting mayhaw berries therefore there is no effect on competition or employment.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Department of Wildlife and Fisheries, Wildlife and Fisheries Commission does hereby give notice of its intent to amend and adopt the following monetary values for illegally taken, possessed, injured, or destroyed fish, wild birds, wild quadrupeds, and other wildlife and aquatic life.

Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties
Subchapter C. Fish and Wildlife Values
§315. Fish and Wildlife Values

GAME MAMMALS AND GAME BIRDS	
Deer	$524.54
Squirrels	$ 9.75
Rabbits	$ 16.40
Turkeys	$802.50
Ducks	$ 11.70
Geese	$ 42.01
Coots	$ 12.53
Gallinules	$ 4.43
Rails	$ 28.61
Snipe	$ 22.42
Quail	$ 17.37
Woodcock	$ 29.98
Doves	$ 9.78

NON-GAME ANIMALS	
Raptors (Birds)	$ 55.25
Other Birds	$ 11.05
Frogs	$ 9.77/lb.
Turtles	$ 5.91/lb.
Alligator (Skin)	$ 35.00/ft.
Alligator (Meat)	$ 2.21/lb.
Nutria	$ 2.76
Mink	$ 13.81
Fox	$ 16.57
Muskrat	$ 2.21
Raccoon	$ 5.25
Bobcat	$ 49.72
Marine Mammals	$2,210.00
Other Mammals	$ 11.05

FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES	
Reptiles (Adult or Young)	$2,762.50/animal
Reptiles (Eggs)	$2,762.50/violation
Birds (Adult or Young)	$2,762.50/animal
Birds (Eggs)	$2,762.50/violation
Mammals	$2,762.50/animal
Invertebrates	$2,762.50/violation
Fish	$2,762.50/animal

SPECIES OF SPECIAL CONCERN	
Fish	
Paddlefish	$2,762.50/animal
Sturgeon	$2,762.50/animal
Jewfish	$2,762.50/animal
Mammals	
Black Bear	$10,000/animal

ALL FISH NOT LISTED ELSEWHERE IN THIS RULE

	MARINE	FRESHWATER
LENGTH		
INCHES	VALUE	VALUE
1	$0.35	$0.19
2	$0.64	$0.24
3	$0.98	$0.32
4	$1.33	$0.48
5	$1.62	$0.63
6	$1.90	$0.78
7	$2.24	$0.91
8	$2.65	$1.11
9	$3.01	$1.56
10	$3.32	$1.88
11	$4.09	$2.20
12	$5.18	$2.83
13	$6.32	$3.47
OVER 13″	$6.32/lb.	$3.47/lb.

LENGTH INCHES	RED DRUM	SPOTTED SEATROUT	RED SNAPPER	WHITE TROUT *	FLOUNDER	CROAKER	KING MACKEREL	LARGEMOUTH BASS	BLUEGILL	CRAPPIE
1	$0.42	$0.42	$0.42	$0.42	$0.42	$0.42	$0.42	$0.35	$0.27	$0.35
2	$0.74	$0.74	$0.74	$0.74	$0.74	$0.74	$0.74	$0.80	$0.56	$0.58
3	$1.13	$1.13	$1.13	$1.13	$1.13	$1.13	$1.13	$1.04	$0.64	$0.58
4	$1.54	$1.54	$1.54	$1.54	$1.54	$1.54	$1.54	$1.17	$0.81	$0.80
5	$1.88	$1.88	$1.88	$1.88	$1.88	$1.88	$1.88	$1.54	$0.94	$0.84
6	$2.20	$2.20	$2.20	$2.20	$2.20	$2.20	$2.20	$1.78	$1.37	$1.37
7	$3.53	$2.93	$2.88	$2.25	$3.20	$2.44	$9.99	$2.89	$4.44	$1.94
8	$4.85	$3.66	$3.56	$2.31	$4.20	$2.69	$17.78	$3.99	$10.66	$2.51
9	$6.18	$4.38	$4.23	$2.36	$5.21	$2.93	$25.56	$5.09	$25.63	$3.08
10	$7.51	$5.11	$4.91	$2.41	$6.21	$3.17	$33.35	$6.20	$28.48	$3.65
11	$8.83	$5.84	$5.59	$2.47	$7.21	$3.52	$41.14	$7.30	$31.33	$4.95
12	$10.16	$6.57	$6.27	$2.52	$8.21	$3.87	$48.93	$8.40	$34.18	$6.70
13	$11.48	$7.30	$6.94	$2.57	$9.21	$4.22	$56.72	$9.51	$37.03	$9.07
14	$12.81	$9.28	$7.62	$3.23	$10.21	$4.59	$64.50	$10.61	$39.87	$12.27
15	$14.14	$11.80	$9.12	$4.05	$11.05	$4.97	$72.29	$14.36	$42.72	$16.62
16	$15.46	$14.99	$10.89	$5.07	$11.91	$5.35	$80.08	$19.44	$45.57	$22.50
17	$19.32	$19.03	$12.96	$6.34	$12.80	$5.75	$87.87	$26.32	$48.42	$30.46
18	$24.13	$24.14	$15.38	$7.92	$13.71	$6.16	$95.65	$35.64	$51.27	$32.25
19	$30.14	$30.63	$18.22	$9.89	$14.66	$6.58	$103.44	$48.25		$34.04
20	$37.65	$38.86	$21.54	$12.33	$15.64	$7.02	$111.23	$65.32		$35.83
21	$47.04	$49.30	$25.43	$15.37	$16.66	$7.47	$119.02	$88.43		$37.63
22	$58.76	$62.54	$29.98	$19.17	$17.71	$7.94	$126.80	$92.64		$39.42
23	$73.40	$65.59	$35.30	$23.89	$18.80	$8.42	$134.59	$96.86		$41.21
24	$91.70	$68.68	$41.52	$25.11	$19.94	$8.92	$142.38	$101.07		$43.00
25	$114.55	$71.80	$48.80	$26.35	$21.12	$9.43	$150.17	$105.28		
26	$143.09	$74.95	$57.33	$27.61	$22.34	$9.97	$157.96	$109.49		
27	$148.60	$78.13	$67.33	$28.90	$23.62	$10.52	$165.74	$113.70		
28	$154.10	$81.35	$70.78	$30.21	$24.94		$173.53	$117.91		
29	$159.61	$84.61	$74.35	$31.56			$181.32	$122.12		
30	$165.11	$87.91	$78.02	$32.93			$189.11	$126.33		
31	$170.61	$91.25	$81.80	$34.33			$196.89	$130.54		
32	$176.12	$94.63	$85.70				$204.68	$134.76		
33	$181.62		$89.72				$212.47	$138.97		
34	$187.12		$93.87				$220.26	$143.18		
35	$192.63		$98.14				$228.05	$147.39		
36	$198.13		$102.55				$235.83	$151.60		
37	$203.63		$107.09				$243.62			
38	$209.14		$111.78				$251.41			
39	$214.64		$116.60				$259.20			
40	$220.15		$121.57				$266.98			
41	$225.65		$126.70				$274.77			
42	$231.15		$131.98				$282.56			
43	$236.66						$290.35			
44	$242.16						$297.68			
45	$247.66						$305.04			
46	$253.17						$312.45			
47	$258.67						$319.90			
48	$264.18						$327.40			
49	$269.68						$334.93			
50	$275.18						$342.51			
51	$280.69						$350.13			
52	$286.19						$357.80			
53							$365.52			
54							$373.28			
55							$381.10			
56							$388.96			
57							$396.87			
58							$404.83			
59							$412.85			
60							$420.91			
61							$429.03			
62							$437.21			
63							$445.44			
64							$453.73			
65							$462.07			
66							$470.47			

* sand seatrout and silver seatrout

COMMERCIAL FISH SPECIES

SPECIES GROUP	VALUE/LB	SPECIES GROUP	VALUE/LB
AMBERJACK	$0.81	OILFISH	$0.75
BARRACUDA	$0.31	OYSTER	$3.60
BLUEFISH	$0.30	POMPANO	$3.44
BLUERUNNER	$0.33	PORGY	$0.68
BONITO, ATLANTIC	$0.39	RAYS	$0.44
BOWFIN	$0.13	SAWFISH	$0.21
BUFFALO	$0.22	SCAMP	$1.72
BUTTERFISH	$0.28	SCULPIN	$0.80
CARP	$0.09	SHAD	$0.09
CATFISH, SEA	$0.26	SHARK, BLACKTIP	$0.40
CATFISHES	$0.60	SHARK, LONGFIN MAKO	$0.68
COBIA	$1.11	SHARK, OTHER	$0.70
CRAB, BLUE	$0.36	SHARK, SAND TIGER	$0.13
CRAB, STONE	$2.27	SHARK, SHORTFIN MAKO	$0.72
CRAWFISH	$0.52	SHARK, THRESHER	$0.32
CREVALLE JACK	$0.41	SHEEPSHEAD	$0.22
DOLPHIN (FISH)	$0.69	SHRIMP	$1.30
DRIFTFISH	$0.45	SNAPPER, BLACK	$0.94
DRUM, BLACK	$0.40	SNAPPER, BLACKFIN	$1.01
DRUM, FRESHWATER	$0.19	SNAPPER, GRAY	$1.44
EEL, AMERICAN	$0.65	SNAPPER, LANE	$1.55
EEL, CONGER	$0.64	SNAPPER, MAHOGANY	$1.20
GAG	$1.91	SNAPPER, OTHER	$1.26
GAR	$0.62	SNAPPER, QUEEN	$1.03
GROUPER, BLACK	$1.49	SNAPPER, SILK	$1.28
GROUPER, MISTY	$1.53	SNAPPER, VERMILLION	$1.55
GROUPER, NASSAU	$1.48	SNAPPER, YELLOWTAIL	$1.48
GROUPER, OTHER	$1.51	SPADEFISH	$0.34
GROUPER, SNOWY	$1.58	SPOT	$0.30
GROUPER, WARSAW	$1.27	SQUID	$0.30
GROUPER, YELLOWEDGE	$1.61	SWORDFISH	$2.72
GROUPER, YELLOWFIN	$1.62	TILEFISH	$1.33
GRUNTS	$0.40	TRIGGERFISH	$0.50
HIND, RED	$1.41	TRIPLETAIL	$0.57
HIND, ROCK	$1.31	TUNA, ALBACORE	$0.49
HIND, SPECKLED	$1.42	TUNA, BIGEYE	$2.87
JEWFISH	$1.76	TUNA, BLACKFIN	$0.36
KINGFISH	$0.35	TUNA, BLUEFIN	$7.61
MACKEREL, SPANISH	$0.30	TUNA, OTHER	$1.75
MENHADEN	$0.03	TUNA, SKIPJACK	$0.76
MULLET	$0.74	TUNA, YELLOWFIN	$2.26
		WAHOO	$0.82

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:40.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:39 (January 1990), amended LR 18:

Written comments regarding these amendments may be submitted no later than January 10, 1992 and should be submitted to Karen Foote, Administrator, Fisheries Research Division, Box 98000, Baton Rouge, LA 70898-9000.

James H. Jenkins, Jr.
Chairman

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Schedule of Wildlife and Aquatic Life Species Values

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

The implementation of this rule will not result in any added costs to the operation of the department nor to any other branch of state or local government. The costs in manpower and court time will be the same for the litigants with or without this rule.

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

Based upon the number of citations issued by the Enforcement Division during FY 89-90 and historical collection patterns for civil penalties across the South, the maximum potential revenue gain for the state as a result of implementation of this rule is approximately $500,000. However, depending upon the mechanism used to recover damages in court the revenue could be reduced, i.e., if the local District Attorney brings suit, the state's share would be $300,000 while the parish's share would be $200,000.

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

Since this rule imposes a civil penalty on game and fish law violators, there will be a direct economic impact upon the violator, the magnitude of which is directly dependent upon the species and number of animals involved in the violation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

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 amend and adopt the rule governing the special recurring commercial fishing season on Lake Bruin.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§125. Lake Bruin

The Louisiana Wildlife and Fisheries Commission hereby establishes and permits a special recurring commercial fishing season, allowing the use of certain nets and slat traps, in Lake Bruin, Tensas Parish, Louisiana. The season will commence each year at sunrise on November 1 and close at sunset on the last day of February the following year.

A. Commercial fishing with certain nets and slat traps will be allowed on Lake Bruin only during the above described special season and only by licensed commercial fishermen who must also obtain a Lake Bruin commercial fishing permit from the Louisiana Department of Wildlife and Fisheries. The permit will be issued at no cost on a seasonal basis and must be renewed for each season. The permittee must also file a report to the Department of Wildlife and Fisheries of his catch that is postmarked not later than 15 days after the close of that season. The use of nets in Lake Bruin will be limited to gill and trammel nets greater than or having

at least a minimum mesh of three and one-half inch bar and seven inch stretch.

B. Commercial fishing will be allowed only during daylight hours except that gear can remain set overnight but fish captured may be removed during daylight hours only.

C. Failure to comply with the terms of the special permit or of any Louisiana commercial fishing regulations shall result in immediate cancellation of the permit for the remainder of the current season.

D. Failure to submit a timely report for a particular year's commercial fishing season shall result in the denial of a permit for the next year. If a report is eventually received after the deadline period for a particular year, the applicant may get a permit after skipping a year, however, if no report is ever filed, no permit for any subsequent year will be considered.

E. Applicants with a citation(s) 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.

F. Permits shall not be issued to any applicant who within three years of the date of his/her 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.

G. Applicants convicted of, or pleading guilty to two or more Class II fish or game violations or greater within five years of the application date shall not receive a permit.

AUTHORITY NOTE: Promulgated in accordance R.S 56:22, 56:326.3 and R.S. 56:402.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 13:502 (September 1987), amended LR 18:

Written comments regarding these amendments may be submitted no later than January 10, 1992 and should be submitted to Bennie Fontenot, Administrator, Inland Fish Division, Box 98000, Baton Rouge, LA 70898-9000.

James H. Jenkins, Jr.
Chairman

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Lake Bruin-Special Recurring Commercial Fishing Season

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

The proposed amendments to the present rule will have no implementation costs (savings) to state or local governmental units.

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

The proposed amendments to the present rule will have no effect on revenue collection of state or local government units.

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

The proposed amendments to the present rule will have no effect on cost and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments to the present rule will have no effect on competition and employment.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

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 prohibit the use of gill nets and trammel nets in Lake Providence except during recurring season.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing
§163. Lake Providence, Gill Nets and Trammel Nets

A. Prohibits the use of gill nets and trammel nets in Lake providence, East Carroll Parish, Lake Providence, Louisiana, except their use will be allowed for the legal harvest of commercial fish during a special recurring trammel and gill netting season to commence each year at sunrise on November 1 and close at sunset on the last day of February the following year.

B. The trammel and gill nets allowed during the special recurring season shall have a minimum mesh size of three and one-half inch bar and seven inch stretched.

C. Said net may remain set overnight, but fish captured may be removed during daylight hours only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22 and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:

Written comments regarding this notice of intent may be submitted no later than January 10, 1992 and should be submitted to Bennie Fontenot, Administrator, Inland Fish Division, Box 98000, Baton Rouge, LA 70898-9000.

James H. Jenkins, Jr.
Chairman

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Lake Providence Gill and Trammel Nets

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 existing enforcement officers of that region who already routinely patrol Lake Providence.

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

The proposed rule will have no impact on revenue collections of state or local governmental units.

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

The open season (November-February) for gill and trammel nets will facilitate and make more feasible the commercial harvest of buffalo, freshwater drum, gar and carp in Lake Providence. The season (March-September) which prohibits said nets during the warmer months will be of direct benefit to recreational fishermen, pleasure boaters, and water skiers, especially as related to contact and space conflicts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will benefit work opportunities during the open gill and trammel net season to commercial fishermen who harvest buffalo, freshwater drum, carp, gar, and other commercial fish species in Lake Providence. Needs, services, materials and equipment commensurate with successful and expanded recreational visits to the lake during the closed netting season will benefit employment in the Lake Providence area.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Horticulture Commission

The next retail floristry examinations will be given at 9:30 a.m. daily at the Nelson Memorial Building off Highland Road behind the John M. Parker Agricultural Coliseum, LSU Campus, Baton Rouge, LA. The deadline for getting in application and fee is January 2, 1992. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be January 21-24, 1992.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Economic Development
Office of Financial Institutions

Judicial Interest Calculation

Pursuant to the authority granted by Louisiana Civil Code article 2924(B)(3), as amended by Act 774 of 1989, the Commissioner of Financial Institutions has determined the rate of judicial interest for the period beginning January 1, 1992 and ending December 31, 1992 to be 9.0 percent in accordance with the formula mandated by Article 2924(B)(3).

The terms "prime rate" and "reference rate" shall be deemed synonymous for purposes of this calculation. Prime rate is the rate of interest established by a bank for its most favored corporate clients in commercial loan transactions.

The "prime rate" or "reference rate" for Chase Manhattan Bank, N.A., Manufacturers Hanover Trust Company of New York, Morgan Guaranty Trust Company of New York, Bank of America National Trust and Savings Association, and Citibank, N.A., was reduced to 8.0 percent at each institution on September 13, 1991 and was the same rate on October 1, 1991.

Louisiana Civil Code article 2924(3)(a) mandates that "[t]he effective judicial interest rate for the calendar year following the calculation date shall be one percentage point above the average prime or reference rate of the five financial institutions named in this Paragraph."

The effective judicial interest rate for the calendar year beginning on January 1, 1992 shall be 9.0 percent.

This calculation and its "publication in the *Louisiana Register* shall not be considered rule-making, within the intendment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953", thus, neither a fiscal impact statement nor a "notice of intent" is required.

Larry L. Murray
Commissioner

POTPOURRI

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., particularly R.S. 49:968.H.2, the secretary gives notice that substantive changes have been made to the proposed amendments to the Solid Waste Regulations, LAC 33:Part VII, Subpart 1, (Log #SW02) which were originally proposed on March 20, 1991.

These substantive changes will affect chapters concerning liner systems, fees, implementation schedules, exemptions, definitions, and other permit requirements and standards. The changes will also address procedures for civil penalties.

A public hearing on the substantive changes will be held at 1:30 p.m. on Monday, December 9, 1991, in the A.D. Smith Memorial Auditorium, Education Building, 626 North Fourth Street, Baton Rouge, LA. Interested persons are in-

vited to attend and submit oral comments on the proposed substantive changes.

All interested persons are invited to submit written comments on the substantive changes. Such comments must be submitted no later than 4:30 p.m. on Tuesday, December 10, 1991, 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 #SW02. For information regarding the substantive changes, contact David Hughes at (504) 765-0399. Copies of the proposed rule with substantive changes incorporated will be 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

POTPOURRI

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., particularly R.S. 49:968.H.2, the secretary gives notice that substantive changes have been made to the proposed amendments to the recycling regulations, LAC 33:Part VII, Subpart II, (Log SW03) which were originally proposed on March 20, 1991.

These substantive changes will affect waste tire recycling, implementation schedules, exemptions, definitions, permits, waste tire facility standards, waste tire fees, manifest and reporting requirements, responsibilities of the tire dealers, waste tire transporters, and property owners of promiscuous waste tire piles. Regulations of white goods, lead acid batteries, and used oil in the original proposed rule is reserved and will be addressed at a later date.

Public hearing on the substantive changes will be held at 1:30 p.m. on December 11, 1991, in the Maynard Ketcham Building, Room 341, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed substantive changes.

All interested persons are invited to submit written comments on the substantive changes. Such comments must be submitted no later than 4:30 p.m. on December 12, 1991, 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 SW03. For information regarding the substantive changes, contact David Hughes at (504) 765-0399. Copies of the proposed rule with substantive changes incorporated will be 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

POTPOURRI

Department of Health and Hospitals
Board of Embalmers and Funeral Directors

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, December 14, 1991 at Delgado Community College, 615 City Park Ave., New Orleans.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, Louisiana 70011, (504) 838-5109.

Dawn Scardino
Confidential Assistant

POTPOURRI

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

The Omnibus Budget Reconciliation Act of 1987 (P. L. 100-203) requires that the state specify training and evaluation programs for nurse aides, including procedures for review and approval of such programs with specified methodologies and at specified frequencies. The final rule for this program was published in the August 20, 1991 issue of the *Louisiana Register*, page 762. This rule contained an error in the details of the core curriculum. It specified in Section 1. "Basic nursing skills" that the nurse aide will be responsible for "attaining/maintaining proficiency in cardiopulmonary resuscitation (CPR)". This requirement has

been deleted. The required basic nursing skills will now include "proficiency in the performance of the Heimlich maneuver."

J. Christopher Pilley
Secretary

POTPOURRI

Department of Health and Hospitals
Bureau of Health Services Financing

Notice is hereby given that the department is withdrawing the solicitation of offers to develop community/group home beds for hard-to-place mentally retarded individuals, announced to the public in June, 1991. A public hearing will be held at 1 p.m., Thursday, December 5, 1991, at the Department of Transportation and Development Building Auditorium, 1201 Capitol Access Road, Baton Rouge, LA to review the need for additional community/group home beds and to develop a reasonable process to address the need. Written and oral testimony will be accepted at that hearing. The department will announce through the media when it will again accept proposals to develop the beds.

J. Christopher Pilley
Secretary

POTPOURRI

Department of Insurance
Commissioner of Insurance

Insurance Holding Company System
Regulatory Law

In accordance with the provisions of R.S. 22:1005 A.(2) notice is hereby given that the December 5, 1991 deadline for filing the initial registration statement required of all insurers subject to R.S. 22:1001 et seq., has been extended to April 30, 1992.

For further information contact C. Noel Wertz, Staff Attorney, Box 94214, Baton Rouge, LA 70804-9214, phone (504) 342-5099.

Darrell L. Cobb
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 52 claims in the amount of $113,248.63 were received in the month of October 1991 and 32 claims in the amount of $73,561.62 were paid.

Loran C. coordinates of reported underwater obstructions are:

28805	46841	Plaquemines
28175	46862	Terrebonne
27811	46876	Terrebonne
26665	46979	Cameron
27632	46920	St. Mary
28618	46861	Jefferson
27127	46939	Vermilion
28870	46814	Plaquemines
28610	47047	St. Tammany
27894	46861	Terrebonne
27462	46916	Vermilion
28771	46772	Plaquemines
28594	46897	Jefferson
29128	46908	Plaquemines
29046	46929	St. Bernard

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

CUMULATIVE INDEX
(Volume 17, Number 11)

1991

Pages		*Issue*
3—	128	January
131—	235	February
241—	319	March
325—	443	April
449—	536	May
539—	630	June
637—	744	July
753—	847	August
849—	923	September
933—	1043	October
1053—	1166	November

AGRICULTURE AND FORESTRY

CIVIL SERVICE

CULTURE, RECREATION AND TOURISM DEPARTMENT

ECONOMIC DEVELOPMENT

CR—Committee Report ***EO—Executive Order***
ER—Emergency Rule ***FA—Fee Action***
L—Legislation ***N—Notice of Intent***
P—Potpourri ***PFA—Proposed Fee Action***
PPM—Policy and Procedure Memorandum ***R—Rule***

EDUCATION

CR—Committee Report ***EO—Executive Order***
ER—Emergency Rule ***FA—Fee Action***
L—Legislation ***N—Notice of Intent***
P—Potpourri ***PFA—Proposed Fee Action***
PPM—Policy and Procedure Memorandum ***R—Rule***

WILDLIFE AND FISHERIES

HEALTH AND HOSPITALS

INSURANCE

LOUISIANA ADMINISTRATIVE CODE UPDATE

NATURAL RESOURCES

PORT COMMISSIONS

PUBLIC SAFETY AND CORRECTIONS

CR—Committee Report ***EO—Executive Order***
ER—Emergency Rule ***FA—Fee Action***
L—Legislation ***N—Notice of Intent***
P—Potpourri ***PFA—Proposed Fee Action***
PPM—Policy and Procedure Memorandum ***R—Rule***

CR—Committee Report ***EO—Executive Order***
ER—Emergency Rule ***FA—Fee Action***
L—Legislation ***N—Notice of Intent***
P—Potpourri ***PFA—Proposed Fee Action***
PPM—Policy and Procedure Memorandum ***R—Rule***

EXECUTIVE ORDERS

FIREFIGHTERS' PENSION AND RELIEF FUND
City of New Orleans

GOVERNOR'S OFFICE

CR—Committee Report ***EO—Executive Order***
ER—Emergency Rule ***FA—Fee Action***
L—Legislation ***N—Notice of Intent***
P—Potpourri ***PFA—Proposed Fee Action***
PPM—Policy and Procedure Memorandum ***R—Rule***