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Executive Orders

EXECUTIVE ORDER BR 89-37

WHEREAS, Executive Order Number BR-89-23 was signed July 14, 1989, establishing the Governor's Commission on Medical Malpractice; and

WHEREAS, it is necessary to expand the membership of said commission to include those listed below;

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

SECTION 1: Section 3 of Executive Order BR 89-23 is amended to read as follows:

- a. The president of the Louisiana State Medical Society or his designee.
- b. The secretary of the Department of Health and Hospitals or his designee.
- c. The president of the Louisiana Dental Association or his designee.
- d. Three medical doctors appointed by the governor.
- e. Five attorneys appointed by the governor.
- f. One member of the Louisiana Senate and one member of the Louisiana House of Representatives appointed by the governor.
- g. One hospital administrator appointed by the governor.
- h. The commissioner of the Division of Administration or his designee.
- i. The attorney for the Patient's Compensation Fund who will serve as a non-voting, ex-officio member of the commission.
- k. One representative of the governor's office.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day of November, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of Financial Institutions

In accordance with the emergency provisions of R.S. 49:953(B) and in accordance with the authority granted in R.S.

6:451(H), the commissioner of Financial Institutions hereby declares an emergency to exist relative to the protection of funds on deposit with limited function financial institutions. Therefore, the commissioner hereby adopts the following emergency rule which amends the regulations applicable to limited function financial institutions as originally published in the *Louisiana Register*, Volume 14, Number 12, dated December 20, 1988.

This emergency rule, applicable to all limited function financial institutions, shall become effective upon publication and shall remain in effect until made permanent by the normal delays of the Administrative Procedure Act.

Title 10 BANKS AND SAVINGS AND LOANS Part I. Banks

Chapter 19. Related Organizations and Services Subchapter D. Limited Function Financial Institutions §1993. Certificates of Authority; Issuance, Refusal, and Renewal

A. ...

B. If the commissioner finds that the public interest will not be served by permitting the organization of the proposed limited function financial institution, that there is no need for additional facilities in the community where the limited function financial institution is to be located, or that there is a lack of ability within that community to support additional facilities, he may refuse to issue the certificate of authority or may refuse to renew the certificate of authority.

C. A certificate of authority shall expire on December 31 in the year of its issuance. If the licensee has not complied with its license, or the governing laws, or the rules and regulations applicable to limited function financial institutions, the commissioner may refuse renewal of the certificate of authority. If the licensee is found to be in compliance with its license, and the governing laws, rules and regulations applicable thereto, it shall qualify for renewal of the certificate of authority. An annual renewal fee as indicated in §1991.D shall be assessed for renewal of said certificate of authority for an additional period of one year.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by The Department of Economic Development, Office of Financial Institutions, LR 14: 860 (December 1988), amended by Emergency Rule, LR 15: (December 1989).

§1995. Certificates of Authority; Powers and Authority; Prohibitions

A. In accordance with R.S. 6:451, a limited function financial institution which accepts deposits shall be limited to the following:

1. a. The accepting of deposits of only cash from corporations as approved by the commissioner, of which at least 25 percent of the voting stock and 25 percent of the total equity interest is owned by the licensee's parent corporation or any affiliate.

b. The authority granted by this license shall be in addition to and not supersede the authority of licensee as the holder of any of the entitlements referred to in R.S. 6:451(G).

c. Each deposit shall be evidenced by a certificate of deposit, which shall be numbered and issued in sequence.

2. The licensee shall obtain prior approval from the commissioner of financial institutions before a change in control or ownership may occur.

3. a. - b. ...

c. The minimum term for each certificate of deposit shall be 30 days and shall not be construed as a demand deposit. The maximum term for each certificate of deposit shall not exceed one year from date of issuance. Certificates of deposit shall not be renewed or extended beyond their maturity date.

d. Each certificate of deposit issued shall bear interest at a rate stated on its face. Interest shall be paid in cash at least quarterly.

4. a. The licensee shall furnish quarterly financial statements to the Office of Financial Institutions within 30 calendar days following the end of the quarter.

b. The licensee shall annually furnish to the Office of Financial Institutions a December 31 year-end unqualified financial statement which shall have been audited by an independent certified public accountant, to be filed no later than March 30 of the following year.

5. The licensee shall be subject to examination by the Office of Financial Institutions, at least annually. The cost for any such examination shall be borne by the licensee and shall be assessed at the cost incurred by the Office of Financial Institutions in performing the examination at the rate of \$500 or \$30 per hour, whichever is greater.

6. The licensee shall annually furnish to the Office of Financial Institutions a listing certified by its executive officer of all deposit activity which has taken place during the previous 12 months. This listing shall be as of December 31, and shall be filed no later than January 31 of the following year, and shall include:

a. - f. ...

7. Requirements

a. The licensee at all times shall maintain a ratio of total stockholders equity to deposits of at least 10 percent.

b. The licensee at all times shall maintain on hand a ratio of permissible investments to all outstanding certificates of deposit in an amount equal to:

i. 100 percent of cash, investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States.

ii. 110 percent of investment-grade rated (rated in the top four rating categories by a nationally recognized rating organization) obligations of any state, municipality or of any political subdivision thereof.

iii. a percentage to be determined by the commissioner for any other approved investments.

c. The licensee at all times shall conduct its operations in a safe and sound manner.

d. Loans between the licensee and its affiliates are at all times restricted by the terms of the limited function financial institution's license.

8. The licensee shall notify the Office of Financial Institutions in writing within 24 hours of its inability to either meet scheduled interest payments or inability to redeem any certificate of deposit at maturity.

9. ...

B. ...

C. The licensee shall furnish evidence to the Office of Financial Institutions that it maintains at all times a surety bond, issued by an unaffiliated bonding company authorized to do business in Louisiana, with at least a B+ rating, covering all employees of the licensee up to the limits of cash or negotiable instruments that each employee is authorized to handle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by The Department of Economic Development, Office of Financial Institutions, LR 14: 860 (December 1988), amended by Emergency Rule, LR 15: (December 1989).

§1997. Records and Funds

A. Each limited function financial institution shall maintain books and records which are complete and accessible for inspection by the commissioner or any of his examiners during normal working hours. Failure of the limited function financial institution to maintain adequate and accessible records may result in the revocation of its license.

B. In no case shall the records or funds of the parent company or any affiliate company be commingled with those of the limited function financial institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by The Department of Economic Development, Office of Financial Institutions, LR 14: 860 (December 1988), amended by Emergency Rule, LR 15: (December 1989).

§1998. Penalties

The violation of any provision of the laws, rules, regulations or license governing limited function financial institutions shall subject the alleged violator or violators, whether they be a limited function financial institution, its officers, directors, stockholders, employees or any combination thereof, to all the enforcement powers of the commissioner of Financial Institutions provided in Title 6 of the Louisiana Revised Statutes, of 1950 as amended, and any and all penalties contained therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by The Department of Economic Development, Office of Financial Institutions, by Emergency Rule, LR 15: (December 1989).

§1999. Definitions

A. *Total income* - gross income before any expense deductions.

B. *Incidental to the other business activities of the applicant* - those business activities subordinate to the business activities of the applicant/licensee.

C. *Safe and sound* - the ability of a limited function financial institution to meet its withdrawal requests, to adhere to its license, laws and regulations governing the institution. Safe and sound also includes the ability of a limited function financial institution to conduct its business honestly, carefully and efficiently.

D. *Permissible investments* - unencumbered cash; unencumbered investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States; or unencumbered investment-grade rated (rated in the top four rating categories by a nationally recognized rating organization) obligations of any state, municipality or of any political subdivision thereof; or any other unencumbered investments approved in writing by the commissioner.

E. *Affiliate* - a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the licensee.

F. *Control* - when a person directly or indirectly, or acting through or in concert with one or more persons:

1. owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the limited function fi-

financial institution;

2. controls in any manner the election of a majority of the directors of the limited function financial institution; or

3. has the power to exercise a controlling influence over the management or policies of the limited function financial institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by The Department of Economic Development, Office of Financial Institutions, by Emergency Rule, LR 15: (December 1989).

Fred C. Dent
Commissioner

DECLARATION OF EMERGENCY

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

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

The Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) mandates that Medicaid state agencies implement provisions to expand coverage for all persons aged 65 years and over, as well as disabled persons, who are Medicare Part A eligible (whether or not they currently have Part A coverage); and who meet certain income and resource criteria. The Medicare Catastrophic Coverage Act (MCCA) mandated an implementation date of January 1, 1989, unless a delay was requested by the state to permit time for necessary legislation, and such request was approved by the Health Care Financing Administration (HCFA). The basis for approval for delays in implementation was dependent upon the necessity for state legislation to avoid conflict with existing laws. A delay based on lack of funding was specifically precluded. Louisiana requested a delay based on a legal interpretation that Louisiana law prohibited deficit spending and implementation of MCCA would result in deficit spending. Thus, legislation to repeal the prohibition on deficit spending or to grant exception to the agency to permit deficit spending was needed. However, Louisiana's request was denied by HCFA as HCFA categorized the needed legislation as an appropriate issue and determined it was not eligible for delay under the provisions of P.L. 100-360. Therefore, the Medicaid agency was advised that it must implement the provisions of MCCA no later than March, 1989.

This rule is necessary to ensure compliance with mandated federal regulations and laws and to avoid sanctions from HCFA. Title XIX benefits provided under this rule shall be effective based on the mandatory coverage requirements of federal law. Any amendments of federal law shall amend the provisions of Title XIX adopted herein. This rule was previously adopted under emergency rulemaking provisions of R.S. 49:953 B effective July 28, 1989 and published in the *Louisiana Register* Vol. 15, No. 8, on August 20, 1989.

RULE

The Medicaid Program shall implement the provisions of the Medicare Catastrophic Coverage Act of 1988 to expand cov-

erage for certain persons aged 65 years and over, as well as disabled persons, who:

1. are eligible for Medicare Part A coverage;

2. have incomes less than 85 percent of the federal poverty level (in Calendar Year 1989);

3. have countable resources worth less than twice the level allowed for Supplemental Security Income (SSI) applicants; and

4. meet the general nonfinancial requirements or conditions of eligibility for Medical Assistance (i.e. filing of application, residency, citizenship, assignment of rights, etc.).

The annual income limit for 1989 for one individual would be \$5,083, while that for a couple would be \$6,817. The resource amount allowed in 1989 may not exceed \$4,000 for an individual or \$6,000 for a couple.

Medicaid benefits provided to eligible individuals differ depending on which of the two categories noted below that the person would qualify for based on eligibility for Medicaid in another category of assistance (i.e. SSI, Medically Needy, or Long Term Care eligible). These categories and their benefits are outlined below:

1. *Dual QMB Eligibles* are individuals who: are over age 65 or disabled; eligible for Medicare A; meet the income and resource limits noted above; and are eligible for Medicaid in another category (i.e. SSI, Medically Needy, or Long Term Care). Benefits for these individuals include:

a. payment of Medicare Part A premium if not eligible for "free" premium as a result of work history;

b. payment of Medicare Part B premium;

c. payment of Medicare deductibles and coinsurance for all Medicare covered services; and

d. payment of services covered by Medicaid which are not covered by Medicare.

2. *Qualified Medicare Beneficiaries (QMB only)* are individuals who: are over age 65 or disabled; eligible for Medicare Part A; meet the income and resource limits noted above; and are otherwise not eligible for Medicaid under any other category of assistance. Benefits for these individuals are the same as those noted above for Dual Eligibles with the exception of payment for Medicaid only services (d.). QMBs are only eligible for Medicare cost sharing expenses; not other Medicaid benefits outside of Medicare coverage.

Those services for which an individual is eligible as either a Dual Eligible or Qualified Medicare Beneficiary shall be denoted on the Medicaid identification card issued to these individuals. Currently eligible recipients for whom Medicaid will pay the Medicare Part A premium become eligible for Medicare Part A effective July 1, 1989, provided they enroll by March 31, 1989.

Providers of service to these eligibles have the right to accept the patient as Medicare only, QMB only, or as a Dual (Medicare/Medicaid) eligible, but must advise the patient as to his payment status to ensure that the patient is aware of his potential liability for payment of the services. If a provider accepts a patient as a QMB only, and accepts Medicare assignment, he may not bill the patient for any difference between his charge for the services and Medicare's allowable rate for the service. If a provider does not accept Medicare assignment for treating a QMB only, he may bill the patient for the difference between his charge for the service(s) and Medicare's allowable rate for the service. In either instance, for a QMB only, the provider may not bill the patient for any difference between the Medicare deductible or coinsurance amount and the amount paid by Medicaid for these Medicare cost-sharing benefits. In the

case of Dual eligibles, as Medicaid requires that Medicare assignment be accepted in order to bill Medicaid, no amount may be charged to the patient for any difference between billed charges and the combined payment of Medicare and Medicaid. Medicaid reimbursement for deductible and coinsurance amounts shall not exceed the state maximum payment for the service. Medicaid only covered services provided to Dual eligibles shall be reimbursed in accordance with current payment standards. All providers of service must be duly enrolled Medicaid providers whether billing for Dual eligibles or QMBs only. Providers choosing to bill only for QMBs should denote this on their enrollment forms, but will not be permitted to bill for Dual eligibles or Medicaid only patients.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Labor Office of Employment Security

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 954(2), and under the authority granted to the secretary of the Louisiana Department of Labor, notice is hereby given that LAC 40:IV.329 is amended and adopted effective January 1, 1990, relative to the enforcement and application of LSA-R.S. 23:1600(2). The present application of LAC 40:IV.329 places the Unemployment Insurance Fund in peril by allowing benefits to be granted to individuals who are not registered with Job Service which is a violation of LSA-R.S. 23:1600(2). This situation arises because under present LAC 40:IV.329 the claim for benefits constitutes both a claim for benefits and the individual's registration for work with Job Service. However, the procedure does not allow for sufficient information to be received by Job Service to refer qualified applicants to new employment. This results in a violation of LSA-R.S. 23:1600(2). The proposed emergency rule will require all claimants for benefits to also apply at the Job Service location to apply for new employment.

Title 40 LABOR AND EMPLOYMENT Part IV. Employment Security

Chapter 3. Employment Security Law

§329. Registration for Work and Claims for Benefits for Total and Part-Total Unemployment.

A. Claims for benefits for total or part-total unemployment shall be made on forms prescribed by the administrator for that purpose. In order to claim benefits or waiting period credits for unemployment, an individual shall (1) file a claim for benefits and (2) register for work at the office of employment security.

B. The continued claim for benefits for total or part-total unemployment shall be made on forms prescribed by the administrator. Except as otherwise provided in this Section and §333, to establish eligibility for benefits or waiting credits for weeks of total or part-total unemployment during any continuous period of unemployment, the claimant shall continue to report in person or by mail, weekly or biweekly, or at more frequent intervals, if directed by the administrator or his representative, to the Office of Employment Security where he registered for work and filed

his claim, provided the reporting at more frequent intervals places no unreasonable burden on him or does not unreasonably limit his opportunity to establish his rights to benefits. The claimant may for good cause when unable to report to such office file his continued claim at any other Office of Employment Security. For reasons found to be cause for any individual's failure to appear at the time specified for reporting at an Office of Employment Security, a continued claim may be accepted from such individual, effective as of the first day of his week of total or part-total unemployment, if such continued claim is filed within seven days following the date specified for his reporting. If the failure of an individual to file such a claim at the time specified is found to be without good cause or if the continued claim is not filed within the above mentioned seven days, the continued claim will be disallowed.

C. Repealed

D. An individual who returns to employment under conditions which no longer render him eligible for benefits or waiting period credits may claim benefits in person or by mail for the week or portion of a week immediately preceding his employment, provided the week or portion of a week follows without interruption an initial claim or a week for which benefits or waiting period credits were claimed.

E. The administrator may waive or alter either or both of the requirements of this Section to an individual who (1) is a paid up union member of a recognized craft union; (2) is partially employed and files a claim for part-total benefits; (3) files a claim for shared-work benefits under a shared-work plan, or (4) is on temporary layoff from his regular work with a definite date of return and holds himself available for reemployment at his last place of work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:491 (June 1989), amended LR 16:

Bernard J. Francis, Sr.
Assistant Secretary

DECLARATION OF EMERGENCY

Department of State Office of Uniform Commercial Code

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and R.S. 49:230(C) relative to the authority of the Department of State, Office of The Uniform Commercial Code, to promulgate rules and regulations, the Department of State adopts the following rules relative to the implementation and administration of Chapter 9 of The Louisiana Commercial Laws (R.S. 10:9-101, et seq.), otherwise known as the "UCC," effective January 1, 1990.

Title 10 BANKS AND SAVINGS AND LOANS Part V. Uniform Commercial Code Chapter 1. Secured Transactions §101. Policy

R.S. 10:9-401, et seq., the Commercial Laws-Secured Transactions, (hereinafter referred to as the "UCC") adopts Ar-

title 9 of the Uniform Commercial Code. The UCC adopts the "notice filing" approach under which an abbreviated notice is filed with the appropriate filing officer evidencing that a debtor and a secured party intend to engage in or have engaged in a secured transaction using specified collateral as security. Effective January 1, 1990, the UCC applies to transactions occurring on and after that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-401, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§103. Place of Filing - When Filing is Required in Louisiana

A. The proper place to file in order to perfect a security interest is with the Clerk of Court of any parish, or, in the case of Orleans Parish, with the Recorder of Mortgages thereof (the "filing officer").

B. It is only necessary to file in one parish to properly perfect a security interest, notwithstanding the location of the collateral, the location of the debtor, or the fact that the secured collateral may be relocated or situated in various parishes within the state of Louisiana.

C. The Secretary of State is not authorized to accept UCC filings. Any filings directed erroneously to the Secretary of State will be returned to the secured party with directions as to the proper filing procedures.

D. The law governing filing rules applicable to multi-state transactions is contained in R.S. 10:9-103.

E. The filing of a financing statement otherwise required by the UCC is not necessary or effective to perfect a security interest in property subject to the following statutes:

1. R.S.32:701, et seq., pertaining to motor vehicles; and
2. R.S.3:3651, et seq., pertaining to farm products.

AUTHORITY NOTE: Promulgated in accordance with R.S.10:9-302, 10:9-401 and 10:9-103.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16 .

§105. Formal Requisites of Financing Statement

A. To be effective, a financing statement must:

1. give the debtor's name, mailing address, and Social Security Number or Employer Identification Number, as applicable;

a. A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor and sets forth his or its Social Security Number or employer identification number, as applicable.

b. The trade names of the debtor, or the names of the individual partners, may also be set forth in the financing statement at the option of the secured party.

c. There are two types of taxpayer identifying numbers, Social Security Numbers or employer identification numbers, which are required to be set forth in identifying a particular debtor. These identifying numbers, which are used for indexing purposes only, are further defined as follows:

i. Social Security Number (SSN) means the number that is assigned to a person by the Social Security Administration of the Department of Health and Human Services. The SSN has nine digits separated by hyphens, as follows: 000-00-0000; it does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary under the Social Security System. See 20 CFR §422.103.

ii. Employer Identification Number (EIN) means the taxpayer identifying number of an individual, trust, estate, partner-

ship, association, company, or corporation that is assigned pursuant to Section 6011(b) of the Internal Revenue Code of 1986, or corresponding provision of prior law, or pursuant to Section 6109 of the Code. The EIN has nine digits separated by a hyphen as follows: 00-0000000.

iii. In instances where a debtor has both a Social Security Number and an employer identification number (such as individuals who are engaged in business as sole proprietors), the Social Security Number should be used as the debtor's taxpayer identifying number in the financing statement.

2. give the name of the secured party and an address of the secured party named from which information concerning the security agreement may be obtained;

3. give a statement indicating the types, or describing the items, of collateral;

a. If the collateral is minerals or the like, including oil and gas, or accounts resulting from the sale thereof at the wellhead or minehead, or is a fixture, the financing statement must:

i. show that it covers this type of collateral;

ii. be accompanied by an attachment containing a description of the real estate sufficient if it were contained in a mortgage of the real estate to cause such mortgage to be effective as to third persons if it were properly filed for record under Louisiana law; and

iii. if the debtor does not have an interest of record in the real estate, the financing statement must also show the name and Social Security Number or employer identification number, as applicable, of a record owner of the immovable or real right therein. It is not necessary to name all record owners of the immovable or real right.

b. The standard UCC-1 form approved by the Secretary of State contains appropriate spaces to indicate whether the filing is fixture or mineral related, and to set forth the name and Social Security Number/employer identification number of a record owner if the named debtor does not own the real estate.

4. be signed by the debtor.

a. Limited exception: In the following cases, only the signature of the secured party is required when filing a financing statement to perfect a security interest in:

i. collateral already subject to a security interest in another jurisdiction when it is brought into Louisiana, or when the debtor's location is changed to Louisiana. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state;

ii. proceeds of the original collateral if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral;

iii. collateral as to which the filing has lapsed; or

iv. collateral acquired after a change of name, identity or corporate structure and Social Security Number or employer identification number, as applicable, of the debtor;

b. The standard UCC-1 form approved by the Secretary of State contains appropriate boxes to be checked by the secured party if one of the exceptions set forth herein is applicable.

c. The financing statement is not required to be notarized or witnessed.

B. When a debtor so changes his name or in the case of an organization its name, identity or corporate structure and the debtor also changes its Social Security or employer identification number so that a filed financing statement becomes seriously misleading to third parties, a new UCC-1 financing statement must be filed within four months after the change to perfect a security interest in collateral acquired by the debtor more than

four months after the change. This UCC-1 may be filed by the secured party without the debtor's signature, as explained in §105.A.4. above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-402 and 10:9-508.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§107. Forms To Be Used In Filing

A. Under the UCC, the notice to be filed with the filing officer is called a financing statement. The standard financing statement approved by the Secretary of State, Louisiana Form UCC-1, measures 8 1/2" × 11". All filing officers will accept these standard forms.

B. The UCC-1 financing statement prescribed by the Secretary of State as of January 1, 1990, appears immediately following these rules and is designated as Appendix "A".

1. The prescribed financing statement is subject to change due to periodic updates and is printed herein merely for informational purposes.

2. UCC forms are not stocked or dispensed by filing officers or the Secretary of State. A list of approved vendors may be obtained by contacting the Secretary of State at (504) 922-1000 or 922-1314.

3. Laser printed financing statements prepared by computerized loan documentation service companies will be accepted as standard filings if presented in the same form as the Louisiana Form UCC-1 on 8 1/2" × 11" paper.

C. If the space provided on the UCC-1 is inadequate, the item should be identified and continued on an additional 8 1/2" × 11" sheet. The name of the debtor and its Social Security Number or employer identification number, as applicable, should appear as the first item on the additional sheet.

D. The security agreement entered into by the secured party and the debtor is sufficient as a financing statement if it contains all the information required in a financing statement and is signed by the debtor; however, the nonstandard form penalty will be assessed for the filing of such agreement.

E. A carbon, photographic, facsimile or other reproduction of a security agreement or financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

1. Filing officers shall reject any financing statement or security agreement if the copy is illegible.

2. As of the effective date of these rules, many filing offices are not equipped with fax machines; therefore, the filing officer of the parish in which the financing statement is to be filed should be contacted regarding the acceptance of fax filings.

F. A nonstandard filing is subject to a nonstandard form penalty, and is defined as follows:

1. A filing which is made in any form other than on the UCC-1 prescribed by the Louisiana Secretary of State.

2. Filings made on an approved UCC-1 form with attached pages containing information other than additional debtor names, or the real estate description required by R.S. 10:9-402(5).

Note: See fee schedule for nonstandard filing fees.

G. A consignor, lessor, depositor or bailor of goods has the option of filing a financing statement using the terms "consignor", "consignee", "lessor", "lessee", "depositor" (or "bailor"), and "depository" (or "bailee"), instead of the terms "secured party" and "debtor". The filer may indicate that the financing statement is filed as a lease, consignment, deposit, or bailment either by indicating the same in the statement describ-

ing the types, or items, of the secured collateral or by designating the status of the parties to the transaction in the appropriate debtor and secured party name blocks and in the space designated for signatures, or both.

H. A financing statement may disclose an initial assignment of the security interest by giving the name and address of the assignee. After disclosure of the assignment, the assignee is the secured party of record. The standard UCC-1 form approved by the Secretary of State contains appropriate space to disclose such an initial assignment.

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

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§109. Presentation of Filing

A. All filings required by the UCC shall be made by presenting the appropriate documents and tendering the required fees to any of the 64 filing officers. Filings may be made in person or by mail, or by fax machine pursuant to §107.E herein. Payment of the fees shall be made in any manner acceptable by the filing officer in the parish in which the filing is made.

1. If Louisiana Form UCC-1 is presented for filing, the first two parts (Filing Officer Copy and Acknowledgment Copy) are filed with the filing officer with the interleaved carbons **still intact**. The third and fourth copies are to be retained by the secured party and the debtor, respectively.

2. When submitting a copy of the security agreement in lieu of the UCC-1, the filer is encouraged to complete a standard UCC-1 form and attach it to the nonstandard filing. If the required signatures appear on the nonstandard filing they need not appear on the UCC-1. Completion and attachment of the UCC-1 greatly simplifies the filing and indexing process for the filing officer.

3. If an acknowledgement copy from the filing officer is desired by persons submitting a facsimile copy of the financing statement, a laser printed financing statement or a copy of the security agreement, the filer must submit an additional copy of the document.

B. The filing officer shall mark each financing statement with a file number, the parish of filing, and the date and time of filing.

C. After the document has been filed, the second copy (Acknowledgment Copy of the UCC-1 or the photocopy of the document submitted by the filer) will be returned to the secured party of record. If the acknowledgment copy is to be returned to another party or another address, indicate the same in the appropriate box on the UCC-1 form.

D. The filing officer shall transmit the information contained in the financing statement together with the date and time of filing and file number thereof, no later than 4:30 p.m. on the second business day following filing, to the Secretary of State for inclusion in the master index. Note that a summary of the collateral described in the financing statement may be included in the information transmitted to the Secretary of State. This summary is for informational purposes only and is not a substitute for the description of the collateral contained in the financing statement.

E. The Secretary of State shall, within two business days following receipt of such information from the filing officer, send written notice to the secured party confirming such receipt and reflecting all information received and included in the master index.

F. Any questions regarding the filing information reflected in the written notice of acknowledgment from the Secretary of

State should first be directed to the filing officer which accepted and recorded the filing. Data entry errors will be corrected by the filing officers at no charge to the secured party; upon such correction, the Secretary of State will send written notice to the secured party confirming receipt of the same. Errors committed by the secured party in preparing the financing statement must be corrected by filing an amendment or by filing a new financing statement. The Secretary of State will not make changes, additions or deletions to data entered by the filing officer.

G. Any questions regarding receipt of the written notice of acknowledgment from the Secretary of State should be directed to the Secretary of State's UCC Division at (504) 922-1314.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-403.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§111. Indexing

A. If more than one debtor name is set forth in the financing statement or other statement, all debtors, including any listed trade names, will be entered into the Secretary of State's master index. If an attachment is required to complete the debtor name listing, please indicate the same in the additional debtor name block on the UCC-1 and attach the listing on an 8 1/2" × 11" sheet. An additional fee of \$5 per debtor name will be assessed.

B. Debtor names shall be indexed exactly as set forth by the secured party in the debtor name block of the UCC-1, or in the case of a nonstandard filing, as set forth in the body of the agreement. Please note the following for clarification:

1. If the secured party desires to have the filing officer additionally index a married woman under her maiden name, the secured party must specifically request the same by setting forth the maiden name separately, at an additional fee of \$5.

2. In the event the debtor's signature varies from the type-written name set forth in the debtor name block of the UCC-1 (or in the body of a nonstandard filing) and the secured party desires to have this varied name included in the master index, the secured party must specifically request the same by setting forth the varied name as an additional debtor name on the financing statement at an additional fee of \$5.

C. The Secretary of State shall maintain a master index of information contained in all financing statements and other statements filed with filing officers and transmitted to the Secretary of State. The master index shall list all such statements according to the name and Social Security Number or employer identification number, as applicable, of the debtor and shall include all of the information transmitted to the Secretary of State by all filing officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-403.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§113. Perfection By Filing of Accounts Receivable Outside the Scope of the UCC

A. Filings relating to assignments of accounts receivable entered into after January 1, 1990, which affect accounts not subject to Chapter 9 (e.g., assignments of accounts generated by lease of immovable property) shall be accomplished by filing a financing statement conforming to the requirements of Chapter 9.

1. The standard UCC-1 form should be presented in filings relating to accounts receivable outside the scope of Chapter 9.

2. Filings may be made with the Clerk of Court of any parish, or, in the case of Orleans parish, with the Recorder of Mortgages thereof.

3. If the filing is presented on the UCC-1 approved by the Secretary of State, the standard filing fee of \$15 is applicable; otherwise, the nonstandard form penalty will be assessed.

B. All procedural rules set forth in §§103-125 relating to the formal requisites of a financing statement, prescribed forms to be used in filing, presentation of the filing, indexing of names, and other procedures governing changes made to an original UCC filing are incorporated by reference herein and are specifically applicable to the filing of accounts receivable outside the scope of Chapter 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3112(B).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§115. Duration

A. A financing statement is effective for a period of five years from the date of filing.

1. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

2. In cases where an insolvency proceeding is commenced by or against the debtor, the security interest remains perfected for 60 days after the termination of the insolvency proceedings or until expiration of the effective five-year period, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S.9-403(2).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§117. Subsequent Filings

A. Filings relating to changes affecting the original financing statement have been consolidated and incorporated into a single form prescribed by the Secretary of State called a "UCC-3". This single composite form may be used as a Continuation Statement, a Partial Release Statement, a Statement of Partial Assignment, a Statement of Assignment (full assignment), a Termination Statement, or an amendment to a financing statement.

B. The standard Form UCC-3 approved by the Secretary of State measures 8 1/2" × 11". Any filings made on any form other than on the approved UCC-3 form prescribed by the Louisiana Secretary of State will be assessed the nonstandard filing fee penalty.

C. The UCC-3 prescribed by the Secretary of State as of January 1, 1990, appears immediately following these rules and is designated as Appendix "B". The UCC-3 is subject to change due to periodic updates and is printed herein merely for informational purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S.1:9-409.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§119. Procedure For Filing a UCC-3

The procedural rules set forth in §§107 and 109 herein governing the use of prescribed forms and presentation of the UCC-1 filing are incorporated by reference herein and must be followed in the presentation of a UCC-3 or other statement changing the status of an original filing.

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

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§121. Place of Filing a UCC-3

A. Any subsequent filings affecting an original UCC financing statement must be filed in the parish in which the original UCC financing statement was filed.

B. Filings erroneously directed to a parish other than that in which the original financing statement was filed shall be rejected by the filing officer.

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

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§123. Preparation of a UCC-3 Filing

Any UCC-3 filing changing the original financing statement must:

A. be signed by the secured party of record.

The secured party and debtor of record are those parties shown on the Secretary of State's master index.

2. When the original financing statement discloses an assignment of the security interest, the assignee is the secured party of record and must sign all subsequent UCC-3 filings.

B. Give the name, address and Social Security Number or employer identification number, as applicable, of each debtor as it appears on the original financing statement or the most recent filing. See §105.A.1.C regarding guidelines on taxpayer identification numbers.

C. Give the name and mailing address of the secured party of record.

D. Give the original UCC file number (entry number), the date of filing and the parish in which the original financing statement was filed.

E. Indicate the type of action requested. Only one type of transaction may be requested on any UCC-3 form.

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

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§125. Additional Specific Requirements for Filings Changing the Status of an Original UCC Filing

A. Continuation Statement

A filed financing statement is effective for a period of five years. No exception is made for a stated maturity date of less than five years. A security interest ceases to be perfected unless a continuation statement is filed prior to the expiration date of a financing statement. A continuation statement may only be filed by the secured party within the six-month period prior to the expiration date and must state that the original financing statement is still effective. The timely filing of a continuation statement extends the effectiveness of the original financing statement for an additional five-year period after the last date to which the filing was effective. Continuous perfection may be achieved by filing successive continuation statements in this manner.

2. If the original financing statement lapses due to a failure to timely continue within the six-month period prior to the end of the five-year period of effectiveness, the secured party must file a new financing statement rather than a continuation statement. However, the new financing statement need only be signed by the secured party, and is effective from the date of filing. See §105.A.4 regarding filing a UCC-1 upon lapse of a financing statement.

3. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured

party of record and include the required fee for an assignment.

B. Release

1. The secured party of record may release all or a part of any collateral described in a filed financing statement. The statement of release must include a description of the released collateral.

2. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record, and include the required fee for an assignment.

3. If the secured party wishes to release all of the collateral, a termination statement should be filed.

C. Assignments

1. In addition to the general information required on a UCC-3, a statement of assignment must set forth the name and address of the assignee.

a. Full Assignment: A full assignment is made when a secured party assigns all rights under the financing statement. The standard UCC-3 form approved by the Louisiana Secretary of State contains an appropriate box to be checked by the secured party if a full assignment is contemplated.

b. Partial Assignment: A partial assignment is made when a secured party assigns rights to only part of the collateral described in the financing statement. A description of the assigned collateral must be set forth in the appropriate space on the UCC-3, or on an attached sheet if more space is required. The standard form UCC-3 approved by the Louisiana Secretary of State contains an appropriate box to be checked by the secured party if a partial assignment is contemplated.

2. A copy of the assignment agreement is sufficient as a separate statement if it contains all the requirements set forth in §§117-123 and §125.C, but will constitute a nonstandard filing subject to the nonstandard filing fee.

D. Termination

Prior to expiration of the five-year effective period, a financing statement may be cancelled by filing a termination statement. The termination statement must state that the secured party of record no longer claims a security interest under the financing statement, which must be identified by its original file number. The standard form UCC-3 approved by the Louisiana Secretary of State contains an appropriate box to be checked by the secured party when a termination is requested.

2. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record, and include the required fee for an assignment.

E. Amendment

An amendment may be used to change or add to the name(s) of the debtor or the secured party, the address of either the debtor or the secured party, the Social Security Number or employer identification number of the debtor, or to add collateral. If an amendment adds collateral, a description of the collateral must be included; this filing is effective as to the added collateral only from the filing date of the amendment.

2. The amendment must be signed by both the debtor and secured party unless the amendment changes only the name of the secured party or the address of either the debtor or the secured party.

3. The filing of an amendment does not extend the period of effectiveness of a financing statement.

4. When a debtor name has been deleted by the filing of an amendment changing the name, the original debtor name will continue to be reflected in the Secretary of State's master index

and therefore will be reflected on a certificate requesting that exact name.

5. An amendment signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record, and include the required fee for an assignment.

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

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§127. Reinscription Of Pre-Chapter 9 Filings

A. Pre-chapter 9 filings are defined herein to include assignments of accounts receivable, chattel mortgage and collateral chattel mortgages executed prior to January 1, 1990. Reinscription of the above described security devices shall be accomplished by filing a continuation statement on the standard form UCC-3 approved by the Secretary of State. The filing may be made with any parish filing officer. However, it is recommended that the continuation statement be filed in the parish in which the original pre-Chapter 9 filing was recorded in order to facilitate retrieval of all original documents relating to a particular transaction.

B. Assignments Of Accounts Receivable

Reinscription (continuation) of assignments of accounts receivable need only be signed by the secured party and must include the following information:

1. the name and address of the assignor/debtor;
2. the Social Security Number or employer identification number, as applicable, of the assignor/debtor;
3. the name and address of the assignee/secured party;
4. a general description of the assigned "accounts";
5. the date on which the original notice of assignment was filed;
6. the parish in which the notice of assignment was originally filed and the recordation information therefor.

C. Chattel Mortgages And Collateral Chattel Mortgages

Reinscriptions (continuations) of chattel mortgages and collateral chattel mortgages need only be signed by the mortgagee/secured party and must include:

1. the name and address of the mortgagor/debtor;
2. the Social Security Number or Employer Identification Number, as applicable, of the mortgagor/debtor;
3. the name and address of the mortgagee/secured party;
4. the date of the original mortgage;
5. a brief description of the mortgaged property;
6. the parish or parishes or other public entity with which the mortgage or the Notice of Security interest was previously filed;
7. recordation data as applicable to such a previously filed mortgage or Notice of Security interest;

D. The filing officers shall collect fees applicable for the filing of a UCC continuation statement, which fee shall be allocated between the filing officer and the Secretary of State as set forth in R.S. 9:2770(A)(1)(a).

AUTHORITY NOTE: Promulgated in accordance with R.S.9:3112(B) and 9:5356(J).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§129. Request for Information or Copies

A. Background: The Secretary of State's master index of information is composed of UCC filing data submitted by the 64 filing officers statewide. The data base is a composite of all pres-

ently effective financing statements, as well as any statements of assignment, continuation, release, or amendment, and original financing statements which have been terminated within the one-year period prior to a request for a certificate. All UCC filings are indexed according to the name and Social Security Number or employer identification number, as applicable, of each particular debtor.

The Secretary of State's master index does not contain information on statutory liens or tax liens, except for statements filed pursuant to R.S.23:1546 relative to unemployment compensation contributions. In addition, the master index does not contain any information on notices of assignments of accounts receivable, or chattel mortgage or collateral chattel mortgage filing information, except for those pre-Chapter 9 filings which have been reinscribed under the UCC filing provisions in accordance with R.S. 9:3112(B) and R.S. 9:5356(J).

Original UCC documents filed with the parish filing officers remain at the local level in the parish of filing. Any filings which change the status of an original UCC filing must be made with the filing officer with whom the financing statement was originally filed, and the original will remain on file in that parish. The Secretary of State does not receive copies of UCC filings. Therefore, requests for copies of documents must be made in the parish in which the filing was originally made. If filings on a particular debtor have been made in more than one parish, each parish filing officer must be contacted for copies of such filings. If the file numbers cannot be provided by the requesting party, a certificate must be requested from the filing officer.

B. Prescribed Forms to be Used in Requesting Information or Copies

A standard form UCC-11 has been prescribed by the Louisiana Secretary of State to be used in requesting (1) copies of filings, and/or (2) the filing officer's certificate showing whether there is listed any presently effective financing statements or other statements naming a particular debtor identified by Social Security Number or employer identification number. This form, as approved on January 1, 1990, has been reproduced for reference purposes only, and is designated as Appendix "C." It is recommended that the standard form UCC-11 be utilized to facilitate accurate responses, but there is no penalty for failure to use the form.

C. Information Request (Certificate)

1. A separate written request for information (certificate) must be submitted for each debtor name. If information is requested on more than one name, a separate UCC-11 form must be submitted for each name. A business name, trade name or D/B/A is considered a separate name. A husband and wife are considered separate debtors.

2. The requesting party must be sure to submit a request for a certificate with the correct spelling of the debtor's name and the correct Social Security Number or employer identification number, as applicable. A deviation or error in the debtor's name or taxpayer identification number may result in a failure to disclose all of the desired information.

3. The UCC certificate issued by the filing officer will contain the following information as reflected in the Secretary of State's master index.

a. Statements filed under the exact debtor name requested as particularly identified by the debtor's Social Security Number or employer identification number, as applicable.

b. Statements filed under the exact debtor name requested in which no Social Security Number or employer identification number was provided in the original financing statement.

i. Note that if the requesting party is unable to provide the debtor's taxpayer identification number, the certificate will reflect all filings under the exact name requested without regard to the various taxpayer identification numbers designated therein.

ii. If the requesting party desires a certificate which reflects all filings under an exact debtor name without regard to the taxpayer identification numbers on the financing statement (e.g. whether the number is different, the same, or not disclosed on the financing statement), the requesting party should omit the taxpayer identification number when submitting his request to the filing officer. Note that a certificate run on a common debtor name (e.g. John Smith) without regard to taxpayer identification numbers may disclose an indefinite number of listings and may result in a substantial fee.

c. Statements filed under the exact Social Security Number or employer identification number provided, without regard to the spelling of the debtor's name.

4. Upon request, a supplement to the certificate will also be provided by the filing officer which will set forth filings listed under debtor names which may be considered similar to the name requested, so as to assist the requesting party in locating all desired filings. The supplement is not certified by the filing officer and may not represent a complete listing of debtor names which may be considered similar to the name under which the search was made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-403, 407, 409 and R.S. 23:1546.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 16: .

§131. Schedule Of Fees For Filing And Information Requests (Certificates)

UCC-1 *Financing Statement \$15
 *Financing Statement with Assignment \$20
 *Financing Statement relating to fixture or mineral filings \$25

UCC-3 *Amendment \$15
 *Assignment (Full or Partial) \$15
 *Continuation \$15
 *Release \$15
 **Termination \$ 5

*Extra fee of \$5 for each additional debtor name or tradename
 **Termination fee of \$5 per debtor name is prepaid at time of original filing of financing statement. In addition, a \$5 nonstandard form penalty is assessed if the standard UCC-3 form is not used at the actual time of termination.

*Nonstandard form penalty (UCC-1 and UCC-3) \$15 (plus \$1 per page in excess of 10 pages)

UCC-11 ***UCC Certificate (per name) \$15
 Copies \$ 1 per page (Minimum \$3 per request)

***If a certificate contains listings for more than 10 statements, add \$1.00 for each statement in excess of 10.

APPENDIX A

STATE OF LOUISIANA
 UNIFORM COMMERCIAL CODE - FINANCING STATEMENT - FORM UCC-1
 IMPORTANT - Read instructions on back before filling out form

This FINANCING STATEMENT is presented for filing pursuant to Chapter 9 of the Louisiana Commercial Laws

1A DEBTOR (LAST NAME, FIRST, MIDDLE - IF AN INDIVIDUAL) 1B SS# OR FEDERAL TAX NO

1C MAILING ADDRESS

2A ADDITIONAL DEBTOR (IF ANY) (LAST NAME, FIRST, MIDDLE - IF AN INDIVIDUAL) 2B SS# OR FEDERAL TAX NO

2C MAILING ADDRESS

3 DEBTOR'S TRADE NAMES OR STYLES (IF ANY)

4A SECURED PARTY **SECURED PARTY INFORMATION**

4B MAILING ADDRESS

5A ASSIGNEE OF SECURED PARTY (IF ANY)

5B MAILING ADDRESS

6A THIS FINANCING STATEMENT COVERS THE FOLLOWING TYPES OF ITEMS OF PROPERTY **PROPERTY INFORMATION**

6B Products of collateral are also covered

7A Check if applicable and attach legal description of real property
 Fixture filing under R.S. 10:9-313
 Minerals or the like (including oil and gas) or accounts subject to R.S. 10:9-102(b) will be financed at the wellhead or minehead of the well or mine
 The debtors do not have an interest in the real property. (Enter name and social security/federal tax number of an owner of record in 7B)

7B OWNER OF REAL PROPERTY (If other than named Debtor) (Enter name and SS#/Fed. tax # of an owner of record) 7C SS#/FEDERAL TAX NO

8 This statement is filed without the debtor's signature to perfect a security interest in collateral (check if so)
 already subject to a security interest in another jurisdiction when it was brought into this state or debtor's location changed to this state
 which is proceeds of the original collateral described above in which a security interest was perfected
 as to which the filing has lapsed
 acquired after a change of debtor's name, identity or corporate structure AND social security or federal tax number

9 SIGNATURE(S) OF DEBTOR(S)

10 SIGNATURE(S) OF SECURED PARTY(IES) (if applicable)

11 Return copy to
 NAME
 ADDRESS
 CITY, STATE, ZIP CODE

12 THIS SPACE FOR USE OF FILING OFFICER (DATE, TIME, ENTRY # AND FILING OFFICER)

13 Number of additional sheets presented

LOUISIANA APPROVED FORM UCC-1, SECRETARY OF STATE W. FOX MCKEITHEN **FILING OFFICER COPY**

APPENDIX B

STATE OF LOUISIANA
 UNIFORM COMMERCIAL CODE - STATEMENTS OF CONTINUATION, RELEASE, ASSIGNMENT, ETC. - UCC-3
 IMPORTANT - Read instructions on back before filling out form

This STATEMENT is presented for filing pursuant to Chapter 9 of the Louisiana Commercial Laws

1A DEBTOR (LAST NAME, FIRST, MIDDLE - IF AN INDIVIDUAL) 1B SS# OR FEDERAL TAX NO

1C MAILING ADDRESS

2A ADDITIONAL DEBTOR (IF ANY) (LAST NAME, FIRST, MIDDLE - IF AN INDIVIDUAL) 2B SS# OR FEDERAL TAX NO

2C MAILING ADDRESS

3 DEBTOR'S TRADE NAMES OR STYLES (IF ANY)

4A SECURED PARTY **SECURED PARTY INFORMATION**

4B MAILING ADDRESS

5A ASSIGNEE OF SECURED PARTY (IF ANY)

5B MAILING ADDRESS

6A UCC FILE NO **ORIGINAL FINANCING STATEMENT** 6B PRE-CHAPTER 9 ENTRY NO 6C PARISH IN WHICH FILED 6D DATE OF ORIGINAL FILING

7 TYPE OF ACTION (Check only one)
 A CONTINUATION - The original Financing Statement between the Debtor and Secured Party bearing the file number shown above is still effective
 B RELEASE - The Secured Party releases the collateral described in Item No. 8 below from the Financing Statement bearing the file number shown above
 C PARTIAL ASSIGNMENT - Some of the secured party's rights under the Financing Statement bearing the file number shown above have been assigned to the assignee above named. A description of the collateral subject to the assignment is set forth in Item No. 8 below
 D ASSIGNMENT - The Secured Party has assigned to the Assignee above named all the Secured Party's rights under the Financing Statement bearing the file number shown above
 E TERMINATION - The Secured Party no longer claims a security interest under the Financing Statement bearing the file number shown above
 F AMENDMENT - The Financing Statement bearing the file number shown above is amended as set forth in Item No. 8 below

8 DESCRIPTION (Required for Release, Assignment, Amendment and Reinscription of Pre-Chapter 9 Filings)

9 SIGNATURE(S) OF DEBTOR(S) IF REQUIRED

10 SIGNATURE(S) OF SECURED PARTY(IES)

11 Return copy to
 NAME
 ADDRESS
 CITY, STATE, ZIP CODE

12 THIS SPACE FOR USE OF FILING OFFICER (DATE, TIME, ENTRY # AND FILING OFFICER)

13 Number of additional sheets presented

LOUISIANA APPROVED FORM UCC-3, SECRETARY OF STATE W. FOX MCKEITHEN **FILING OFFICER COPY**

APPENDIX C

STATE OF LOUISIANA
UNIFORM COMMERCIAL CODE - REQUEST FOR INFORMATION OR COPIES - UCC-11
IMPORTANT - Read instructions on back before filling out form

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, R.S. 49:967, R.S. 56:497 and the authority the Wildlife and Fisheries Commission has granted to the secretary of the Department of Wildlife and Fisheries, the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

The 1989 fall inshore shrimp season in Zone II (that portion of Louisiana's inshore waters from South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island) will close at 12:01 a.m on Tuesday, November 21, 1989.

The secretary finds that shrimp in this zone are not of legal size count and water temperatures are such that growth will be slow, if any, and continued harvest of these shrimp may affect the numbers of larger, more valuable white shrimp available in the spring of 1990.

Virginia Van Sickle
Secretary

REQUEST FOR INFORMATION OR COPIES. Present in Duplicate to Filing Officer.

1 **INFORMATION REQUEST** - Filing Officer please furnish certificate showing whether there is on file any presently effective financing statements, statements of assignment, continuation, amendment or release, and termination statements filed within the past year, naming the Debtor listed below, giving the date and hour of filing of each such statement and the name and address of each Secured Party named therein.

1A DEBTOR (LAST NAME, FIRST, MIDDLE - IF AN INDIVIDUAL) _____ 1B SS# OR FED. TAX. NO. _____

1C MAILING ADDRESS _____

1D _____
DATE _____, 19____ SIGNATURE OF REQUESTING PARTY _____

2 **FILING OFFICER RESPONSE:**
The undersigned Filing Officer has attached hereto a listing of all presently effective financing statements, statements of assignment, continuation, amendment or release, and termination statements filed within the past year, which name the above Debtor, and which are indexed in the Secretary of State's UCC Computer System, consisting of _____ Pages.
_____, 19____ (FILING OFFICER)
By _____ (DATE) _____

3 **COPY REQUEST:**
A Filing Officer please furnish exact copies of each page of the following types of statements reflected on the attached certificate which are on file in your office:
 All Statements on File Financing Statements Amendments Statements of Assignment Continuation Statements Statements of Release Termination Statements
B Filing Officer please furnish exact copies of each page of the statements concerning the Debtors listed below which are on file in your office. (If you cannot provide file numbers you must request a certificate)

FILE NUMBER	DATE OF FILING	NAME(S) AND ADDRESS(S) OF DEBTOR(S)	DEBTOR'S SS# OR FED. TAX. NO.

DATE _____, 19____ SIGNATURE OF REQUESTING PARTY _____

4 The undersigned filing officer has attached hereto copies of the statements requested above consisting of _____ pages.
_____, 19____ (FILING OFFICER)
By _____ (DATE) _____

5 Mail Information or Copies To
NAME _____
ADDRESS _____
CITY, STATE _____
ZIP CODE _____

LOUISIANA APPROVED FORM UCC-11, SECRETARY OF STATE W. FOX MCKEITHEN FILING OFFICER COPY

W. Fox McKeithen
Secretary

Rules

RULE

**Department of Agriculture and Forestry
Office of Management and Finance**

Central Registry

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 3:3660, R.S. 3:3654 and Public Law 99-198 (Food Security Act of 1985), notice is hereby given that the Department of Agriculture and Forestry, Central Registry, has adopted the following amendments:

**Title 7
AGRICULTURE AND ANIMALS
Part XXXVII. Security Devices**

**Chapter 181. Central Registry
§18101. Definitions**

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

Central Registry means the place for recordation of all effective financing statements and written security devices which establish a security interest in farm products, and the place for recordation of assignments, amendments, extensions, and cancellations thereof.

DECLARATION OF EMERGENCY

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

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953 (B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits program adopted the fee schedule as mandated by Act 429 of the 1989 Regular Legislative Session, effective January 1, 1990.

This emergency adoption is necessary in order to comply with provisions of Act 429 and House Concurrent Resolution No. 168 of the 1989 Regular Legislative Session which deferred the effective date of the implementation of the medical fee schedule from July 1, 1989 to January 1, 1990 and changed the basis on which the fee schedule was to be implemented from "statistical mean of the usual and customary" charges to the "usual and customary" charges.

A copy of the Fee Schedule can be viewed at the office of State Employees Group Benefits Program, 5825 Florida Blvd., Baton Rouge, LA 70806.

James D. McElveen
Executive Director

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

Commissioner means the Louisiana Commissioner of Agriculture and Forestry, or his duly authorized agent.

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

Crop year means:

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

Cumulative addendum means a document listing all filings with the Central Registry as of the date of issuance that are not listed on the most recent master list.

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

Department means the Louisiana Department of Agriculture and Forestry.

Effective Financing Statement (EFS) means a written instrument which is an abstract of a security device and which complies with the provisions of R.S. 3:3654(E).

Encumbrance certificate means a written document signed by the commissioner which lists all security devices affecting a person which has been filed with the Central Registry on the date and at the time the certificate is issued and which complies with the provision of R.S. 3:3654(F).

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

Farm product encumbrance list (master list) means a document listing all effective financing statements, amendments, assignments and extensions of effective financing statements which:

1. is organized according to farm product; and
2. is arranged within each such product in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors; in numerical order according to the Social Security Number of the individual debtors, or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors; geographically by parish; and by crop year.

Filing means the receipt of any EFS, amendment, assignment, extension or cancellation of an EFS with any other security devices accompanied by a related EFS by the Central Registry stamped with the date and time received and assigned a file number.

Knows or knowledge means actual knowledge.

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

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

Regular business day means any day that the department

is open for routine business.

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, LR 12:826 (December 1986), amended LR 13:560 (October 1987), LR 15: (December 1989).

§18103. Administration

The Central Registry will be administered by the commissioner and operated by the Office of Management and Finance of the department. All filings, notices, petitions, documents or other correspondence shall be addressed to the Louisiana Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, Box 3481, Baton Rouge, LA 70821-3481.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, LR 12:826 (December 1986), amended LR 13:560 (October 1987), LR 15: (December 1989).

§18105. Filing Procedures

A. Any person holding a security interest in a farm product may file security devices which are accompanied by a related EFS with the Central Registry. All security devices must be originals or a certified copy.

B. All effective financing statements must be submitted on Form CR-1 as prescribed by the commissioner.

C. All amendments, assignments, extensions and cancellations of an EFS must be submitted on Form CR-2 as prescribed by the commissioner.

D. All effective financing statements or amendments, assignments, extensions and cancellations of effective financing statements must be accompanied by the required fee unless approval for billing has been granted by the commissioner and completed in accordance with the instructions on the form.

E. The Central Registry will notify the secured party in writing at the address provided by the secured party of the time and date of filing of any EFS or an amendment, extension or cancellation of an EFS. In the case of assignments to an EFS, the Central Registry will notify the assignee at the address provided on the assignment form (CR-2).

F. Any EFS or amendment, assignment, extension or cancellation of a EFS that does not conform to all provisions of this Section will be rejected and returned to the secured party.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, LR 12:826 (December 1986), amended LR 13:560 (October 1987), LR 15: (December 1989).

Bob Odom
Commissioner

RULE

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, has hereby amended and adopted the rules and regulations detailed below.

Act 491 of the 1989 Regular Legislative Session made substantive changes to this program. Those changes are incorporated into the previous rules. In addition, new minority set-aside provisions, for compliance with Act 921 of 1987, are included in Rule 2. These rules were approved by the Louisiana Board of Commerce and Industry August 30, 1989.

Title 13

DEPARTMENT OF ECONOMIC DEVELOPMENT

Part 1. Commerce and Industry

Subpart 1. Finance

Chapter 11. New Corporate Headquarters Tax Equalization

§1101. General

A. Intent of Law

For qualifying new corporate headquarters, the Board of Commerce and Industry may enter into a contract to equalize the franchise tax burden in Louisiana to that of a competing site located in another state.

B. Description of the Program

The Corporate Headquarters Tax Equalization Program is an inducement to attract new corporate headquarters facilities to Louisiana, which would not otherwise locate in Louisiana due to a higher tax burden. This program is designed to eliminate the franchise tax differential between a Louisiana site and a competing site in another state. The sites under consideration must be valid and viable for the proposed new corporate headquarters operations. The competing site must offer comparative advantages equal to or greater than the comparative advantages offered at the Louisiana site. The governor must extend a written invitation to the company authorizing the company to submit an application for this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1103. Louisiana Manufacturers and Suppliers

The Board of Commerce and Industry requires any new corporate headquarters and their contractors to give preference and priority to Louisiana manufacturers and, in the absence of Louisiana manufacturers, to Louisiana suppliers, contractors, and labor, except where not reasonably possible to do so without

added expense or substantial inconvenience or sacrifice in operational efficiency. In considering applications for tax exemption, special attention will be given to those applicants agreeing to use, purchase and contract for machinery, supplies, and equipment manufactured in Louisiana, or in the absence of Louisiana manufacturers, sold by Louisiana residents, and the use of Louisiana contractors and labor in the construction and operation of proposed tax exempt facilities. It is a legal and moral obligation of the new corporate headquarters receiving exemptions to favor Louisiana manufacturers, suppliers, contractors, and labor, all other factors being equal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1105. Minority Set-Aside

A. Any new corporate headquarters, and its contractors, applying for an exemption or state-sponsored subsidy shall designate and set-aside for awarding to certified minority-owned businesses an amount not less than 10 percent of the value of the anticipated total procurement of goods and services including construction for the exempted project, without added expense; provided such certified minority-owned businesses are majority-owned by Louisiana residents, operated by Louisiana residents and are competent to deliver the required products and services in a timely manner and perform the required work in a timely manner during construction and operation of the project.

B. The applicant should contact the Division of Minority and Women's Business Enterprise (the "division") to purchase the "Directory of Certified minority-owned businesses" for use in identifying qualified, certified minority-owned businesses.

C. Each affected corporate headquarters shall submit to the division, at the time of submitting an application for tax equalization to the Office of Commerce and Industry, and annually thereafter, its plan for compliance.

D. The set-aside plan for compliance prepared by each corporate headquarters shall include the following:

1. An affirmation that the establishment is committed to giving preference and priority to Louisiana businesses and to compliance with the intent of the minority set-aside statutes and rules.

2. The methods it will use to:

a. encourage certified minority business participation;
b. keep records of certified minority business participation;

c. require compliance by its bidders, contractors, and subcontractors for their contracts with certified minority businesses.

3. On forms provided by the division, the annual anticipated expenditures for construction, machinery and equipment, cost of goods used in manufacturing, operating expenditures, and all other expenditures.

4. On the same forms, those products and services which the establishment believes:

a. cannot be purchased from a certified minority business without added expense, or can only be purchased from an out-of-state source, or which must be purchased from a sole-source provider;

b. cannot be delivered by a certified minority business in a timely manner; or,

c. cannot be performed by a certified minority-owned business in a timely manner.

d. All exceptions must be separately listed on an attach-

ment with a brief explanation of why each is considered an exclusion.

E. The establishment will submit annually a report on its compliance for the previous year, within 90 days following the end of its operating year, or within 90 days of the anniversary date on which the contract became effective. The annual compliance report, on forms provided by the division, shall contain the actual expenditures and exceptions for which previous protections were reported under Subsection D. 3 and 4.

F. On an annual basis and within 12 months of the end of the establishment's operating year or contract anniversary date, the division shall report to the secretary of Economic Development, regarding the status of the establishment's compliance efforts.

G. Within 12 months of the end of the establishment's operating year or contract anniversary date, if it is determined that an establishment has not given preference and priority to Louisiana businesses and/or is not in compliance with the minority set-aside statutes and rules, the secretary of economic development may recommend to the Board of Commerce and Industry that a proportionate reduction of the next annual exemption amount be made.

H. Documents and other materials submitted by Louisiana businesses for purposes of compliance with the minority set-aside statutes and rules shall be held in confidence and shall not be made public record, if the company determines that such records are trade or business secrets, and shall be maintained in a secured environment by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1107. Eligibility for Submission of Application

A. The applicant for tax equalization must be a corporation.

B. The sites under consideration must be valid and viable for the proposed new corporate headquarters operations.

C. A new corporate headquarters establishment at the time it is locating in Louisiana, must either be located in another state or be contemplating locating in another state which has equivalent or comparable advantages as exist at the particular area in Louisiana at which such establishment is locating.

D. The state in which the new establishment is located or is contemplating locating must have a state, franchise tax which offers a greater tax advantage to such establishment than does the franchise tax of Louisiana.

E. The secretary of Department of Economic Development must have made a recommendation to the governor to extend an invitation.

F. An invitation from the governor to apply must have been received by the company.

G. To be eligible for consideration under this program, the corporate headquarters facility must be new to the state or have the written approval of its competitors in order to apply for consideration for this program. The Standard Industrial Classification codes will be used to determine the competitive industries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1109. Application Fees

A. An advance notification fee of \$100 shall be submitted with the prescribed advance notification form.

B. An application fee shall be submitted with the application, which fee is 0.2 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be less than \$200 and in no case shall a fee exceed \$5,000 per project. A fee of \$50 shall be charged for the renewal of a contract.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1111. Application Procedure

A. Prior to the formal announcement to locate in Louisiana, an "Advance Notification" of intent to file for the New Corporate Headquarters Tax Equalization must be filed with the Office of Commerce and Industry. The company will submit, on forms provided by the Office of Commerce and Industry, a comparison of taxes for all sites under consideration.

B. The secretary of Department of Economic Development, after favorable review of the Advance Notification, shall recommend to the governor that a written invitation to submit an application be extended to the company. The written invitation of the governor must be received before an application is submitted.

C. At the invitation of the governor an application, on forms furnished by the Office of Commerce and Industry, may be filed with the Office of Commerce and Industry. Upon staff review, the analysis and recommendation of the staff is presented to the Louisiana Board of Commerce and Industry.

D. The Board of Commerce and Industry shall review any recommendations for exemptions made by the Office of Commerce and Industry. All commerce and industry board action on applications will be made at regularly scheduled meetings. If the Board of Commerce and Industry concurs in the recommendation it shall forward the recommendation together with all supporting documents to the Louisiana Board of Tax Appeals.

E. Upon receipt of any such recommendation the Board of Tax Appeals shall notify the Department of Revenue and Taxation of said recommendation and shall make available to the Department of Revenue and Taxation the application and all supporting documents.

F. The Department of Revenue and Taxation shall within ten days after receipt of the notice file in writing with the Board of Tax Appeals any objections it has to granting the exemption.

G. The Board of Commerce and Industry, after review by the Board of Tax Appeals and with the approval of the governor, may enter into a contract of tax equalization with the new corporate headquarters establishment.

H. All information submitted will be held in confidence to the fullest extent permitted by the Public Records Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1113. Application Contents

The application shall be submitted on forms provided by the Office of Commerce and Industry. A 10-year pro-forma balance sheet and income statement shall be provided by the applicant as the basis for all tax calculations. The application shall contain the following information:

A. The chief financial officer of the applicant company requesting New Corporate Headquarters Tax Equalization under this program will submit a written certification of the following estimated costs for each site under consideration:

1. construction cost;
2. site cost.

B. A certified estimate of the following state taxes covering the first 10 years of operations, filed for each site under consideration:

1. State Sales/Use Tax;
2. State Corporate Income Tax;
3. State Corporate Franchise Tax;
4. State Ad Valorem Property Tax (where applicable);
5. State Inventory Tax (where applicable);
6. Any other state taxes.

C. A certified estimate of the following local taxes covering the first 10 years of operations, filed for each site under consideration:

1. Local Sales/Use Tax;
2. Local Ad Valorem Property Tax;
3. Local Inventory Tax;
4. Any other local taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1115. Yearly Determination of Tax Equalization Amount

A. The contract of franchise tax equalization shall, on an annual basis, effect equality in amount between the franchise taxes payable in Louisiana and the franchise taxes which would have been payable in the competing state. For each taxable year of the contractee, at the time of filing the contractee's annual Louisiana Corporate Income and Franchise Tax return, the contractee shall furnish, to the Department of Revenue and Taxation and the Department of Economic Development, the following, where applicable, on an annual basis:

Using forms provided by the competing state, a computation of the corporate income tax and corporate franchise tax, including any applicable incentives, which would have been owed had the contractee located in the competing state.

B. The contractee shall authorize the Department of Economic Development to review all tax returns of the contractee and to share the information with the Department of Revenue and Taxation.

C. The data reflecting the franchise tax burden, including any available tax incentives, which would have been incurred in the competing state shall be compiled on behalf of the contractee by an independent Certified Public Accounting firm. The CPA firm shall certify to the best of its knowledge and belief that the data furnished are true and correct statements of the taxes which

would have been incurred during the taxable year of the contractee had the contractee originally located in the competing state, using the same level of business activity that the contractee enjoys in Louisiana.

D. Annually for each taxable year of the contractee and on the basis of all pertinent information, the Department of Revenue and Taxation shall compute the franchise tax liability of the contractee in Louisiana and the franchise tax liability that the contractee would have incurred had the contractee located in the competing state. The Department of Economic Development, Office of Commerce and Industry will assist the Department of Revenue and Taxation should any audit of the tax data for the competing state be necessary.

E. If the franchise tax liability of the contractee in Louisiana for the contractee's taxable year is greater than the franchise tax liability that the contractee would have incurred in the competing state, then the contractee's Louisiana franchise tax liability shall be reduced by allowing an exemption until the Louisiana tax burden is equal to the tax burden the contractee would have incurred if it had located in the competing state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1117. Contract Period/Project Completion Report

A. Contractee must file a project completion report, on forms provided by the Office of Commerce and Industry, within 30 days following the last day of the month after effective use of the structure has begun or construction is essentially complete, whichever occurs first.

B. The first year of the five-year franchise tax equalization contract period shall be the taxable year of the contractee in which operations begin as specified in the Project Completion Report, which report shall become an addendum to this contract. The contract shall expire on the last day of the forty-eighth month following the end of the taxable year of contractee in which operations begin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1119. Affidavit of Final Cost

Within six months after completion of construction or the purchase of facility, the owner of the new corporate headquarters establishment shall file on the prescribed form an affidavit of final cost showing complete cost of the project, together with a fee of \$100 for the facility inspection which will be conducted by the Office of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1121. Contract Renewals

Not more than one year prior to the expiration of a contract and not less than six months prior to the expiration, a company wishing an additional five-year contract period shall file with the Board of Commerce and Industry the information required in Rule 6 regarding certification of taxes. A renewal fee of \$50 must accompany the renewal application.

AUTHORITY NOTE: Promulgated in accordance with

R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1123. Annual Review/Violation of Contract

A. The contractee agrees to an annual review and inspection by the Department of Economic Development and shall make all books and records of the company available for inspection. The contractee agrees to have an officer of authority in attendance at the yearly review of the exemption by the Department of Economic Development. Included in this annual review shall be a review of employment data on the average number of jobs by month.

B. Written notice of any violations of the terms and conditions of this contract shall be given to contractee, who shall have 90 days within which to correct the violations. If the violation is not corrected within 90 days, any remaining portions of the exemption from tax granted under this contract may be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1125. Environmental Report Requirement

Any new corporate headquarters establishment whose primary business is the commercial treatment, disposal, or destruction of hazardous waste generated outside Louisiana shall submit with the application:

A. information relative to the impact the new corporate headquarters establishment will have on the environment;

B. a history of the compliance with environmental laws in Louisiana or any other state in which the applicant has operated. The history will include a list of any citations issued by any federal, state or local agency charged with the enforcement of any law concerning the environment or the transportation, treatment, disposal or destruction of hazardous waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

Robert Paul Adams
Director

RULE

**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, amended and adopted the rules and regulations detailed below.

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

**Chapter 5. Industrial Tax Equalization
§501. General**

A. Intent of Law

For qualifying manufacturers, the Board of Commerce and Industry may enter into a contract to equalize the total tax burden in Louisiana to that of a competing site located in another state.

B. Description of the Program

The Industrial Tax Equalization Program is an inducement to attract new manufacturing facilities to Louisiana, which would not otherwise locate in Louisiana due to a higher tax burden. This program is designed to eliminate the tax differential through the equalization of the overall taxes between a Louisiana site and a competing site in another state. The sites under consideration must be valid and viable for the proposed manufacturing operations. The competing site must offer comparative advantages equal to or greater than the comparative advantages offered at the Louisiana site. The governor must extend a written invitation to the company authorizing the company to submit an application for this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§503. Louisiana Manufacturers and Suppliers

The Board of Commerce and Industry requires manufacturers and their contractors to give preference and priority to Louisiana manufacturers and, in the absence of Louisiana manufacturers, to Louisiana suppliers, contractors, and labor, except where not reasonably possible to do so without added expense or substantial inconvenience or sacrifice in operational efficiency. In considering applications for tax exemption, special attention will be given to those applicants agreeing to use, purchase and contract for machinery, supplies, and equipment manufactured in Louisiana, or in the absence of Louisiana manufacturers, sold by Louisiana residents, and the use of Louisiana contractors and labor in the construction and operation of proposed tax exempt facilities. It is a legal and moral obligation of the manufacturers receiving exemptions to favor Louisiana manufacturers, suppliers, contractors, and labor, all other factors being equal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§505. Minority Set-Aside

A. Any new manufacturing establishment, and its contractors, applying for an exemption or state-sponsored subsidy shall designate and set-aside for awarding to certified minority-owned businesses an amount not less than ten percent of the value of the anticipated total procurement of goods and services including construction for the exempted project, without added expense; provided such certified minority-owned businesses are majority-owned by Louisiana residents, operated by Louisiana residents and are competent to deliver the required products and services in a timely manner and perform the required work in a timely manner during construction and operation of the project.

B. The applicant should contact the Division of Minority and Women's Business Enterprise (the "division") to purchase the "Directory of Certified minority-owned businesses" for use in identifying qualified, certified minority-owned businesses.

C. Each affected manufacturing establishment shall submit to the division, at the time of submitting an application for tax equalization to the Office of Commerce and Industry, and annually thereafter, its plan for compliance.

D. The set-aside plan for compliance prepared by each manufacturing establishment shall include the following:

1. An affirmation that the establishment is committed to giving preference and priority to Louisiana businesses and to compliance with the intent of the minority set-aside statutes and rules.

2. The methods it will use to:

a. encourage certified minority business participation;

b. keep records of certified minority business participation;

c. require compliance by its bidders, contractors, and sub-contractors for their contracts with certified minority businesses.

3. On forms provided by the division, the annual anticipated expenditures for construction, machinery and equipment, cost of goods used in manufacturing, operating expenditures, and all other expenditures.

4. On the same forms, those products and services which the establishment believes:

a. cannot be purchased from a certified minority business without added expense, or can only be purchased from an out-of-state source, or which must be purchased from a sole-source provider;

b. cannot be delivered by a certified minority business in a timely manner; or,

c. cannot be performed by a certified minority-owned business in a timely manner;

d. all exceptions must be separately listed on an attachment with a brief explanation of why each is considered an exclusion.

E. The establishment will submit annually a report on its compliance for the previous year, within 90 days following the end of its operating year, or within 90 days of the anniversary date on which the contract became effective. The annual compliance report, on forms provided by the division, shall contain the actual expenditures and exceptions for which previous projections were reported under Subsection D. 3 and 4 of this rule.

F. On an annual basis and within twelve months of the end of the establishment's operating year or contract anniversary date, the division shall report to the secretary of Economic Development, regarding the status of the establishment's compliance efforts.

G. Within 12 months of the end of the establishment's operating year or contract anniversary date, if it is determined that an establishment has not given preference and priority to Louisiana businesses and/or is not in compliance with the minority set-aside statutes and rules, the secretary of Economic Development may recommend to the Board of Commerce and Industry that a proportionate reduction of the next annual exemption amount be made.

H. Documents and other materials submitted by Louisiana businesses for purposes of compliance with the minority set-aside statutes and rules shall be held in confidence and shall not be made public record, if the company determines that such records are trade or business secrets, and shall be maintained in a secured environment by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§507. Eligibility for Submission of Application

A. The applicant for tax equalization must be a corporation.

B. The sites under consideration must be valid and viable for the proposed manufacturing operations.

C. A new manufacturing establishment at the time it is locating in Louisiana, must either be located in another state or be contemplating locating in another state which has equivalent or comparable advantages as exist at the particular area in Louisiana at which such establishment is locating.

D. The state in which the new establishment is located or is contemplating locating must have a state, parish (county) and local taxing structure which offers a greater tax advantage to such establishment than does the taxing structure of Louisiana.

E. The secretary of Department of Economic Development must have made a recommendation to the governor to extend an invitation.

F. An invitation from the governor to apply must have been received by the company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§509. Application Fees

A. An advance notification fee of \$100 shall be submitted with the prescribed advance notification form.

B. An application fee shall be submitted with the application, which fee is 0.2 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be less than \$200 and in no case shall a fee exceed \$5000 per project. A fee of \$50 shall be charged for the renewal of a contract.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§511. Application Procedure

A. Prior to the formal plant announcement, an "Advance Notification" of intent to file for Industrial Tax Equalization must be filed with the Office of Commerce and Industry. The company will submit, on forms provided by the Office of Commerce and Industry, a comparison of taxes for all sites under consideration.

B. The secretary of the Department of Economic Development, after favorable review of the advance notification shall recommend to the governor that a written invitation to submit an application be extended to the company. The written invitation of the governor must be received before an application is submitted.

C. At the invitation of the governor an application, on forms furnished by the Office of Commerce and Industry, may be filed with the Office of Commerce and Industry. Upon staff review, the analysis and recommendation of the staff is presented to the Louisiana Board of Commerce and Industry.

D. The Board of Commerce and Industry shall review any recommendations for exemptions made by the Office of Commerce and Industry. All Commerce and Industry Board action on applications will be made at regularly scheduled meetings. If the Board of Commerce and Industry concurs in the recommendation it shall forward the recommendation together with all supporting documents to the Louisiana Board of Tax Appeals.

E. Upon receipt of any such recommendation the Board of Tax Appeals shall notify the Department of Revenue and Taxation of said recommendation and shall make available to the Department of Revenue and Taxation the application and all supporting documents.

F. The Department of Revenue and Taxation shall within 10 days after receipt of the notice file in writing with the Board of Tax Appeals any objections it has to granting the exemption.

G. The Board of Commerce and Industry, after review by the Board of Tax Appeals and with the approval of the governor, may enter into a contract of tax equalization with the new manufacturing establishment.

H. All information submitted will be held in confidence to the fullest extent permitted by the Public Records Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§513. Application Contents

The application shall be submitted on forms provided by the Office of Commerce and Industry. A 10-year pro-forma balance sheet and income statement shall be provided by the applicant as the basis for all tax calculations. The application shall contain the following information:

A. The chief financial officer of the applicant company requesting tax equalization under this program will submit a written certification of the following estimated costs for each site under consideration:

1. plant construction cost;
2. annual labor cost;
3. annual raw materials cost;
4. annual transportation cost;
5. annual power cost;
6. site cost.

B. A certified estimate of the following state taxes covering the first 10 years of operations, filed for each site under consideration:

1. State Sales/Use Tax;
2. State Corporate Income Tax;
3. State Corporate Franchise Tax;
4. State Ad Valorem Property Tax (where applicable);
5. State Inventory Tax (where applicable);
6. Any other state taxes.

C. A certified estimate of the following local taxes covering the first 10 years of operations, filed for each site under consideration:

1. Local Sales/Use Tax;
2. Local Ad Valorem Property Tax;
3. Local Inventory Tax;

4. Any other local taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§515. Yearly Determination of Tax Equalization Amount

A. The contract of tax equalization shall, on an annual basis, effect equality in amount between the taxes payable in Louisiana and the taxes which would have been payable in the competing state. For each taxable year of the contractee, at the time of filing the contractee's annual Louisiana Corporate Income and Franchise Tax return, the contractee shall furnish, to the Department of Revenue and Taxation and the Department of Economic Development, the following, where applicable, on an annual basis:

1. a taxable year compilation of what would have been the state and local sales and use taxes, including any applicable tax incentives, of the contractee had it located in the competing state, together with a compilation of the actual Louisiana state and local sales and use taxes paid for the contractee's taxable year;

2. using forms provided by the competing state, a computation of the corporate income tax and corporate franchise tax, including any applicable incentives, which would have been owed had the contractee located in the competing state;

3. all other state and local returns or tax payment information, including any applicable tax incentives, for the contractee's taxable year which would have been filed or paid by the contractee had the contractee located in the competing state;

4. all other tax returns, including any applicable incentives, filed in the state of Louisiana with other state agencies or local governments.

B. The contractee shall authorize the Department of Economic Development to review all tax returns of the contractee and to share the information with the Department of Revenue and Taxation.

C. The data reflecting the tax burden, including any available tax incentives, which would have been incurred in the competing state shall be compiled on behalf of the contractee by an independent certified public accounting firm. The CPA firm shall certify to the best of its knowledge and belief that the data furnished are true and correct statements of the taxes which would have been incurred during the taxable year of the contractee had the contractee originally located in the competing state, using the same level of business activity that the contractee enjoys in Louisiana.

D. Annually for each taxable year of the contractee and on the basis of all pertinent information, the Department of Revenue and Taxation shall compute the total tax liability of the contractee in Louisiana and the total tax liability that the contractee would have incurred had the contractee located in the competing state. The Department of Economic Development, Office of Commerce and Industry will assist the Department of Revenue and Taxation should any audit of the tax data for the competing state be necessary.

E. If the total tax liability of the contractee in Louisiana for the contractee's taxable year is greater than the total tax liability that the contractee would have incurred in the competing state, then the contractee's Louisiana tax liability shall be reduced by allowing an exemption until the Louisiana tax burden is equal to the tax burden the contractee would have incurred if it had located in the competing state.

F. Exemptions from taxation shall be granted in the following priority:

1. state sales and use taxes on machinery and equipment to be used in the manufacturing process;
2. state corporation franchise tax;
3. state corporation income tax;
4. state sales and use taxes on materials and supplies required in the manufacture or production of a product;
5. any other tax imposed by the state of Louisiana to which the applicant is subject.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§517. Contract Period/Project Completion Report

A. Contractee must file a project completion report, on forms provided by the Office of Commerce and Industry, within 30 days following the last day of the month after effective use of the structure has begun or construction is essentially complete, whichever occurs first.

B. The first year of the five-year tax equalization contract period shall be the taxable year of the contractee in which operations begin as specified in the Project Completion Report, which report shall become an addendum to this contract. The contract shall expire on the last day of the forty-eighth month following the end of the taxable year of contractee in which operations begin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§519. Affidavit of Final Cost

Within six months after completion of construction or the purchase of facility, the owner of the new manufacturing establishment shall file on the prescribed form an affidavit of final cost showing complete cost of the project, together with a fee of \$100 for the plant inspection which will be conducted by the Office of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§521. Contract Renewals

Not more than one year prior to the expiration of a contract and not less than six months prior to the expiration, a company wishing an additional five-year contract period shall file with the Board of Commerce and Industry the information required in §513 regarding certification of taxes. A renewal fee of \$50 must accompany the renewal application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§523. Annual Review/Violation of Contract

A. The contractee agrees to an annual review and inspection by the Department of Economic Development and shall make all books and records of the company available for inspection. The contractee agrees to have an officer of authority in attendance at the yearly review of the exemption by the Depart-

ment of Economic Development. Included in this annual review shall be a review of employment data on the average number of jobs by month.

B. Written notice of any violations of the terms and conditions of this contract shall be given to contractee, who shall have ninety days within which to correct the violations. If the violation is not corrected within 90 days, any remaining portions of the exemption from tax granted under this contract may be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§525. Environmental Report Requirement

Any new commercial manufacturing establishment whose primary business is the commercial treatment, disposal, or destruction of hazardous waste generated outside Louisiana shall submit with the application:

1. information relative to the impact the new manufacturing establishment will have on the environment;
2. a history of the compliance with environmental laws in Louisiana or any other state in which the applicant has operated. The history will include a list of any citations issued by any federal, state or local agency charged with the enforcement of any law concerning the environment or the transportation, treatment, disposal or destruction of hazardous waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

Robert Paul Adams
Director

RULE

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, amends and adopts the rules and regulations detailed below.

New minority set-aside provisions, for compliance with Act 921 of the 1987 Regular Legislative Session, are included in Rule 12. This rule was approved by the Louisiana Board of Commerce and Industry, August 30, 1989.

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

Chapter 17. Industry Assistance

§1725. Minority Set-Aside

A. Any new manufacturing establishment, and its contractors, applying for an exemption or state-sponsored subsidy shall designate and set-aside for awarding to certified minority-

owned businesses an amount not less than 10 percent of the value of the anticipated total procurement of goods and services including construction for the exempted project, without added expense; provided such certified minority-owned businesses are majority-owned by Louisiana residents, operated by Louisiana residents and are competent to deliver the required products and services in a timely manner and perform the required work in a timely manner during construction and operation of the project.

B. The applicant should contact the Division of Minority and Women's Business Enterprise (the "division") to purchase the "Directory of Certified minority-owned businesses" for use in identifying qualified, certified minority-owned businesses.

C. Each affected manufacturing establishment shall submit to the division, at the time of submitting an application for tax equalization to the Office of Commerce and Industry, and annually thereafter, its plan for compliance.

D. The set-aside plan for compliance prepared by each manufacturing establishment shall include the following:

1) An affirmation that the establishment is committed to giving preference and priority to Louisiana businesses and to compliance with the intent of the minority set-aside statutes and rules.

2) The methods it will use to:

a) encourage certified minority business participation;
b) keep records of certified minority business participation;

c) require compliance by its bidders, contractors, and subcontractors for their contracts with certified minority businesses.

3) On forms provided by the division, the annual anticipated expenditures for construction, machinery and equipment, cost of goods used in manufacturing, operating expenditures, and all other expenditures.

4) On the same forms, those products and services which the establishment believes:

a) cannot be purchased from a certified minority business without added expense, or can only be purchased from an out-of-state source, or which must be purchased from a sole-source provider;

b) cannot be delivered by a certified minority business in a timely manner; or,

c) cannot be performed by a certified minority-owned business in a timely manner;

d) All exceptions must be separately listed on an attachment with a brief explanation of why each is considered an exclusion.

E. The establishment will submit annually a report on its compliance for the previous year, within 90 days following the end of its operating year, or within 90 days of the anniversary date on which the contract became effective. The annual compliance report, on forms provided by the division, shall contain the actual expenditures and exceptions for which previous projections were reported under Subsection D.3 and 4 of this rule.

F. On an annual basis and within 12 months of the end of the establishment's operating year or contract anniversary date, the division shall report to the secretary of economic development, regarding the status of the establishment's compliance efforts.

G. Within 12 months of the end of the establishment's operating year or contract anniversary date, if it is determined that an establishment has not given preference and priority to Louisiana businesses and/or is not in compliance with the minority set-aside statutes and rules, the secretary of economic development may recommend to the Board of Commerce and

Industry that a proportionate reduction of the next annual exemption amount be made.

H. Documents and other materials submitted by Louisiana businesses for purposes of compliance with the minority set-aside statutes and rules shall be held in confidence and shall not be made public record, if the company determines that such records are trade or business secrets, and shall be maintained in a secured environment by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4306.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 12:663 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

Robert Paul Adams
Director

RULE

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, amends and adopts the rules and regulations detailed below.

This program was created by Act 642 of the 1983 Legislature, and later amended by Act 891 in 1984, Acts 695 and 915 in 1986, and Act 496 in 1989. Previous rules are being updated to reflect the legislative changes brought about by Act 496.

Act 496 made substantive changes to the program enabling statutes, R.S. 51:1921 et seq. The previous rules must be revised to accommodate the statutory changes and for additional rules to provide for: definitions; initial funding period; recertification; changes in investment requirements; reporting requirements; and transfer of income tax credits; etc.

Title 13

DEPARTMENT OF ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 1. Finance

Chapter 7. Louisiana Capital Companies Tax Credit Program

§701. General

A. Intent of Law

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".

B. Description of Program

This program was created by Act 642 of the 1983 Legislature, and later amended by Act 891 in 1984, Acts 695 and 915 in 1986, and Act 496 in 1989. A "certified Louisiana capital company" has as its primary business activity the investment of cash in such a manner as to acquire equity in "qualified Louisi-

ana businesses" that are in need of capital for survival, expansion, new product development, or similar business purposes and that is certified by the secretary of the Department of Economic Development. The capital company's initial capitalization must be \$200,000 in order to qualify for certification. An investor in a certified Louisiana capital company receives an income tax credit, calculated at 35 percent of the cash investment, on income taxed in the year in which the investment is made. Any remaining tax credit may be carried forward until exhausted. The value of property or services contributed cannot be included for purposes of determining the income tax credit. For insurance companies that invest in certified Louisiana capital companies, a premium tax reduction is available. The annual premium tax reduction is subject to certain limitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§703. Definitions

The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise:

A. *Certified Louisiana capital company* means any partnership or corporation, whether organized on a profit or non-profit basis, that has as its primary business activity the investment of cash in such a manner as to acquire equity in "qualified Louisiana businesses" that are in need of capital for survival, expansion, new product development, or similar business purposes and that is certified by the secretary as meeting the criteria of Title 51, Chapter 26 and thus eligible for the tax credit provided in Title 51, Chapter 26.

B. *department* means the Department of Economic Development.

C. *A qualified Louisiana business* means:

1. Any business which operates primarily in Louisiana or does substantially all of its production in Louisiana and which has no more than five hundred employees and has annual business receipts not in excess of seven million dollars.

2. Any business, which is classified as a qualified Louisiana business at the time of the first investment in said business by a certified Louisiana capital company, shall remain classified as a qualified Louisiana business for any later additional investment into by that certified Louisiana capital company.

D. *secretary* means the secretary of the Department of Economic Development.

E. *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. The department shall promulgate rules to determine what constitutes equity for the purpose of this definition.

F. *Certified capital* means an investment of cash pursuant to R.S. 51:1924(A) and (B) or an investment pursuant to R.S. 22:1068(E) into a certified Louisiana capital company.

G. *Qualified investment* means the investment of cash in such a manner as to acquire equity in a qualified Louisiana business.

H. The date that a Louisiana Capital Company is "certified" or is "newly certified" or is "designated as a certified Louisiana Capital Company", is the date that a Louisiana Capital Company is notified of the certification or recertification by the secretary.

AUTHORITY NOTE: Promulgated in accordance with

R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§705. Investor Income Tax Credits

A. A person, either natural or artificial who invests in the capital of a certified Louisiana capital company may claim a credit against the person's Louisiana income tax in the person's taxable year in which the investment is made, as certified by the department to the Department of Revenue and Taxation.

B. The credit shall be calculated by the department as 35 percent of the person's cash investment in the capital of a certified Louisiana capital company. The value of property or services contributed shall not be included for purposes of determining the credit.

C. The amount of the tax credit which exceeds the person's tax liability for the taxable year for which a credit is allowed may be carried forward to subsequent years until the credit is exhausted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§707. Corporation Income and Franchise Tax Exemption

A. Notwithstanding any other provision of law to the contrary, any corporation that is a certified Louisiana capital company as provided for in Title 51, Chapter 26 shall be exempt from the corporation income tax and the corporation franchise tax levied pursuant to Title 47 of the Louisiana Revised Statutes of 1950 for five consecutive taxable periods. The exemption from corporation income tax shall commence with the taxable period in which the capital company is certified by the department. The exemption from corporation franchise tax shall commence with the taxable period next following the taxable period in which certification as a certified Louisiana capital company is obtained from the department.

B. In the case of a corporation obtaining certification as a certified Louisiana capital company prior to the beginning of its first taxable period, the exemption from corporation income tax provided for in Section A, of this rule, shall commence with the corporation's first taxable period and shall continue through its next four consecutive taxable periods. The exemption from corporation franchise tax shall commence with the corporation's second taxable period and shall continue through its next four consecutive taxable periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§709. Exemptions from Premium Taxes for Insurance Companies

A. A premium tax reduction for insurers investing in certified capital companies shall be computed as one hundred and twenty percent of the amount of the investment at the time the investment is made. The investment shall be in the form of cash and/or debt instruments which are obligations of the investing insurance company to the certified capital company. Such debt instruments shall be converted into cash at a rate of not less than 10 percent per year from the date of the investment.

B. The premium tax reduction shall be subject to the fol-

lowing limitations:

1. For investments made during any taxable year beginning on or after January 1, 1989 and before January 1, 1990, the tax reduction shall not exceed 40 percent of tax liability for that taxable year.

2. For investments made during any taxable year beginning on or after January 1, 1990 and before January 1, 1991, the tax reduction shall not exceed 30 percent of the tax liability for the respective taxable year.

3. For investments made during any taxable year beginning on or after January 1, 1991 and before January 1, 1993, the tax reduction shall not exceed 25 percent of the tax liability for the respective taxable year.

4. For investments made during any taxable year beginning on or after January 1, 1993, no tax reduction shall be allowed.

C. The tax reduction shall be applied to the premium tax liability not to exceed 10 percent of the premium tax reduction in any one year until 100 percent of the premium tax reduction has been claimed by the insurer; provided, however, that the reduction in any taxable year shall not exceed the premium tax liability for such taxable year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§711. Application Fees, Other Fees

The following fees must be submitted:

A. An "Advance Notification" of intent to seek certification shall be filed by a capital company prior to filing an application. An advance notification fee of \$100 shall be submitted with the advance notification form.

B. An application fee shall be submitted with the application based on 0.2 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$200 and in no case shall a fee exceed \$5,000 per project. Please make checks payable to: Louisiana Office of Commerce and Industry.

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

D. The secretary shall conduct an annual review of each certified Louisiana capital company to determine the company's compliance with the rules and statutes. The company will receive notice of the annual review 45 days in advance. A review fee of \$100 must be returned and received 15 days prior to the appointment date of the annual review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§713. Application Process

A. A company organized and existing under the laws of Louisiana, created for the purpose of making venture or risk capital available for qualified investments as required in R.S. 51:1921 et al, shall make written application for certification to

the secretary of the Department of Economic Development on application forms provided by the Office of Commerce and Industry.

B. The form for applying to become a "certified" Louisiana capital company may be obtained from the Office of Commerce and Industry, Financial Incentives Division, Box 94185, Baton Rouge, LA 70804-9185 and shall be filed at the same address. The time and date of filings shall be recorded at the time of filing in the office of the Financial Incentives Division and shall not be construed to be the date of mailing.

C. Said application shall be signed by a duly authorized officer, or partner, and contain the following information and evidence:

1. the full legal name of the company;

2. the street address of the applicant's principal office in Louisiana;

3. the names and respective street addresses of the applicant's directors and officers or general and managing partners including street number in any city or town, state and zip code;

4. a certified copy of the certificate of incorporation, and articles of incorporation, or a certified copy of the certificate of formation of a limited partnership, or trust documents, or other evidence that the company is organized and existing under the laws of Louisiana, as required by the Secretary of State;

5. information and evidence that the applicant's purpose is to encourage and assist in the creation, development, and expansion of Louisiana businesses and to provide maximum opportunities for the employment of Louisiana residents, by making venture or risk capital available to Louisiana businesses;

6. pursuant to R.S. 51:701-724 and §703 of the Office of the Louisiana Commissioner of Securities, which comprises LAC 13:I. 701-723, information and evidence that the applicant has filed a disclosure document; or, for a company claiming exemption from the registration provisions, information and evidence that the company has filed for an exemption;

any company subject to filing a registration, or an exemption filing, must also provide a properly executed Consent to Service of Process to the Office of the Louisiana Commissioner of Securities;

7. information and evidence that the applicant has disclosed or will disclose to all investors that a tax credit is not available for an investment in a company until the company has been designated a "certified" Louisiana capital company;

8. information and evidence that the applicant has disclosed or will disclose to all investors that all statutory limits on tax credits are disclosed;

9. information and evidence that the applicant has disclosed or will disclose to all investors that the State of Louisiana is not liable for damages to an investor in a Louisiana capital company that fails to become designated as a "certified" Louisiana capital company;

10. a statement that if the investors in the company or partnership receive a tax credit under Title 51, Chapter 26, then the company will use the capital base included by such tax credit to make qualified investments as required in R.S. 51:1926;

11. a statement that the company will comply with all requirements of Title 51, Chapter 26, including the filing of quarterly reports of new investors and qualified investments that include the name of each investor in a "certified" Louisiana capital company who has applied for a tax credit, the amount of each investor's investment, the amount of tax credit allowed to the investor and the date on which the investment was made;

12. information stating the total capital account of the

applicant and how the value has been determined and how the equity portion has been determined. A capital company's initial capitalization, at the time of seeking certification, must be \$200,000 or more;

13. the certified Louisiana capital company shall include in any offering involving the sale of shares to an investor, the following statement:

"The State of Louisiana is not liable for damages to an investor in a certified Louisiana capital company. Use of the words "certified" or "Louisiana" in an offering does not constitute a recommendation or endorsement of the investment by the Louisiana Department of Economic Development."

D. The secretary of Economic Development shall cause all applications to be reviewed by the department and designate those he determines to be complete. In the event that an application is deemed to be incomplete in any respect, the applicants will be notified within 15 days of receipt. An incomplete application shall be resubmitted, either in a partial manner or totally, as deemed necessary by the department.

E. Within 60 days of application, the secretary shall issue the certification and notify the Department of Revenue and Taxation and the Commissioner of Insurance of said certification or shall refuse the certification and communicate in detail to the applicant the grounds for the refusal, including suggestions for the removal of those grounds.

F. The submission of any false or misleading information in the application documents will be grounds for rejection of the application and denial of further consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§715. Initial Funding Period

A. Except as provided by R.S. 22:1068(E), a newly certified Louisiana capital company will have a funding period of 12 months, from the date of receiving certification, in which to solicit investment into its certified capital.

B. A Louisiana Capital Company shall be considered "newly certified" on the date that it is certified or recertified by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§717. Requirements for Continuance of Certification

A. To continue in certification a certified Louisiana capital company must make qualified investments according to the following schedule:

1. Within three years after the date on which the capital company was designated as a certified Louisiana capital company at least 50 percent of the total certified capital must be invested, with at least 30 percent of the total certified capital placed in qualified investments.

2. Within five years after the date on which the capital company was designated as a certified Louisiana capital company at least 80 percent of the total certified capital must be invested, with at least 50 percent of the total certified capital placed in qualified investments.

B. No qualified investment may be made at a cost to a certified Louisiana capital company greater than 15 percent of the total certified capital under management of the certified Loui-

siana capital company at the time of investment.

C. Investments in businesses primarily engaged in oil and gas exploration and development, real estate development or appreciation, banking or lending operations, or rendering licensed professional services shall not be counted as qualified investments.

D. Documents and other materials submitted by certified Louisiana capital companies or by Louisiana businesses for purposes of the continuance of certification shall not be public records if such records are determined to be trade or business secrets and shall be maintained in a secured environment by the department.

E. All qualified investments in equity in qualified Louisiana businesses as defined in R.S. 51:1923, including any losses therein incurred after certification, will be considered in the calculation of the percentage requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§719. Reports to the Office of Commerce and Industry

A. Each certified Louisiana capital company shall report the following to the Office of Commerce and Industry of the department on a calendar quarterly basis:

1. The name of each investor in a certified Louisiana capital company entitled to either an income tax credit or an insurance premium tax credit, including federal and state income tax identification numbers and, if applicable, the insurance premium tax identification number.

2. The amount of each investor's investment and tax credit.

3. The date on which the certified Louisiana capital company received the investment.

4. The amount of the certified Louisiana capital company's certified capital at the end of the quarter.

5. Whether or not the certified Louisiana capital company has invested more than 15 percent, of the total certified capital under management, in any one company.

B. Each certified Louisiana capital company shall report to the Office of Commerce and Industry annually, on a calendar year basis, all qualified investments that the company has made.

C. The certified Louisiana capital company shall provide annual audited financial statements which include the opinion of an independent certified public accountant to the secretary of the Department of Economic Development within 90 days of the close of its fiscal year. The audit shall address the methods of operation and conduct of the business of the certified Louisiana capital company to determine if the company is complying with the statutes and program rules and that the funds received by the company have been invested as required within the time limits provided by statute.

D. The Office of Commerce and Industry shall furnish a list of persons or businesses who may claim the tax credit to the Department of Revenue and Taxation and the Commissioner of Insurance on a calendar year quarterly basis following receipt of such quarterly information as provided for above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§721. Transfer or Sale of Income Tax Credits

A. The Department of Economic Development will notify the Department of Revenue and Taxation of all transactions involving the transfer or sale of income tax credits granted under R.S. 51:1924 and reported pursuant to R.S. 51:1925(D). The Louisiana certified capital company, from which the credit was obtained, must notify the Department of Economic Development within 30 days following the date of the transaction.

B. The purchaser of an income tax credit must notify the Department of Economic Development within 30 days of entering an agreement to transfer or purchase income tax credits from an investor in a Louisiana certified capital company.

C. The notification should include a copy of the act of transfer or sale. The act of transfer or sale should contain the original investors' income tax credit balance prior to transfer, the remaining balance after transfer, all tax identification numbers for both seller and purchaser, the date of transfer, and the amount of the transfer.

D. Failure to comply with this rule may jeopardize the income tax credit transferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§723. Decertification

A. The secretary shall conduct an annual review of each capital company certified under the program to determine if the certified Louisiana capital company is abiding by the requirements of certification, to advise the certified Louisiana capital company as to the certification status of its qualified investments, and to ensure that no investment has been made in violation of R.S. 51:1926. The cost of the annual review shall be paid by each certified Louisiana capital company according to a reasonable fee schedule adopted under the provisions of the Administrative Procedure Act.

B. Any violation of R.S. 51:1926(C) shall be grounds for decertification. If the secretary determines that a company is not in compliance with any requirements for continuing in certification, he shall, by written notice, inform the officers of the company and the board of directors or partners that they will be decertified in 120 days from the date of mailing of the notice unless they correct the deficiencies and are once again in compliance with the requirements for certification.

C. At the end of the 120-day grace period, if the certified Louisiana capital company is still not in compliance, the secretary shall send a notice of decertification to the company and to the secretary of the Department of Revenue and Taxation. Decertification of a certified Louisiana capital company shall cause the forfeiture of income tax credits under this Chapter and shall cause said credits previously claimed to be due and payable with the investor's income tax liability for the year of decertification. The decertified company is solidarily liable with each investor in the company for the repayment of said credit.

D. The Department of Revenue and Taxation shall send written notice to the address of each person whose tax credit has been forfeited, using the address last shown on the person's last income tax filing.

E. Records, documents and any other materials submitted to the Office of Commerce and Industry by a "certified" capital company shall be exempted from release under the Public Records Act, R.S. 4:1 et seq., specifically Section 44:4 that refers in part to "records that pertain to the business of the private

person, firm or corporation, and are in their nature confidential."

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§725. Voluntary Decertification

A. At any time a certified Louisiana capital company may voluntarily decertify itself by sending written notice of decertification to the secretary and by remitting to the secretary of the Department of Revenue and Taxation full payment of all income tax credits claimed by investors under its participation in the certification program. These amounts are due notwithstanding the fact that the years for which the credits were originally taken may have prescribed. Thereafter, the capital company shall be a full subrogee to the state of Louisiana through the Department of Revenue and Taxation for such sums as were remitted by the company, against its investors or equity owners.

B. After 10 years of continuous certification, when a certified Louisiana capital company has invested 60 percent of its certified capital in qualified investments, a certified Louisiana capital company may voluntarily decertify itself by sending written notice of decertification and no tax credits claimed under R.S. 51:1924(A) and (B), R.S. 51:1932, and R.S. 22:1068(E) will be subject to repayment, recapture, or retaliation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§727. Recertification

Any Louisiana capital company certified prior to September 8, 1989 may apply to the secretary for recertification by written request. A Louisiana capital company applying for recertification must demonstrate to the satisfaction of the secretary that the capital company is in compliance with Louisiana R.S. 51:1921, et seq. and the rules and regulations promulgated thereunder. Any Louisiana capital company recertified hereunder shall be considered newly certified from the date of recertification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

Robert Paul Adams
Director

RULE

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, hereby amends and adopts the rules and regulations detailed below.

Act 491 of the 1989 Regular Legislative Session made

substantive changes to this program. Those changes are incorporated into the previous rules. These rules were approved by the Louisiana Board of Commerce and Industry August 30, 1989.

Title 13

DEPARTMENT OF ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 1. Finance

Chapter 12. New Warehousing and Distribution Tax Equalization

§1201. General

A. Intent of Law

For qualifying new warehousing and distribution establishments, the board of Commerce and Industry may enter into a contract to equalize the total tax burden in Louisiana to that of a competing site located in another state.

B. Description of the Program

The new warehousing and distribution tax equalization program is an inducement to attract new warehousing and distribution facilities to Louisiana, which would not otherwise locate in Louisiana due to a higher tax burden. This program is designed to eliminate the tax differential through the equalization of the overall taxes between a Louisiana site and a competing site in another state. The sites under consideration must be valid and viable for the proposed new warehousing and distribution operations. The competing site must offer comparative advantages equal to or greater than the comparative advantages offered at the Louisiana site. The governor must extend a written invitation to the company authorizing the company to submit an application for this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15: (December 1989).

§1203. Louisiana Manufacturers and Suppliers

The Board of Commerce and Industry requires new warehousing and distribution establishments and their contractors to give preference and priority to Louisiana manufacturers and, in the absence of Louisiana manufacturers, to Louisiana suppliers, contractors, and labor, except where not reasonably possible to do so without added expense or substantial inconvenience or sacrifice in operational efficiency. In considering applications for tax exemption, special attention will be given to those applicants agreeing to use, purchase and contract for machinery, supplies, and equipment manufactured in Louisiana, or in the absence of Louisiana manufacturers, sold by Louisiana residents, and the use of Louisiana contractors and labor in the construction and operation of proposed tax exempt facilities. It is a legal and moral obligation of the new warehousing and distribution establishments receiving exemptions to favor Louisiana manufacturers, suppliers, contractors, and labor, all other factors being equal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§1205. Reserved

§1207. Eligibility for Submission of Application

A. The applicant for new warehousing and distribution tax equalization must be a corporation.

B. The sites under consideration must be valid and viable

for the proposed new warehousing and distribution operations.

C. A new warehousing and distribution establishment at the time it is locating in Louisiana must either be located in another state or be contemplating locating in another state which has equivalent or comparable advantages as exist at the particular area in Louisiana at which such establishment is locating.

D. The state in which the new warehousing and distribution establishment is located or is contemplating locating must have a state, parish (county) and local taxing structure which offers a greater tax advantage to such establishment than does the taxing structure of Louisiana.

E. The secretary of Department of Economic Development must have made a recommendation to the governor to extend an invitation.

F. An invitation from the governor to apply must have been received by the company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§1209. Application Fees

A. An advance notification fee of \$100 shall be submitted with the prescribed advance notification form.

B. An application fee shall be submitted with the application, which fee is 0.2 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be less than \$200 and in no case shall a fee exceed \$5000 per project. A fee of \$50 shall be charged for the renewal of a contract. Please make checks payable to the Louisiana Office of Commerce and Industry.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§1211. Application Procedure

A. Prior to the formal announcement of the new warehousing and distribution location, an "Advance Notification" of intent to file for new warehousing and distribution tax equalization must be filed with the Office of Commerce and Industry. The company will submit, on forms provided by the Office of Commerce and Industry, a comparison of taxes for all sites under consideration.

B. The secretary of Department of Economic Development, after favorable review of the Advance Notification, shall recommend to the governor that a written invitation to submit an application be extended to the company. The written invitation of the governor must be received before an application is submitted.

C. At the invitation of the governor an application, on forms furnished by the Office of Commerce and Industry, may be filed with the Office of Commerce and Industry. Upon staff review, the analysis and recommendation of the staff is pre-

sent to the Louisiana Board of Commerce and Industry.

D. The Board of Commerce and Industry shall review any recommendations for exemptions made by the Office of Commerce and Industry. All Commerce and Industry board action on applications will be made at regularly scheduled meetings. If the Board of Commerce and Industry concurs in the recommendation it shall forward the recommendation together with all supporting documents to the Louisiana Board of Tax Appeals.

E. Upon receipt of any such recommendation the Board of Tax Appeals shall notify the Department of Revenue and Taxation of said recommendation and shall make available to the Department of Revenue and Taxation the application and all supporting documents.

F. The Department of Revenue and Taxation shall within ten days after receipt of the notice file in writing with the Board of Tax Appeals any objections it has to granting the exemption.

G. The Board of Commerce and Industry, after review by the Board of Tax Appeals and with the approval of the governor, may enter into a contract of tax equalization with the new warehousing and distribution establishment.

H. All information submitted will be held in confidence to the fullest extent permitted by the Public Records Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§1213. Application Contents

The application shall be submitted on forms provided by the Office of Commerce and Industry. A 10 year pro-forma balance sheet and income statement shall be provided by the applicant as the basis for all tax calculations. The application shall contain the following information:

A. The chief financial officer of the applicant company requesting new warehousing and distribution tax equalization under this program will submit a written certification of the following estimated costs for each site under consideration:

1. construction cost;
2. annual labor cost;
3. annual transportation cost;
4. annual power cost;
5. site cost.

B. A certified estimate of the following state taxes covering the first 10 years of operations, filed for each site under consideration:

- 1) State Sales/Use Tax;
- 2) State Corporate Income Tax;
- 3) State Corporate Franchise Tax;
- 4) State Ad Valorem Property Tax (where applicable);
- 5) State Inventory Tax (where applicable);
- 6) Any other state taxes.

C. A certified estimate of the following local taxes covering the first 10 years of operations, filed for each site under consideration:

- 1) Local Sales/Use Tax;
- 2) Local Ad Valorem Property Tax;
- 3) Local Inventory Tax;
- 4) Any other local taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

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

15: (December 1989).

§1215. Yearly Determination of Tax Equalization Amount

A. The contract for new warehousing and distribution tax equalization shall, on an annual basis, effect equality in amount between the taxes payable in Louisiana and the taxes which would have been payable in the competing state. For each taxable year of the contractee, at the time of filing the contractee's annual Louisiana Corporate Income and Franchise Tax return, the contractee shall furnish, to the Department of Revenue and Taxation and the Department of Economic Development, the following, where applicable, on an annual basis:

1. a taxable year compilation of what would have been the state and local sales and use taxes, including any applicable tax incentives, of the contractee had it located in the competing state, together with a compilation of the actual Louisiana state and local sales and use taxes paid for the contractee's taxable year;

2. using forms provided by the competing state, a computation of the corporate income tax and corporate franchise tax, including any applicable incentives, which would have been owed had the contractee located in the competing state;

3. all other state and local returns or tax payment information, including any applicable tax incentives, for the contractee's taxable year which would have been filed or paid by the contractee had the contractee located in the competing state;

4. all other tax returns, including any applicable incentives, filed in the state of Louisiana with other state agencies or local governments.

B. The contractee shall authorize the Department of Economic Development to review all tax returns of the contractee and to share the information with the Department of Revenue and Taxation.

C. The data reflecting the tax burden, including any available tax incentives, which would have been incurred in the competing state shall be compiled on behalf of the contractee by an independent certified public accounting firm. The CPA firm shall certify to the best of its knowledge and belief that the data furnished are true and correct statements of the taxes which would have been incurred during the taxable year of the contractee had the contractee originally located in the competing state, using the same level of business activity that the contractee enjoys in Louisiana.

D. Annually for each taxable year of the contractee and on the basis of all pertinent information, the Department of Revenue and Taxation shall compute the total tax liability of the contractee in Louisiana and the total tax liability that the contractee would have incurred had the contractee located in the competing state. The Department of Economic Development, Office of Commerce and Industry will assist the Department of Revenue and Taxation should any audit of the tax data for the competing state be necessary.

E. If the total tax liability of the contractee in Louisiana for the contractee's taxable year is greater than the total tax liability that the contractee would have incurred in the competing state, then the contractee's Louisiana tax liability shall be reduced by allowing an exemption until the Louisiana tax burden is equal to the tax burden the contractee would have incurred if it had located in the competing state.

F. Unless the Department of Revenue and Taxation for valid written reasons recommends otherwise and the Board of Tax Appeals approves such recommendations, exemptions from taxation for a new warehousing and distribution establishment,

shall be granted in the following priority:

1. State sales and use tax on purchases and leases of, and repairs to, machinery and equipment which is used in the on-site operation of the new warehousing and distribution establishment.

2. The corporation franchise tax.

3. The corporation income tax.

4. State sales and use tax on purchases of materials and supplies necessary for the on-site operation of the new warehousing and distribution establishment.

5. State sales and use tax on purchases of tangible personal property used in the construction of the new warehousing and distribution establishment.

6. Any other taxes imposed by the state to which like businesses are subject. Exemptions from taxation shall be granted in the following priority:

In no event shall any exemption from ad valorem property taxes be granted under any contract entered into. This exemption applies only to sales and use tax imposed by the State of Louisiana and does not apply to such taxes authorized and levied by any school board, municipality, or other local taxing authority notwithstanding any other provision of the law to the contrary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§1217. Contract Period/Project Completion Report

A. Contractee must file a project completion report, on forms provided by the Office of Commerce and Industry, within 30 days following the last day of the month after effective use of the structure has begun or construction is essentially complete, whichever occurs first.

B. The first year of the five-year new warehousing and distribution tax equalization contract period shall be the taxable year of the contractee in which operations begin as specified in the Project Completion Report, which report shall become an addendum to this contract. The contract shall expire on the last day of the forty-eighth month following the end of the taxable year of contractee in which operations begin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§1219. Affidavit of Final Cost

Within six months after completion of construction or the purchase of facility, the owner of the new warehousing and distribution establishment shall file on the prescribed form an affidavit of final cost showing complete cost of the project, together with a fee of \$100 for the facility inspection which will be conducted by the Office of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§1221. Contract Renewals

Not more than one year prior to the expiration of a contract and not less than six months prior to the expiration, a company wishing an additional five-year contract period shall file with the Board of Commerce and Industry the information re-

quired in §1213 regarding certification of taxes. A renewal fee of \$50 must accompany the renewal application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

§1223. Annual Review/Violation of Contract

A. The contractee agrees to an annual review and inspection by the Department of Economic Development and shall make all books and records of the company available for inspection. The contractee agrees to have an officer of authority in attendance at the yearly review of the exemption by the Department of Economic Development. Included in this annual review shall be a review of employment data on the average number of jobs by month.

B. Written notice of any violations of the terms and conditions of this contract shall be given to contractee, who shall have 90 days within which to correct the violations. If the violation is not corrected within 90 days, any remaining portions of the exemption from tax granted under this contract may be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:3201-3206.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 15: (December 1989).

Robert Paul Adams
Director

RULE

Department of Economic Development Real Estate Commission

Notice is hereby given that the Louisiana Real Estate Commission adopted the following amendments and changes to the existing rules and regulations of the agency: LAC 46:LXVII, Subpart I, Chapter 3, Application for Initial Licenses; Chapter 5, Exams; Chapter 7, Fees; Chapter 9, Renewal Applications; Chapter 13, Broker Affiliation; Chapter 15, Transfers and Terminations; Chapter 17, Termination Responsibilities; Chapter 19, Broker Application Acknowledgement; Chapter 21, Names on Licenses, Registrations, and Certificates; Tradenames; Symbols; and Trademarks; Chapter 23, Concurrent Licensing; Chapter 24, Branch Offices; Chapter 25, Advertising; Chapter 27, Escrow and Rental Trust Accounts; Chapter 28, Disbursement of Escrow Deposits; Chapter 29, Change of Address; Chapter 31, Multiple Compensation; Chapter 33, Disclosure by Licensee; Chapter 35, Presentation of Offers; Chapter 37, Contract Tampering (deleted); Chapter 39, Payment to Non-Licensees (deleted); Chapter 41, Report of Legal Action (deleted); Chapter 43, Broker Records (deleted); Chapter 45, Complaints (deleted); Chapter 47, Investigations and Hearings, Chapter 49, Licensee and Timeshare Registrant's Responsibilities; Chapter 49, Broker and Salesman's Responsibilities (deleted); Chapter 51, Interstate Land Sales (deleted); Chapter 53, Corporations and Partnerships (deleted); Chapter 57, Deceased Broker (deleted); Chapter 59, Waiver of Renewal Requirements; Chapter 65, Real Estate Schools; Chapter 66, Real Estate Continuing Education Vendors (new); Chapter 67, Timeshares.

Copies of the rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70809, or may be obtained by writing Bert Coles Bernard, Public Information Representative, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898.

Jane H. Moody
Executive Director

RULE

Department of Economic Development Used Motor Vehicle and Parts Commission

In accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, hereby adopts the following rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 27. The Used Motor Vehicle and Parts Commission

§2701. Meetings of the Commission

A. The commission shall meet at its office in Baton Rouge, LA on the third Wednesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 2 p.m. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law, R.S. 42:5.

B. Special Meetings

Special meetings shall be held upon call of the chairman by notice given to the members of the commission at least 48 hours prior to the time the meeting is to be held; such notice to be given by telephone, telegraph or letter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended LR 15:258 (April 1989), amended LR 15: (December 1989).

Chapter 35. Buyer Identification Card

§3501. Buyer Identification Card Required

Sales at a salvage pool, salvage disposal sale, or through an insurance company shall be opened only to persons possessing a buyer's identification card to buy at a salvage pool, salvage disposal sale, or through an insurance company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:762.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by LR 15:259 (April 1989), amended LR 15: (December 1989).

§3503. Qualifications and Eligibility for Buyer Identification Card.

A. The commission, in determining the qualifications and eligibility of an applicant for a buyer's identification card, will base its determinations upon the following factors:

1. Identification cards to bid or buy at salvage pools, salvage disposal sales, or through insurance companies shall be available to any person, business, or corporation, or licensed employee thereof, possessing a valid used car dealer's license, a valid auto recycler's license, or a valid auto dismantler's license. Anyone of these dealers licenses may originate in or out of the state of Louisiana.

2. Completion of Official Used Motor Vehicle and Parts Commission Application Forms. Payment of Louisiana state general sales tax is due on all vehicles purchased at a salvage pool or salvage disposal sale and applicant must certify that applicant will faithfully adhere to this requirement.

B. The buyer's identification card shall include the name, address, driver's license number, any one of the aforementioned dealers' license numbers, physical description, and signature of the applicant and the name and address of the employer of the applicant. The buyer's identification number to be prefixed with BI, followed by a four-digit number, then the current year (BI-0000-89). Cards obtained for the buyers will be \$25 each for Louisiana resident and \$200 each for out-of-state resident.

C. The buyer's identification card shall be carried upon the cardholder's person and same displayed to owner, manager, or person in charge of any salvage pool or salvage disposal sale. The buyer's identification card is not transferable or assignable. Physical description and signature of cardholder must be compared with cardholder's driver's license for valid identification by owner, manager, or person in charge of any salvage pool or salvage disposal sale. It shall be the duty of the owner, manager or person in charge of any salvage pool or salvage disposal sale to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid buyer's identification card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:762.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by LR 15:259 (April 1989), amended by LR 15: (December 1989).

Rodley J. Henry
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published September 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Rule 1.10.00.e

The board adopted the addition of Section 180 Ownership/Production Rights to the 8(g) Policy and Procedure Manual as stated below:

Section 180 - Ownership/Production Rights

A. Upon termination at the completion of 8(g) funding for a project/program, the State Board of Elementary and Secondary Education may approve an agency's request to retain equipment purchased with 8(g) funds based on the agency's assurance that the equipment will be used for educational en-

hancement.

B. All educational products developed using 8(g) funds awarded by the State Board of Elementary and Secondary Education are the property of the board and cannot be distributed for profit without explicit approval from the board.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Rule 3.01.70.00

The board adopted the following revised certification requirements for upper elementary grades (Grades 5-8) as recommended by the department and amended by the board at its meeting of September 28, 1989. This rule supersedes the rule printed in the October, 1989 issue of the *Louisiana Register*.

Upper Elementary Teachers

Minimal Requirements for Approved Teacher Education Programs for Upper Elementary Teachers (Grades 5-8)*

General Education**

A minimum of 68 semester hours of credit, designed to develop a broad cultural background, is required. The work must be taken in the following five areas:

1. English: A minimum of 18 semester hours, including three semester hours in grammar and three semester hours in composition and three semester hours in advanced grammar and/or composition;
2. Social Studies (anthropology, economics, geography, history, political science, sociology): A minimum of 18 semester hours, including at least three semester hours in geography other than geography of a state and three semester hours in Louisiana history;
3. Science: A minimum of 16 semester hours, including at least three semester hours in biological science and at least three semester hours in physical science;
4. Mathematics: A minimum of 12 semester hours including college algebra and introductory geometry;
5. Health and Physical Education: A minimum of four semester hours.

Professional Education

A minimum of 30 semester hours of credit in professional education courses is required. The work must be taken in the following six areas:

1. at least three semester hours of history of education, introduction to education, foundations of education, and/or philosophy of education;
2. at least three semester hours in educational psychology and/or principles of teaching;

*Mandatory for freshmen entering institutions of higher education in the 1989-90 school year and for individuals meeting certification requirements after August 31, 1994.

**"Universities which wish to require three hours of com-

puter science of students should require a minimum of 12 semester hours in mathematics and a minimum of 13 hours in science."

3. at least three semester hours in The Introduction to the Study of Exceptional Children;

4. at least nine semester hours of professional teacher education courses appropriate to the upper elementary level including three semester hours in Psychology/Characteristics of the Upper Elementary School Child, and six semester hours in the teaching of reading, including at least three semester hours of credit for a practicum or laboratory situation involving work with children and materials of instruction;

5. at least three semester hours in upper elementary school curriculum and instructional strategies;

6. at least nine semester hours in student teaching at the upper elementary level.

The student teaching shall be under the control and supervision of the institution in which the student teacher is enrolled. Whether or not the school in which the student teaching is done is administered by the institution, the regular teacher under whose direction the student teaching takes place shall be a representative of or approved by the school of education or department of education of the institution and shall be certified as a supervisor of student teaching. Student teaching in the summer shall be permitted only if the school has a 12-month school year or a bona fide full school year.

The application for certification shall indicate that the applicant has earned credit in student teaching. The applicant shall have spent a minimum of 270 clock hours in student teaching with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis. The teacher education program shall include (1) practical experience in actual classroom situations during a student's sophomore year, and (2) field experiences in schools with varied socioeconomic and cultural characteristics.

For those students pursuing a double major in upper elementary and lower elementary, the student teaching requirements will be equally divided between upper elementary grades (5-8) and lower elementary grades (1-4).

Specialized Academic Education

The minimal requirements for all upper elementary school teachers, in addition to the general education and professional education listed above, are as follows:

- | | |
|--|------------------|
| 1. Speech | 3 semester hours |
| 2. Art | 3 semester hours |
| 3. Music | 3 semester hours |
| 4. Health and physical education appropriate for upper elementary school | 3 semester hours |

Adding Upper Elementary Grades Certification To a Lower Elementary Grades Teaching Certificate

The holder of a valid Louisiana teaching certificate at the lower elementary level may have upper elementary grades certification added to this certificate by completing:

1. at least three semester hours in adolescent psychology;
2. at least three semester hours in upper elementary school curriculum and instructional strategies;
3. the academic courses required for upper elementary grades certification under the General Education requirements;

a. certification is awarded in individual academic areas (English, Social Studies, Science, Mathematics) if the requirements under general education for upper elementary school teachers are met in any of the four areas;

b. certification is awarded in upper elementary grades (all subjects) if all requirements under general education for upper elementary school teachers are met;

4. a practicum at the upper elementary school level
OR

Three years of successful teaching experience at the upper elementary school level.

Adding Upper Elementary Grades Certification To a Secondary Teaching Certificate

The holder of a valid Louisiana teaching certificate at the secondary level may have upper elementary grades certification added to this certificate by completing:

1. at least three semester hours in child psychology;
 2. at least three semester hours in upper elementary school curriculum and instructional strategies;
 3. a practicum at the upper elementary school level;
- OR

Three years of successful teaching experience at the upper elementary school level.

Certification is awarded in the teaching area in which the secondary teacher is certified.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published September 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Rule 3.01.70.nn

The board adopted as an amendment to page 68 of Bulletin 746, Louisiana Standards for State Certification of School Personnel, the following certification requirements for school superintendents for out-of-state applicants.

A statement of eligibility for certification as a parish or city school superintendent may be issued upon documentation and verification that the applicant meets the following criteria:

1. hold an out-of-state teaching certificate with authorization to serve as a school superintendent;
2. hold an earned master's degree from a regionally accredited institution of higher learning;
3. have had five years of successful school experience as a superintendent, assistant superintendent, supervisor of instruction, or principal;
4. have had five years of successful teaching experience in a properly certified field.

A parish or city school superintendent ancillary certificate may be issued to an applicant who has met the requirements of 1-4 above and who is employed to serve in this position in a Louisiana school system. The certificate is valid only for the period and place of employment.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published September 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Rule 3.01.70.v(37)

The board extended Policy 3.01.70.v(37) for hiring full-time/part-time noncertified school personnel with the exception of speech, language, and hearing specialists until July 1, 1991.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published September 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Rule 3.01.70.pp

The board adopted the revised requirements for special education certification classification as proposed by the Department of Education. (See emergency rule section of the August, 1989 issue of the *Louisiana Register* for complete text of requirements.)

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published September 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Rule 3.01.70.v(22)(2)

The board extended the Temporary Employment Permit for individuals seeking Louisiana teacher certification until July 1, 1991.

Em Tampke
Executive Director

RULE

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Air Quality Regulations, LAC 33:III.

LAC 33:III.111 is amended to add a definition of administrator and administrative authority* and changes the definition of VOC to match the USEPA definition. Definitions are also added for attainment area, non-attainment area, and State Implementation Plan. Regulations in LAC 33:III.2103 and LAC 33:III.2107 are also amended to add requirements for testing and recordkeeping.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 1. General Provisions

§111. Definitions

When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below:

Act—Act No. 449 of 1979, Louisiana Environmental Quality Act. Used to denote Chapter 11, Title 30, Section 1051 et seq. including amendments.

Administrator—The administrator, or authorized representative, of the Environmental Protection Agency.

Administrative Authority—The secretary, or designee, of the Department of Environmental Quality.

*Administrative Authority**—This term refers to both the administrator and the administrative authority. Any alternative or equivalent test methods, waivers, monitoring methods, testing and monitoring procedures, customized or correction factors, and alternatives to any design, equipment, work practices or operational standards must be approved by both the administrator of the U.S. Environmental Protection Agency and the administrative authority before it becomes effective.

Aerosol—A suspension of fine solid or liquid particles in the air.

Affected Facility—(With reference to stationary source), any apparatus to which a standard is applicable.

Afterburner—A secondary burner which is used to oxidize and combust air contaminants to a less damaging form.

Air Contaminants—Particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combination thereof produced by process other than natural.

Air Pollution—The addition of air contaminants to the atmosphere.

Alternative Method (for other than NSPS and LESHAP)—Any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the administrative authority's satisfaction to, in specific cases, produce results adequate for a determination of compliance.

Ambient Air—The outdoor air or atmosphere which surrounds the earth.

Application for Approval of Emissions—An application submitted to the Department of Environmental Quality by any

person requesting a certificate of approval (permit) for any change in emissions into the ambient atmosphere.

ASME—American Society of Mechanical Engineers.

ASTM—American Society for Testing Materials.

Asphalt—A dark brown to black cementitious material (solid, semisolid, or liquid in consistency) in which the predominating constituents are bitumens which occur in nature as such or which are obtained as residue in refining petroleum.

Atmosphere—The whole mass of air above the territorial limits of the state of Louisiana.

Attainment Areas—Areas of the state that are not listed as non-attainment areas by the United States Environmental Protection Agency.

Non-Attainment Areas—An area (parish or group of parishes) declared to be not complying with a Federal National Ambient Air Quality Standard and listed in the *Federal Register* as a non-attainment area subject to a State Implementation Plan call.

Automobile—A passenger car or passenger car derivative capable of seating not more than 12 passengers.

Automobile and Light-Duty Truck Assembly Plant—A facility where automobile and/or light-duty truck bodies, frames and parts are assembled for eventual inclusion into a finished product ready for sale to vehicle dealers excluding the following operations: (1) wheel coatings, (2) anti-rust coatings, (3) trunk coatings, (4) interior coatings, (5) flexible coatings, (6) sealers, (7) plastic parts coatings. Excluded from this definition are customizers, body shops, and other repairers.

Bubble Concept—An alternative emission plan whereby a facility with multiple sources of a given pollutant may achieve a required total emission by a different mix of controls from that mandated by regulation. Some sources may be assigned more restrictive limits, while others would meet less restrictive ones, provided the resulting total emissions are equivalent. Such a concept may permit a more expeditious compliance plan.

Bulk Plant—A facility having a daily throughput of 20,000 gallons (76,000 liters) or less of gasoline.

Bulk Terminal—A facility having a daily throughput of more than 20,000 gallons (76,000 liters) of gasoline.

Carbon Monoxide (CO)—Colorless, odorless gas which is an oxide of carbon.

Class II Finish—A finish which complies with the requirements of NBS Voluntary Product Standard PS 59-73.

Combustion Unit—Any boiler plant, furnace, incinerator, or flare, or any other item of equipment designed or used for the combustion of fuel or waste material.

Commenced—An owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

Component—(Relating to Fugitive Emission Control) A piece of equipment, including, but not limited to pumps, valves, compressors, and pressure relief valves which has the potential to leak organic compounds.

Condensate—Hydrocarbon liquid separated from natural gas which condenses due to changes in temperature and/or pressure and remains liquid at standard conditions.

Construction—Fabrication, erection, or installation of an affected facility.

Continuous Monitoring System—The total equipment, required under the emission monitoring sections in applicable subparts, used to sample and condition (if applicable), to analyze, and to provide a permanent record of emissions or process

parameters.

Control Equipment—Any device or contrivance used to prevent or reduce air pollution.

Cross-recovery—The practice of combining the spent liquors from a soda-based semi-chemical pulping process, such as NSSC with a kraft mill black liquor prior to burning in a recovery furnace. Less than seven percent semi-chemical liquor, on a quarterly basis, based on equivalent air-dry pulp production, will not be classified as cross-recovery.

Cutback Paving Asphalt—Asphalt cement which has been liquefied by blending with petroleum solvents (diluent). Upon exposure to atmospheric conditions the diluents evaporate, leaving the asphalt cement to perform its function. Products made for this use are designated SC (Slow Cure, MC (Medium Cure) and RC (Rapid Cure) liquid asphalt and are manufactured to meet ASTM Specifications D-2026-72, D- 2027-72 and D-2028-72 or similar paving asphalt specifications.

Department—Air Quality Division, Office of Air Quality and Nuclear Energy, of the Department of Environmental Quality.

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

Downwind Level—The concentration of air contaminants in the atmosphere as measured at any downwind point beyond the downwind boundary of a property, at which point the level of air contaminants is affected by any emission or emissions from the property.

Dry Cleaning Facility—A facility engaged in the cleaning of fabrics in an essentially non-aqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning and drying by tumbling in the air stream. The facility includes but is not limited to any washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves used in this service.

Dwelling—A building or other shelter in which people live.

Effluent Water Separator—Any tank, box, sump, or other container in which any volatile organic compound floating on or entrained or contained in water entering such tank, box, sump, or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

Emission—A release of air contaminants into the outdoor atmosphere.

Emission Inventory—A tabulation of data detailing the types, amounts, quantities and sources of emissions.

Emulsified Asphalt—An emulsion of asphalt cement and water which contains a small amount of an emulsifying agent; a heterogeneous system containing two normally immiscible phases (asphalt and water) in which the water forms the continuous phase of the emulsion, and minute globules of asphalt form the discontinuous phase.

Equivalent Method (for other than NSPS and LESHAP)— Any method of sampling and analyzing for an air pollutant which has been demonstrated to the administrative authority's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

Final Repair—The surface coating applied to correct top coat imperfections.

Flexographic Printing—The application of words, designs and pictures to a substrate by means of a roll printing technique

in which both the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

Flue—Any duct, passage, stack, chimney, conduit, or opening arranged to conduct air contaminants into the open air.

Fossil Fuel—Natural gas, petroleum, coal and any form of solid, liquid, or gaseous fuel derived from such materials.

Fossil Fuel-Fired Steam Generating Unit—A furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

Fuel Burning Equipment—Any stationary contrivance used in the process of burning fuel or combustible material for the primary purpose of producing heat or power by indirect heat transfer.

Fugitive Dust—Solid, airborne, particulate matter emitted from any source other than through a stack.

New Design Furnace—An existing straight kraft recovery furnace with both welded-wall or membrane wall construction and emission-control-designed air systems, for which design specifications, purchase contract or manufacturer's warranty specifies a capability for continuous total reduced sulfur (TRS) emissions equivalent to the New Source Performance Standards (*Federal Register*, February 23, 1978, Part V).

Garbage—All putrescible waste matter except sewage and recognizable industrial by-products. It includes putrescible vegetable matter, animal offal, and animal carcasses.

Gasoline—A petroleum distillate having a Reid vapor pressure of 27.6 kPa (four pounds) or greater.

Gas/Vapor Service—A component is in gas/vapor service if it contains a process fluid that is in the gaseous state at operating conditions.

Good Performance Level—An operating level reached when no more than two percent of the valves in VOC service at a facility are leaking at a rate of 10,000 parts per million by volume (ppmv) or greater as determined by Reference Method 21 "Determination of Volatile Organic Compound Leaks" in the Division's Source Test Manual.

Graphic Arts (Printing)—The formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage.

Hardboard—A panel manufactured primarily from inter-felted lignocellulosic fibers which are consolidated under heat and pressure in a hot-press.

Hardwood Plywood—Plywood whose surface layer is a veneer of hardwood.

Heat Input—The aggregate of heat content of all fuels whose products of combustion pass through a stack or stacks.

Heat Sensitive Material—Materials which cannot be exposed to temperatures greater than 80° to 95°C (180° to 200°F).

Hydrocarbon—Organic compounds, the molecules of which consist primarily of carbon and hydrocarbon atoms.

Impairment of Visibility—Impairment of visibility exists whenever horizontal visibility at or near ground level is reduced to three times the stopping distances presented below:

20 mph 43 ft. to stop
30 mph 79 ft. to stop
40 mph 126 ft. to stop
50 mph 183 ft. to stop
60 mph 251 ft. to stop
70 mph 328 ft. to stop

Incinerator—An engineered apparatus capable of withstanding heat and designed to efficiently reduce solid, semisolid, liquid, or

gaseous waste at specified rates and from which the residue contains little or no combustible material. "Tepee" burners, "Conical" burners and "jug" burners are not considered as incinerators.

Installation—An identifiable piece of processing equipment, manufacturing equipment, fuel burning equipment, incinerator, or other equipment or construction capable of creating or causing emissions.

Isokinetic Sampling—Sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

Leak—(Relating to Fugitive Emission Control) An organic compound concentration exceeding 10,000 parts per million by volume (ppmv) or the dripping of process fluid having a true vapor pressure greater than 0.147 psia at 68°F (20°C).

Light-Duty Truck—A motor vehicle rated at 8,500 pounds gross weight or less which is designed primarily for the purpose of transportation of property or is a derivative of such vehicle.

Low Organic Solvent Coating (LOSC)—Coatings which contain less organic solvent than the conventional coatings used by the industry. Low organic solvent coatings include waterborne, higher solids, electrode position and powder coatings.

Malfunction—Any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

Micrograms per Cubic Meter ($\mu\text{g}/\text{m}^3$)—A weight to volume ratio used to measure the mass of an air contaminant present in a given volume of air.

Modification—Any change in a facility including, but not limited to, a physical change, a change in the method of operation, a change in the raw materials or feedstocks used for products manufactured which increases the amount of any air pollutant emitted by such facility or which results in the emission of any air pollutant not previously emitted, except (1) routine maintenance repair and replacement shall not be considered physical changes and (2) an increase in production rates (up to capacity) or hours of operation shall not be considered a change in the method of operation.

Monitoring Device—The total equipment required under the monitoring of operations sections in applicable subparts, used to measure and record (if applicable) process parameters.

Multiple Chamber Incinerator—Any incinerator which has two or more refractory lined combustion furnaces in series, physically separated by a refractory wall, interconnected by gas ducts or ports, and employing adequate parameters for maximum combustion of the material to be burned.

Natural Finish Hardwood Plywood Panels—Panels whose original grain pattern is enhanced by essentially transparent finished frequently supplemented by fillers and toners.

Natural Gas Processing Plants—Facilities engaged in the separation of natural gas liquids from field gas and/or fractionation of the liquids into natural gas products, such as ethane, propane, butane, and natural gasoline. Excluded from the definition are compressor stations, dehydration units, sweetening units, field treatment, underground storage facilities, liquefied natural gas units, and field gas gathering systems unless these facilities are located at a gas plant.

New Source—Any affected facility, the construction or modification of which is commenced after the adoption of these

regulations.

Nitric Acid Production Unit—Any facility producing weak nitric acid by either the pressure or atmospheric pressure process.

Nitrogen Oxides—Compounds whose molecules consist of nitrogen and oxygen.

Nuisance—Anything that unlawfully worketh hurt, inconvenience, or damage.

One-hour Period—Any 60 minute period commencing on the hour.

Opacity—The degree to which emissions reduce the transmission of light and obscure the view of any object in the background.

Organic Solvents—Liquid or gaseous hydrocarbons used for dissolving one or more other substances.

Outdoor Burning—(Open Burning) Burning of any material without the benefit of equipment primarily designed for the combustion of fuel and/or waste material and/or in such a manner that the products of combustion are emitted directly to the atmosphere without passing through a flue or combustion unit as defined in LAC 33:III.111, "combustion unit."

Owner or Operator—Any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation which directly or indirectly results or may result in emissions of any air pollutant for which a national standard is in effect.

PPM by Volume—(parts per million by volume)—A volume to volume ratio used to express volumetric concentrations of gaseous air contaminants in a million unit volume of air or gas.

Packaging Rotogravure Printing—The printing upon paper, paper boards, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into containers and labels for articles to be sold.

Particleboard—A manufactured board made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure. Particleboard used as furniture component is not covered under this definition.

Particulate Matter—Material discharged into the atmosphere in a finely divided form as a solid aerosol. (See also LAC 33:III.111, Suspended Particulate Matter.)

Penetrating Prime Coat—An application of low viscosity liquid asphalt to an absorbent surface. It is used to prepare an untreated base for an asphalt surface. The prime penetrates the base and plugs the voids, hardens the top, and helps bend it to the overlying asphalt course. It also reduces the necessity of maintaining an untreated base course prior to placing the asphalt pavement.

Person—Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity or their legal representatives, agents or assignees.

Petroleum Refinery—Any facility engaged in producing gasoline, kerosene, distillate fuels oils, residual fuel oils, lubricants, or other products through distillation of crude oils, or through redistillation, cracking extraction, or reforming of unfinished petroleum derivatives.

Pharmaceutical Manufacturing Facility—Any facility which manufactures pharmaceutical products by chemical syntheses.

Photochemical Oxidant—The products of a chemical reaction triggered by sunlight, between various hydrocarbon or organic compounds and the oxides of nitrogen.

Polymer Manufacturing Industry—Operations which convert monomer or chemical intermediate materials obtained from the basic petrochemical industry and the synthetic organic chemical manufacturing industry into polymer products. Such products are polyethylene, polypropylene and polystyrene.

Portland Cement Plant—Any facility manufacturing Portland cement by either wet or dry process.

Premises—That which is within the boundaries or confines of any real property.

Primer—The first surface coating applied to the surface.

Primer-Surfacer—The surface coating applied over the primer and beneath the top coat.

Printed Panels—Panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.

Process Weight—Any total weight of all materials introduced into any specific process which may cause emissions. Solid fuel charge will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not.

Production Equipment Exhaust System—A device for collecting and directing out of the work area VOC fugitive emissions from reactor openings, centrifuge openings and other vessel openings for the purpose of protecting workers from excessive VOC exposure.

Property—Any land owned or controlled by a person.

Proportional Sampling—Sampling at a rate that produces a constant ratio of the sampling rate to that of the stack gas flow rate.

Publication Rotogravure Printing—The printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

Public Nuisance—Any condition of the ambient air beyond the property line of the offending person which is offensive to the senses, or which causes or constitutes an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

Reference Method—Any method of sampling and analyzing for an air pollutant as described in the Air Quality Division's Test Manual.

Refuse—All putrescible waste matter, all nonputrescible waste matter, ashes, animal and vegetable waste and all other waste matter, except sewage, from any public or private establishment, institution, or residence or resulting from construction, building operations, or the prosecution of any business, or trade.

Ringelmann Smoke Chart—The Ringelmann Scale for Grading the Density of Smoke, published by the U.S. Bureau of Mines, or any chart, recorder, indicator or device for the measurement of smoke density which is approved by the administrative authority as the equivalent of the Ringelmann Scale.

Rubbish—All nonputrescible waste matter, except ashes, from any public or private establishment, institution, or residence.

Run—The net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

Shutdown—The cessations of operation of an affected facility for any purpose.

Six-Minute Period—Any one of the 10 equal parts of a one-hour period.

Smoke—Any small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash,

and other combustible material, and present in sufficient quantity to be observable.

Soiling Index—A measure of airborne particulates given as coefficient of haze per 1,000 linear feet of air.

Source—Any and all points of origin of air contaminants as defined in "air contaminants", LAC 33:III.111 hereof, whether privately or publicly owned or operated.

Stack or Chimney—Any point in a source designed to emit solids, liquids or gases into the air including a pipe or duct but not including flares.

Standard Conditions—A gas at 21°C or 70°F and 29.92 inches (760 millimeters) of mercury.

Start Up—The setting in operation of an affected facility for any purpose.

State—The state of Louisiana.

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

Submerged Fill Pipe—Any fill pipe the discharge opening of which is entirely submerged when the liquid level is six inches (15 centimeters) above the bottom of the tank or when applied to a tank which is loaded from the side, means any fill pipe the discharge opening of which is entirely submerged when the liquid level is 18 inches (45 centimeters) above the bottom of the tank. Any nozzle in full contact with the bottom of the tank being filled shall be considered to meet these requirements. In addition, a nozzle which remains below the surface of the liquid in the tank during all normal operations (nozzle shall not be uncovered more than twice per year) shall be considered to meet these requirements.

Sulfation Rate—Used as a measure of the sulphur compounds in the atmosphere. It is the rate at which oxidizable sulphur compounds in the atmosphere convert lead peroxide into lead sulphate.

Sulphur Compounds—All inorganic or organic chemicals having an atom or atoms of sulphur in their chemical structure.

Sulphur Dioxide (SO₂)—An oxide of sulphur.

Sulphur Trioxide (SO₃)—An oxide of sulphur.

Sulfuric Acid (H₂SO₄)—A heavy corrosive oily dibasic acid that is colorless when pure and is a vigorous oxidizing agent.

Sulfuric Acid Production Unit—Any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

Suspended Particulate Matter—Any finely divided solid and/or liquid matter which does not rapidly settle from the ambient air. (See also LAC 33:III.111, Particulate Matter.)

Synthetic Organic Chemical Manufacturing Industry (SOCMI)—The industry that produces, as intermediates or final products, one or more of the chemicals listed in Table 8 of the regulations.

Thin Particleboard—Particleboard with a nominal thickness of 1/4 inch or less. (Nominal 1/4 inch is from 0.210 inch to 0.265 inch).

Top Coat—The surface coating applied for the purpose of establishing the color and/or protective surface, including groundcoat and paint sealer materials.

Transfer Efficiency—The portion of coating solids which is not lost or wasted during the application process expressed as percent of total volume of coating solids delivered by the application.

Undesirable Levels—Undesirable levels of the items defined in “Air Contaminants” LAC 33:III.111 hereof is the presence in the atmosphere, as limited by R.S. 30:1083 (2), of one or more of such items or combinations thereof in quantities and concentrations and of such characteristics, properties, and duration as to appreciably injure human life beyond inconvenience or in quantities and concentrations and of such characteristics, properties, and duration as to materially injure or interfere with the reasonable use of animal or plant life or property. In determining whether or not contaminants create undesirable levels the department may use appropriate information and data which may include, but not be limited by acceptable national standards, published “safe limit” values and other such information and relationships which may provide a reasonable assessment of the conditions which exist for a particular situation.

Upwind Level—The concentration of air contaminants in the atmosphere determined at some point upwind of the source. This concentration may be considered as the background level.

Variance—A waiver issued under the authority of the Department of Environmental Quality upon application to allow emissions greater than those allowable under the regulations and/or a license to do some act contrary to these regulations.

Volatile Organic Compound—(Effective March 1, 1990)--Any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the administrator of the U.S. Environmental Protection Agency designates as having negligible photochemical reactivity. VOC may be measured by a reference method, an equivalent method, an alternative method or by procedures specified under 40 CFR 60 (1988). A reference method, an equivalent method, or an alternative method, however, may also measure nonreactive organic compounds. In such cases, an owner or operator may exclude the nonreactive organic compounds when determining compliance with a standard.

Waste Classification—Those seven classifications of wastes as enumerated in the I.I.A. incinerator standards.

Weak Nitric Acid (HNO₃)—Acid which is 30 to 70 percent in strength.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division LR 13:741 (December 1987) amended LR 15: (December 1989).

Chapter 21. Control of Emission of Organic Compounds

Subchapter A—General

§2103. Storage of Volatile Organic Compounds

A. No person shall place, store or hold in any stationary tank, reservoir or other container of more than 250 gallons (950 liters) and up to 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound, having a true vapor pressure of 1.5 psia or greater at storage conditions, unless such tank, reservoir or other container is designed and equipped with a submerged fill pipe or a vapor loss control system or is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere.

B. No person shall place, store or hold in any stationary

tank, reservoir, or other container of more than 40,000 gallons (151,400) nominal capacity any volatile organic compound having a true vapor pressure of 1.5 psia or greater at storage conditions unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with a submerged fill pipe and one or more of the vapor loss control devices described herein.

C. Internal Floating Roof Acceptable if Vapor Pressure Less Than 11.0 psia. An internal floating roof consists of a pontoon type roof, double deck type roof or internal floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall. All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. This control equipment shall not be permitted if the organic compounds have a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions.

D. Conditions Under Which an External Floating Roof is Acceptable. An external floating roof consists of a pontoon type roof, double deck type roof or external floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall and a continuous secondary seal (a rim mounted secondary) extending from the floating roof to the tank wall.

1. A secondary seal is not required if:

a. The tank is a welded tank storing a VOC with a vapor pressure at storage conditions less than 4.0 psia and is also equipped with liquid mounted primary seals, metallic type shoe seals, or equivalent.

b. The storage vessels are external floating roof tanks having nominal storage capacities of 420,000 gallons (1,589,900 liters) or less used to store produced crude oil or condensate prior to lease custody transfer.

c. A metallic-type shoe seal is used in a welded tank which also has a secondary seal from the top of the shoe seal to the tank wall (i.e., a shoe-mounted secondary).

d. An alternate seal or seals can be used in lieu of the primary and secondary seals required herein provided the resulting emission is not greater than that which would have resulted if the primary and secondary seals were installed. The equivalency demonstration will be made to the satisfaction of the administrative authority*.

e. The secondary gap seal measurements shall be made annually at any tank level provided the roof is off its legs. The primary gap seal measurements shall be made every five years to any tank level provided the roof is off its legs.

Conditions not in compliance with LAC 33:III.2103.D.2 shall be recorded along with date(s) of non compliance and LDEQ/AQD shall be notified within seven days. Repairs necessary to be in compliance must be initiated within seven working days of recognition of noncompliance by ordering appropriate parts. Repairs shall be completed within three months of the ordering of the repair parts. However, if it can be demonstrated that additional time for repair is needed, the administrative authority may extend this deadline.

2. The Seal Closure Devices Required in LAC 33:III.2103.D shall:

a. Have no visible holes, tears, or other openings in the seal(s) or seal(s) fabric.

b. Be intact and uniformly in place around the circumference of the floating roof and the tank wall.

c. Not have gap areas, of gaps exceeding $\frac{1}{8}$ inch (0.32 cm) in width between the secondary seal and the tank wall, in excess of 1.0 in² per foot of tank diameter (65cm² per 0.3m).

d. Not have gap areas, of gaps exceeding $\frac{1}{8}$ inch (0.32 cm) in width between the primary seal and the tank wall, in excess of 10.0² per foot of tank diameter (65 cm² per 0.3m).

3. Requirements for Covering Openings. All openings in the external floating roof, except for automatic bleeder vents, run space vent, and leg sleeves, are to provide a projection below the liquid surface. The openings must be equipped with cover, seal, or lid which must be in a closed position at all times except when the device is in actual use. Automatic bleeder vents must be closed at all times except when the roof is floated off or landed on the roof leg supports. Rim vents must be set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting. Any emergency roof drain must be equipped with a slotted membrane fabric cover or equivalent cover that covers at least 90 percent of the opening.

4. Compliance Required by December 31, 1982. Compliance with the provisions of this regulation shall be achieved by December 31, 1982. However, if it can be affirmatively demonstrated to the administrative authority that additional time is needed, an extension can be granted until December 31, 1983. In all cases compliance must be achieved in the most expeditious manner.

E. Vapor Loss Control System Acceptable When Requirements are Met. A vapor loss control system consists of a gathering system capable of collecting the organic compound vapors and gases and a vapor disposal system capable of processing such organic vapors and gases so as to limit their emission to the atmosphere to the same extent as the provisions of LAC 33:III.2103.C and LAC 33:III.2103.D. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

F. No person shall place, store or hold in any stationary tank, reservoir or other container of more than 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound having a true vapor pressure of 11 psia or greater at storage conditions unless such tank, reservoir or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with submerged fill pipe and vapor loss control system in accordance with LAC 33:III.2103.E.

G. Exemptions. The provisions of this Section (i.e. LAC 33:III.2103) do not apply to existing and new storage tanks used for crude or condensate having a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards. In addition, tanks 420,000 gallons or greater used in activities prior to lease custody transfer are exempt from the provisions of LAC 33:III.2103 unless such tanks are subject to New Source Performance Standards. In addition, the provisions of LAC 33:III.2103 do not apply to JP-4 fuels stored in horizontal, underground tanks. Sources such as existing storage tanks having a nominal capacity of 420,000 gallons (1,589,900 liters) of crude or condensate shall achieve compliance as expeditiously as practicable but no later than December 31, 1987.

H. Compliance Tests

1. Floating Roofs. The seal gap area shall be determined by measuring the length and width of the gaps around the entire circumference of the seal. A $\frac{1}{8}$ inch (0.32 cm) uniform diameter probe shall be used for measuring gaps. Only gaps greater

than or equal to $\frac{1}{8}$ inch (.032 cm) shall be used in computing the gap area. The area of the gaps shall be accumulated to determine compliance with LAC 33:III.2103.D.2.c and d. Compliance with the other provisions specified in LAC 33:III.2103.D.2.a and b may be determined by visual inspection.

2. Add-On Control Devices. The following test methods shall be used, where appropriate:

a. test method 1 through 4 (LAC 33:III.6001, 6003, 6009 and 6013 respectively) for determining flow rates, as necessary;

b. test method 18 (LAC 33:III.6071) for measuring gaseous organic compound emissions by gas chromatographic analysis;

c. test method 21 (LAC 33:III.6077) for determination of volatile organic compound leaks;

d. test method 25 (LAC 33:III.6085) for determining total gaseous nonmethane organic emissions as carbon;

e. additional performance test procedures, or equivalent test methods, approved by the administrative authority*.

I. Recordkeeping. The owner/operator of any storage facility shall maintain records to verify compliance with or exemption from LAC 33:III.2103. The records shall be maintained for at least two years and will include, but not be limited to, the following:

1. The results of yearly inspections required by LAC 33:III.2103.D.2.e shall be recorded each year.

2. For vapor loss control systems (LAC 33:III.2103.E) the following information shall be recorded:

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

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

3. The date and reason for any maintenance and repair of the applicable control devices and the estimated quantity and duration of volatile organic compound emissions during such activities.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 15: (December 1989).

Joan Albritton
Program Manager

RULE

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in particular Sections 2001, 2014, and 2193, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary amended the Louisiana Hazardous Waste Regulations, LAC 33:V.Subpart 1.

These regulations to the land disposal prohibition rule re-instate with minor changes sections of previous regulations

which were severed during the legislative oversight hearing process. These regulations contain provisions which require a demonstration that wastes which are disposed by deep well injection are permanently contained and that migration will not occur into the air, land or waters of the state where a discharge is not permitted.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality - Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

§2242. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injection

A. Any person seeking an exemption to allow land disposal by deep well injection of a prohibited hazardous waste in a particular injection well or wells must submit a petition to the administrative authority that does the following:

1. The petition must show that no other economically and environmentally reasonable alternative to disposal into an injection well is available. No exemption shall be granted to a generator for the land disposal of a waste stream if the waste stream can reasonably be eliminated or significantly reduced through waste reduction.

2. The petition must demonstrate to a reasonable degree of certainty that the wastes shall be permanently confined as required by R.S. 30:2193 (E) (2) (d) and 30:2193 (A). For the purposes of this Section, permanent confinement means that there will be no migration of hazardous constituents from the injection zone for as long as the wastes remain hazardous. Migration prohibited by this Section includes migration into the air, land or waters of the state where a discharge is not permitted.

B. - C. ...

D. The demonstration required in Paragraph A.2 of this Section must include sufficient information to assure the administrative authority of the following:

1. The hydrogeological and geochemical conditions at the sites and the physiochemical nature of the waste stream(s) are such that one of the following reliable predictions can be made:

a. Fluid movement conditions are such that the injected fluids will not migrate within 10,000 years, either

i. vertically upward out of the injection zone or

ii. laterally within the injection zone, to a point of discharge or interface with an underground source of drinking water (USDW).

b. If the injected fluids do migrate out of the injection zone or to a point of discharge or interface with a USDW within 10,000 years, the fluid will no longer be hazardous because of attenuation, transformation, or immobilization of hazardous constituents within the injection zone by hydrolysis, chemical interactions, or other means.

c. Any migration due to diffusion shall be accounted for in the demonstration required under Subsection D.1.a.

2. For each well the petitioner has done the following:

a. The petitioner has demonstrated that the injection well's area of review includes at least the two-mile radius around the bore hole. The administrative authority may specify a larger area of review on the basis of the calculated cone of influence around the well.

b. Using a protocol acceptable to the administrative authority, the petitioner has located, identified, and ascertained the

conditions of all wells within the injection well's area of review (as specified in Subsection D.2.a.) that penetrate the injection zone or the confining zone.

c. The petitioner has submitted a corrective action plan that meets the substantive requirements of Subsection V of this Section; its implementation shall become a condition of petition approval.

d. The petitioner has submitted the results of pressure and radioactive tracer tests performed within one year prior to submission of the petition that demonstrate the mechanical integrity of the well's long string casing, injection tube, annular seal, and bottom hole cement. In cases where the petition has not been approved or denied within one year after the initial demonstration of mechanical integrity, the administrative authority may require the owner or operator to perform the tests again and submit the results of the new tests.

E. A demonstration under LAC 33:V.2242.D.1.a shall identify the strata within the injection zone which will confine fluid movement above the injection interval and include a showing that this strata is free of known transmissive faults or fractures and that there is a confining zone above the injection zone.

F. A demonstration under LAC 33:V.2242.D.1.b shall identify the strata within the injection zone where waste transformation will be accomplished and include a showing that this strata is free of known transmissive faults or fractures and that there is a confining zone above the injection zone.

G. A demonstration may include information that:

1. treatment methods, the implementation of which shall become a condition of approval, will be used to reduce the toxicity or mobility of the wastes; or

2. a monitoring plan, the implementation of which shall become a condition of petition approval, will be used to enhance confidence in one or more aspects of the demonstration.

H. Any person who has been granted an exemption pursuant to this Section may submit a petition for reissuance of the exemption to include an additional restricted waste or wastes or to modify any conditions placed on the exemption by the administrative authority. The administrative authority may reissue the petition if the petitioner complies with the requirements of LAC 33:V.2242.A through F.

I. Any person who has been granted an exemption pursuant to this Section may submit a petition to modify an exemption to include an additional nonrestricted hazardous waste or wastes. The administrative authority may grant the modification if he determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that it will not interfere with the containment capability of the injection zone.

J. Information submitted in support of the exemption petition must meet the following criteria:

1. All waste analysis and any new testing performed by the petitioner should be accurate and reproducible and performed in accordance with quality assurance standards.

2. Estimation techniques shall be appropriate, and EPA-certified test protocols shall be used when available and appropriate.

3. Predictive models shall have been verified and validated; shall be appropriate for the specific site, waste streams, and injection conditions of the operation; and shall be calibrated for existing sites where sufficient data are available.

4. An approved quality assurance and quality control plan shall address all aspects of the demonstration.

5. Reasonably conservative values shall be used whenever values taken from the literature or estimated on the basis of known information are used instead of site-specific measurements.

6. An analysis shall be performed to identify and assess aspects of the demonstration that contribute significantly to uncertainty. The petitioner shall conduct a sensitivity analysis to determine the extent to which significant uncertainty may affect the demonstration. The demonstration shall then be based on conservative assumptions identified in the analysis.

K. Any petitioner under LAC 33:V.2242.D.1.a shall provide sufficient site-specific information to support the demonstration, such as:

1. thickness, porosity, permeability, and extent of the various strata in the injection zone;
2. thickness, porosity, permeability, extent, and continuity of the confining zone;
3. hydraulic gradient in the injection zone;
4. hydrostatic pressure in the injection zone; and
5. geochemical conditions of the site.

L. In addition to the information in LAC 33:V.2242.K any petitioner under LAC 33:V.2242.D.1.b shall provide sufficient waste-specific information to ensure reasonably reliable predictions about the waste transformation. The petitioner shall provide the information necessary to support the demonstration, such as:

1. a description of the chemical processes or other means that will lead to waste transformation; and
2. results of laboratory experiments verifying the waste transformation.

M. Any petition submitted to the administrative authority pursuant to this Section shall include the following components:

1. an identification of the specific waste or wastes and the specific injection well or wells for which the demonstration will be made;
2. a waste analysis to describe fully the chemical and physical characteristics of the subject wastes;
3. such additional information as is required by the administrative authority to support the petition under this Section; and
4. this statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted for this petition and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information.

N. Ambient Monitoring

1. Based on a site-specific assessment of the potential for fluid movement from the well or injection zone, and on the potential value of monitoring wells to detect such movement, the administrative authority shall require the owner or operator to develop a monitoring program. At a minimum, the administrative authority shall require annual monitoring of the pressure build-up in the injection zone, including, at a minimum, a shut-down of the well for a time sufficient to conduct a valid observation of the pressure fall off curve.

2. The owner or operator shall include all of the following requirements in his monitoring program:

- a. Continuous monitoring for pressure changes in the first aquifer overlying the confining zone shall be addressed. The

owner or operator shall, on a quarterly basis, sample the aquifer and analyze for constituents specified by the administrative authority.

b. The use of indirect, geophysical techniques shall be required to determine the position of the waste front, the water quality in a formation designated by the administrative authority, or to provide other site-specific data.

c. Periodic monitoring of the groundwater quality in the first aquifer overlying the injection zone shall be required.

d. Periodic monitoring of the groundwater quality in the lowermost USDW shall be required.

e. Additional monitoring may be necessary to determine whether fluids are moving into or between USDWs.

3. The administrative authority may exempt the owner or operator from any requirements in Paragraph 2 which he deems to be unnecessary or not feasible, or which pose undue risks.

O. The administrative authority may require seismicity monitoring when he has reason to believe that the injection activity could cause seismic disturbances.

P. The administrative authority shall provide public notice and an opportunity for public comment in accordance with the procedures in LAC 33:V. Chapter 7, Subchapter C, §2243, of the intent to approve or deny a petition. The administrative authority shall provide public notice of the final decision on a petition.

Q. If an exemption is granted it will apply only to the underground injection of the specific restricted waste or wastes identified in the petition into a Class I hazardous waste injection well or wells specifically identified in the petition unless the exemption is modified or reissued pursuant to LAC 33:V.2242.H or I.

R. Whenever the administrative authority determines that the basis for approval of a petition may no longer be valid, he shall require a new demonstration in accordance with this Section.

S. Termination of an Approved Petition

1. The administrative authority may terminate an exemption granted under this Section for the following causes:

a. noncompliance by the petitioner with any condition of the exemption;

b. the petitioner's failure in the petition or during the review and approval to disclose fully all relevant facts, or the petitioner's misrepresentation of any relevant facts at any time; or

c. a determination that new information shows that the basis for approval of the petition is no longer valid.

2. The administrative authority shall terminate an exemption granted under this Section for the following causes:

a. the petitioner's willful withholding during the review and approval of the petition of facts directly and materially relevant to the administrative authority's decision on the petition;

b. a determination that there has been migration from the injection zone or the well that is not in accordance with the terms of the exemption, except that the administrative authority may at his discretion decide not to terminate where:

i. the migration resulted from a mechanical failure of the well that can be corrected promptly through a repair to the injection well itself or from an undetected well or conduit that can be plugged promptly; and

ii. the requirements of LAC 33:V.2242.V are satisfied.

3. The administrative authority shall follow the procedures in LAC 33:V.323 in terminating any exemption under this Section.

T. Whenever the owner or operator obtains evidence that

injected wastes may have been released into an unauthorized zone, he must do the following:

1. The owner or operator shall immediately cease injection of waste fluids and

a. notify the administrative authority within 24 hours of obtaining such evidence;

b. take all necessary steps to identify and characterize the extent of any release;

c. comply with any remediation plan specified by the administrative authority;

d. implement any remediation plan approved by the administrative authority; and

e. where such release is into a USDW currently serving as a water supply, place a notice in a newspaper of general circulation.

2. The administrative authority may allow the operator to resume injection prior to completing cleanup action if the owner or operator demonstrates that the injection operation will not endanger strata containing waters of the state where a discharge is not permitted.

U. The term of an exemption granted under this Section shall be no longer than the term of the final permit if the disposal unit is operating under a final permit, or up to a maximum of five years from the date of approval if the unit is operating under interim status. In either case, the term of the exemption granted shall expire upon the revocation or denial of a final permit or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached. The exemption must be reviewed at least once every three years.

V. Corrective Action for Wells in the Area of Review

1. The petitioner shall submit a plan to the administrative authority outlining the protocol used to:

a. identify all wells penetrating the confining zone or injection zone within the area of review; and

b. determine whether wells are adequately completed or plugged.

2. The petitioner shall identify the location of all wells within the area of review that penetrate the injection zone or the confining zone and shall submit the following information to the administrative authority:

a. a tabulation of all wells within the area of review that penetrate the injection zone or the confining zone; and

b. a description of each well or type of well and any records of its plugging or completion.

3. For wells that the administrative authority determines are improperly plugged, completed, or abandoned, or for which plugging or completion information is unavailable, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluids into strata containing waters of the state where a discharge is not permitted. Where the plan is adequate, the administrative authority shall incorporate it into the exemption as a condition. Where the administrative authority's review indicates that the petitioner's plan is inadequate (based at a minimum on the factors in Paragraph 5 of this Section), the administrative authority shall:

a. require the applicant to revise the plan;

b. prescribe a plan for corrective action as a condition of the exemption; or

c. deny the exemption.

4. Requirements

a. For existing hazardous waste injection wells, any exemption issued requiring corrective action other than pressure

limitations shall include a compliance schedule requiring any corrective action accepted or prescribed under Paragraph 3 of this Section. Any such compliance schedule shall provide for compliance no later than two years after issuance of the exemption and shall require observance of appropriate pressure limitations under Subparagraph 4.c. until all other corrective action measures have been implemented.

b. For new hazardous waste injection wells, no owner or operator may begin injection until all corrective actions required under this Section have been taken.

c. The administrative authority may require pressure limitations in lieu of plugging. If pressure limitations are used in lieu of plugging, the administrative authority shall require as a condition of the exemption that injection pressure be so limited that pressure in the injection zone at the site of any improperly completed or abandoned well within the area of review would not be sufficient to drive fluids into strata containing waters of the state where a discharge is not permitted.

5. In determining the adequacy of corrective action proposed by the applicant under Subsection V of this Section and in determining the additional steps needed to prevent fluid movement into strata containing waters of the state where a discharge is not permitted, the administrative authority shall consider the following criteria and factors:

a. nature and volume of injected fluid;

b. nature of native fluids or by-products of injection;

c. geology;

d. hydrology;

e. history of the injection operations;

f. completion procedures in effect at the time the well was closed;

g. closure procedures in effect at the time the well was closed;

h. hydraulic connections with USDWs;

i. reliability of the procedures used to identify abandoned wells; and

j. any other factors which might affect the movement of fluids into strata containing waters of the state where a discharge is not permitted.

W. During the petition review process, the applicant is required to comply with all prohibitions on land disposal under this Chapter, unless a petition for an exemption has been approved by the EPA, and the administrative authority grants an emergency variance. If EPA has approved the exemption, the land disposal of the waste may continue for up to one year under an emergency variance issued by the administrative authority until the administrative authority makes a decision on the petition for exemption. The administrative authority shall either grant or deny the petition within the one-year emergency variance period. After the administrative authority issues a decision on the exemption, the waste may be land disposed only in accordance with the provision of the exemption.

X. The petition granted by the administrative authority does not relieve the petitioner from compliance with all other applicable regulations.

Y. Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm are not eligible for an exemption under this Section.

Z. As a condition of the exemption, the petitioner must submit a report by March 1 of each calendar year during the term of the exemption, describing in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data

indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, in LR 15:378. (May 20, 1989), amended LR 15: (December 1989).

Paul H. Templet, Ph.D.
Secretary

RULE

Department of Environmental Quality Office of the Secretary

Under the authority of the Louisiana Environmental Quality Act, Louisiana R.S. 30:2001 et seq., and in particular Louisiana R.S. 30:2413.A.(1) and 2422, and in accordance with the provisions of the Administrative Procedure Act, LA R.S. 49:950 et seq., the assistant secretary amended the Louisiana Solid Waste Regulations, LAC 33:Part VII to add Subpart II.

This amendment provides the procedure for the allocation of grants to parishes and incorporate municipalities to fund local government recycling programs.

Title 33 ENVIRONMENTAL QUALITY Part VII. Solid Waste Subpart II. Recycling

Chapter 101. Recycling Awareness

§10101. Purpose of the Recycling Awareness Program

This program is designed to assist local governments in educating the citizens on the energy conservation, environmental and economic benefits to be gained from recycling. This regulation provides the procedures for the funding allocations method, and the applications for funding the local government recycling awareness program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15: (December 1989).

§10103. Objectives

Objectives of the Recycling Awareness Program are:

- A. to conserve Louisiana's natural resources and energy;
- B. to allow local governments to develop a recycling awareness program;
- C. to develop and implement a recycling public education program;
- D. to identify future local government recycling needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15: (December 1989).

§10105. Funding

The initial funding allocation to local governments is as follows:

- A. Initial Funding Allocation. A pilot project for New Orleans (Orleans Parish) will be allocated \$600,000, therefore New

Orleans will not be funded under §10105. B and C.

B. Each parish and each large (population 50,000 or over) incorporated municipal government will be eligible for a base allocation of up to \$14,000.

C. In addition to the base allocation, each parish and each large (population over 50,000) incorporated municipal government will be eligible for an allocation of up to \$.22 per capita. Populations will not be double counted i.e., population figures for participating large incorporated municipalities will be deducted from the parent parish population figures in order to allocate the parish totals. The department shall determine and use the best available census data or official estimates for population figures.

D. A funding application for a parish shall be as agreed to between the parish and the smaller (population less than 50,000) incorporated municipalities within that parish. In the absence of an agreement between a parish and each of its participating smaller incorporated municipalities, the parish and such smaller incorporated municipalities shall be eligible to independently apply for funding on a per capita basis.

E. If a parish government elects not to participate, the smaller incorporated municipalities in that parish may apply for per capita funding.

F. Regional (multi-parish) proposals are eligible to apply for up to an additional 20 percent funding, the availability of funds permitting.

G. Funds will be made available through cooperative agreements between the parish and/or municipal governments and the departments. No cooperative agreement is effective until approved by the Division of Administration, Office of Contractual Review. No work shall commence until said written approval is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15: (December 1989).

§10107. Funding Proposals

Funding proposals in order to maintain a minimum level of participation:

A. The department will only fund parish proposals that include and consider the needs of all smaller municipalities in that parish, except any smaller municipality that elects to participate directly with the department. The parish government shall certify to the department that all of the smaller incorporated municipalities in the parish have been contacted and shall list those that have agreed to participate under the parish program.

B. In parishes wherein the parish is implementing the recycling awareness program for smaller incorporated municipalities, the parish shall provide the recycling awareness program in such smaller incorporated municipalities.

C. If a smaller incorporated municipality elects to participate directly with the department, the smaller municipality must apply directly to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15: (December 1989).

§10109. Innovative or Demonstration Projects

The department may fund innovative or demonstration projects either by invitation or from unsolicited proposals from any local government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15: (December 1989).

§10111. Application Deadline

Initial funding application must be submitted by parish and local government bodies to the Department of Environmental Quality, Office of the Secretary, Box 44066, 625 North Fourth Street, Baton Rouge, LA 70804, no later than 90 days after the publication of the rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15: (December 1989).

§10113. Interagency Agreement

The department and any parish or municipal government participating in the recycling awareness program shall be bound by the terms and conditions of any Interagency Agreements negotiated between the department and the Department of Natural Resources concerning the use of the recycling awareness program funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15: (December 1989).

Paul H. Templet, Ph.D.
Secretary

RULE

Office of the Governor

**Commission on Law Enforcement
and Administration of Criminal Justice**

Title 22

**CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT**

**Part III. Commission on Law Enforcement
and Administration of Criminal Justice**

**Subpart 6. Grant Applications or Subgrants
Utilizing Federal, State, or
Self-Generated Funds**

Chapter 51. Appeals Procedure

§5101. Appeals Procedure

A. When an application for funding is rejected by the commission, or when an approved subgrant is discontinued, the applicant or subgrantees may appeal the decision of the commission by filing a notice of appeal with the Louisiana Commission on Law Enforcement at the recognized business address (2121 Wooddale Boulevard, Room 610, Baton Rouge, LA 70806). The notice of appeal must be by certified mail and must be filed no later than 15 business days after receipt of the notice of denial by the applicant or subgrantee.

B. Upon receipt of the notice of appeal by the LCLE, the executive director will notify the commission that an appeal hearing will be held on the date of the next regularly scheduled com-

mission meeting. The Priorities Committee will hear the appeal and make recommendations to the commission. The executive director shall designate the time and place of the meeting, and a copy of the notice shall be sent to the applicant or subgrantee.

C. On the date of the next regularly scheduled commission meeting, the Priorities Committee shall meet and hear evidence by the applicant or subgrantee relative to reasons the appeal should be granted. The applicant or subgrantee may present as many witnesses as may be necessary to support his appeal, except that the committee chairman may limit the number or time allotted to the witnesses where necessary. The secretary to the commission shall take minutes of the appeal hearing and the entire hearing shall be recorded. The committee may also request other evidence relating to the application or project.

D. At the conclusion of the hearing, the committee shall present its findings and make recommendations to the commission.

E. A vote shall then be taken on the appeal.

F. In the event the appeal is denied, the applicant or subgrantee may, within 15 days of the date of denial, file with the Office of the Governor and the Louisiana Commission on Law Enforcement, a notice of appeal to the governor. The notice of appeal must be by certified mail.

G. Upon receipt of the notice of appeal to the governor, the Louisiana Commission on Law Enforcement shall have 15 days to provide the applicant or subgrantee and the governor with the minutes of the appeal hearing and a copy of the vote of the commission. The recorded tapes shall also be made available to the governor at his request.

H. The results of the appeal to the governor shall be communicated to the Louisiana Commission on Law Enforcement within 20 days.

I. Nothing herein shall preclude the resubmission of an application through the use of regular Louisiana Commission on Law Enforcement procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15: (December 1989).

Michael A. Ranatza
Director

RULE

Office of the Governor

**Commission on Law Enforcement
and Administration of Criminal Justice**

Title 22

**CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT**

**Part III. Commission on Law Enforcement
and Administration of Criminal Justice**

Subpart 5. Crime Victim Assistance

Chapter 49. Policies and Procedures

§4901. Eligibility for Funding

A. Priority will be given to programs serving victims of sexual assault, spousal abuse, and child abuse and underserved

populations, not to include sexual assault, spousal abuse and child abuse programs.

B. The state of Louisiana must allocate at least 10 percent of the total crime victims assistance funds granted to the state to each of the three priority categories plus 10 percent to previously underserved populations not to include sexual assault, spousal abuse and child abuse programs.

C. Crime Victim Assistance (CVA) funds will be distributed on a formula basis to each of the state's eight districts. The other funds administered by the Louisiana Commission on Law Enforcement (Juvenile Justice and Delinquency Prevention, State Grant-in-Aid, Training, Anti-Drug Abuse Act) all utilize this formula.

D. An eligible crime victim program must:

1. Be operated by a public agency or non-profit organization, or a combination thereof, that provides service to crime victims.

2. Promote within the community served coordinated public and private efforts to aid crime victims. Program must demonstrate (in its application) that it will coordinate its activities with other service providers in the community so that the best interests of the crime victim are served and interagency communication enhanced.

3. Assist victims in seeking available crime victim compensation benefits by running at least one paid ad in local newspapers. The ad should reference sheriffs as the contact point, the subgrantee, and the Louisiana Commission on Law Enforcement (LCLE) as funding source. Grant funds may be used for this purpose. Media advertisements must address only direct services to crime victims, and how to access them. This is not to exceed two percent of grant funds. An eligible program must demonstrate that it will coordinate its activities with the state compensation program.

4. Victims should be encouraged by subgrantees to cooperate with and contact local law enforcement agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15: (December 1989).

§4903. Application Requirements

A. All applications submitted for CVA funds shall be reviewed by the CVA Advisory Board and submitted to the full commission for approval or disapproval. Local level applications must have local council approval. Documentation of approval must accompany application to state office.

B. Application must include the original A-95 Review for Federal Assistance form. This form must have a State Clearinghouse Identifier number assigned to it before it is submitted. Have original signature on all documents (no copies).

C. Include as a separate part of the budget narrative, your agency's current operating budget. Include the dollar amount for each source of funding. If your agency provides other non-victim services (sheriff's department, YWCA recreational programs, etc.), include only that part of the budget directly related to victim services.

D. Application must include a federal tax identification number (agency's). Place in Box 6 of application. No funds will be released until this number is submitted.

E. Match is required for crime victims assistance funds.

1. If the program is an existing program, has a record of providing effective services to victims of crime, and has financial support from other services, the enhancement or expansion of

services will require a 20 percent match (includes in-kind contributions). The enhancement or expansion can request 80 percent of program costs from CVA funds.

2. If a new program is applying for funds, one that has not yet demonstrated a record of effective services, the proposed program budget must provide a 35 percent hard cash or in-kind match.

F. Application must include a statement in the budget narrative that explains budget items stating if match is in-kind or cash. Specify source, amount, and method of derivation of match. If volunteers are used as match, limit the hourly rate to \$5. Have documentation on file listing name of volunteer, number of hours contributed, date of volunteer hours. In-kind match must not be incorporated into individual budget categories on page 2 of the application; cash match must be incorporated into the individual budget categories on page 2. In-kind match should be explained on a separate page. The statement also must include the source of cash or in-kind match.

G. Each program must utilize volunteers in some capacity.

H. Application must contain what duties and functions are performed by volunteers. Indicate number of volunteer hours per duty/function for this application (estimate). If volunteers are used as match, duties must directly relate to the focus of the program.

I. Include the total number of hours of training provided to volunteer and salaried victim assistance staff who deliver direct services to crime victims. Include only training whose function is to develop skills of direct service providers in working with crime victims.

J. Application must include the total number of hours of training presented by program staff to other disciplines, e.g. police, mental health, social services. Include only training to people who provide direct service to victim, not public awareness/information training.

Include the total number of hours contributed by paid and volunteer staff (full time - unpaid staff who deliver direct services to crime victims).

K. Application must indicate how applicant has/will coordinate their activities with other criminal justice system/private service providers in the community. Letters of support indicating awareness of and cooperation with applicant agency and/or written cooperative agreements would satisfy this requirement and must be submitted with the application.

L. Application must include a specific plan how agency has or will interface with the Louisiana Crime Victims Reparations Program. Keep data on number of referrals to program, amount received by each victim referred.

M. Personnel

1. Salary rates to be comparable with salaries of similar jobs in region served by the project.

2. Supplanting not permitted. Grant funds are intended to enhance or expand services, not substitute for other sources of support.

3. Percentage of time which person(s) devote to project must be shown.

4. Job Description (in grant materials) to be provided for each funded position.

5. Qualifications - education/work experience to be provided for each position.

a. Qualifications to meet those established for the particular position and/or comparable to existing positions in funded grants.

b. Qualifications to be at minimum level to perform duties described and in line with salary rate established.

6. Retroactive pay increases not approvable.

7. No dual compensation permitted.

8. Time/attendance records to be maintained on current basis.

N. Fringe Benefits

1. Apply only to those salaries funded in grant.

2. Types

a. Social Security (F.I.C.A.), 1989 - 7.51 percent

b. Public Retirement

c. Health/Life Insurance

d. Workman's Compensation

e. Private Retirement Plan

3. Only one bona fide retirement plan is eligible.

4. Fringe benefits not to exceed 25 percent of the total salary.

5. In the absence of fringe benefits budgeted when grant personnel are shown, these benefits to be supported with local funds. Documentation to this effect must be included in the Budget Narrative portion of the application.

O. Travel

1. State travel regulations prevail in all grants (may be below, but not exceed state levels).

a. Lodging - \$40 plus tax; \$55 plus tax (New Orleans)

b. Meals - \$18 (\$4-\$5-\$9); New Orleans - \$26 (\$5-\$7-\$14) - time constraints determine eligibility.

c. Mileage - 21 cents per mile.

2. Travel is a reimbursable expenditure for actual travel, not a flat allowance.

3. Amount of funds budgeted for travel to be in line with project duration, scope of travel required, etc.

4. Travel expenditures restricted to persons in grant. (training exempted)

5. Travel reimbursement for mileage not allowable in public vehicle where gas, operating expenses are provided by agency.

6. Questions will be asked when travel is required in the project, but no travel funds are budgeted.

7. Travel funds budgeted need to be detailed, type of expense; where travel is to; out-of-state, etc., not in a lump sum.

8. Note: Oil and gas are not travel expenditures, these are other direct costs.

P. Equipment

1. Distinguish between equipment and supplies; i.e. depreciable, life of at least three years.

2. Reimbursement for equipment to be evidenced by invoice (preferably) or purchase order, payment will not be processed unless these are submitted with request.

a. Purchase(s) must be made within grant period (invoice date must reflect this).

3. Competitive procurement must be utilized, special condition will be imposed on all grants.

4. Cost of equipment to be reviewed in terms of cost effectiveness.

5. Items of equipment to be reviewed in terms of project needs and justification.

6. Equipment to be listed by item and unit cost for each item.

7. The following equipment items cannot be purchased or leased with Crime Victims Assistance funds: vehicles, police automobile radios, walkie talkies, computers, word processors, typewriters, copy machines, and/or calculators.

8. Office furniture is limited to the following and is not to exceed \$700: desk, chair(s), file cabinet.

9. Telephone purchased with CVA funds shall be limited to standard models.

10. Audio-visual equipment limited to \$1,000 per program.

11. All equipment must be tagged and proper inventory controls established.

12. No equipment may be disposed of (sold, destroyed, given away) without state office approval.

Q. Supplies

1. Distinguish between supplies and equipment.

2. Uniforms are not eligible for funding.

3. Types of supplies

a. Office supplies - paper, pencils, etc.

b. Training supplies - books, manuals, audio-visual aids, films (if cost is less than \$250; if over \$250, place in equipment category), etc.

c. Other supplies as may be related to project.

d. Postage

4. Lump sum amounts for supplies not acceptable - major categories must be itemized by unit cost.

5. Supplies to be related to functions of project.

6. Supplies to be consumed generally during grant period.

7. Amount budgeted for supplies to be reviewed in relation to total funds budgeted; re: cost effectiveness.

8. Films, audio-visuals, books, periodicals, bulletins - titles to be shown.

9. Office supplies limited to \$500 per program.

R. Contractual Services

1. Consultants' rate - not to exceed \$150 for eight-hour day (\$18.75 per hour [M-7100-1985]).

2. Competitive procurement for sole source when \$10,000 and over (must send to Washington, D.C. for approval).

3. Contractual agreement review by LCLE with approval prior to drawdown of funds - special condition on grants:

a. Review of consultants' qualifications

b. Review of prior comparable types of work performed - agency names, etc., date

c. Rates paid for prior comparable work performed

d. References

4. Contractual agreement to contain description of work to be performed.

S. Other Direct Costs

1. Types:

a. Gas and oil for vehicles

b. Audit costs

c. Printing. All printed material must bear a prominent statement to the effect that it was printed with Crime Victims Assistance funds obtained through a grant from Louisiana Commission on Law Enforcement.

d. Meeting room rentals - only for training direct service workers

e. Utilities

f. Rent. The subgrantee must certify in writing that the requested rental charge is consistent with the prevailing rate in the local area and shall maintain documentation in its file to support such a determination.

2. Service contracts and insurance coverage - review to insure that these cover only expenditures during grant period; i.e. three-year service contract to be paid from grant with dura-

tion of only 12 months not eligible.

3. Rent charges, (M-7100-1985)

a. Not to exceed \$10 per square foot. (\$12.50 when maintenance and operation provided).

b. Rental space requirements not to exceed 150 square feet per employee.

c. Rental cannot be charged if subgrantee owns the building.

T. Indirect Costs

Not allowable with CVA funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15: (December 1989).

§4905. Application Requirements

A. Any training must meet the standards and curriculum requirements of the Peace Officer Standards and Training (POST) Council.

B. Audit - Each applicant must comply with Office of Management and Budget (OMB) Circular A 128 or OMB Circular A 110, Attachment F, as appropriate.

Grant funds up to 15 percent may be used for the audit.

C. Each applicant must agree to the reporting requirements established by the commission.

D. Legal fees are only allowable when staff salaried medical/legal/mental health professionals are hired to provide on-site services to clients or are hired on a contractual basis to provide these services.

E. Landlord/tenant relations programs are not allowable.

F. Funds to pay private security guards or private escort services are not allowable.

G. Renovation and construction costs are not allowable.

H. Funds may not be used to pay for radio or television ads.

I. Subgrantee must comply with all guidelines contained in the *Federal Register*, Vol. 50, No. 205, Oct. 23, 1985; Vol. 52, No. 62, April 1, 1987 and Vol. 54, No. 95, May 18, 1989.

J. Training is eligible for funding for those persons (salaried or volunteer staff) who provide direct services to crime victims. Funds may only be used for training programs that improve the skills of service providers in meeting the needs of crime victims. Management training and training aimed at persons who do not provide direct services are not eligible for support.

K. Expenses must be in accordance with Louisiana State Travel Regulations. Costs are permitted only for travel within the state and comparable geographic region.

L. Only individuals who provide direct services to victims are eligible to receive funds for training and will only be reimbursed for 50 percent of expenditures for training expenses. Expenses related to the Louisiana Foundation Against Sexual Assault (LAFASA) and the Louisiana Coalition Against Domestic Violence (LCADV) meetings are not an eligible expense. A clear audit trail for expenditures must be kept available for review by auditors.

M. In-service training. Payment of trainer will be reimbursed at 100 percent providing training is direct service training to staff or volunteers. A copy of the training curriculum must be provided with the application.

N. Travel and per diem for trainer shall be eligible for 100 percent reimbursement.

O. CVA funds may not be used solely to support a training activity or program. (No subgrants will be granted solely for

the purpose of supporting a trainer or training activity.)

P. All requests for charges to subgrants related to travel, per diem, and conference fees must be submitted to LCLE and will be carefully reviewed before approval. Justification must be provided with training program description and brochures.

Q. All subgrantees with private, non-profit status are required to obtain a surety bond in the amount of the federal funds requested. Those private, non-profit subgrantees who have previously received at least one year CVA funding and who have demonstrated good performance, i.e., completing progress reports, fiscal reports, and performance report information, will not be required to obtain a surety bond.

R. No diminished support policy is presently in effect, but the board will reserve the right to approve an application at a reduced level. This will take into account other projects requesting funding and the past ability of a subgrantee to appropriately expand its awarded funds. All applications will be considered from the standpoint of how they will become self-supporting and phase out the need for CVA funds. Exemplary projects will be considered at the full funding requested.

S. All applicant agencies must include in the application for subgrant a statement indicating how they will address the issue of encouraging the victims to report to law enforcement. This will include their policies and procedures. No application will be considered without this information.

T. The following special condition will be imposed on all applications: Subgrantee must comply with the Louisiana Child Protection Act (LRS 15:587.1) and any subsequent amendments to the Act as appropriate for their program. The application must indicate that the subgrantee will comply, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15: (December 1989).

Michael A. Ranatza
Director

RULE

**Department of Health and Hospitals
Board of Certification for Substance Abuse Counselors**

In accordance with the R.S. 49:950 et seq., the Louisiana State Board of Certification for Substance Abuse Counselors hereby adopts the following rules.

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXX. Board of Certification
for Substance Abuse Counselors**

Chapter 1. General Provisions

§101. Definitions

A. *Board*-The Louisiana State Board of Certification for Substance Abuse Counselors

B. *Core Functions*-The screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, referral, reports and record-keeping activities associated with substance abuse counseling, and consultation with credentialed professionals.

C. *Qualified Professional Supervisors*-A substance abuse counselor who has been certified and has worked in a licensed or board approved substance abuse treatment program for a minimum of two years; or a credentialed professional such as a board certified social worker, licensed psychologist; or licensed physician; or any other professional recognized as a trainer by the board upon presentation of verification and documentation of expertise.

D. *Substance Abuse*-The repeated pathological use of drugs, including alcohol, which causes physical, psychological, economic, legal, or social harm to individual user or to others affected by the user's behavior.

E. *Substance Abuse Counselor*-Any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide substance abuse counseling services which utilize the basic core functions specific to substance abuse counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§103. Scope of Practice

A. The practice of substance abuse counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to abusers of drugs or alcohol to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle free of substance abuse. The scope of practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the core functions of substance abuse counseling.

B. Nothing in these rules and regulations shall be construed to authorize a substance abuse counselor to practice medicine, social work, or psychology, or to provide counseling for disorders other than substance abuse. A substance abuse counselor shall not order, administer, or interpret psychological tests or utilize psychometric procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§105. Minimum Standards of Practice

A. The minimum standard of practice will be met if:

1. a counselor is certified and in good standing with the board;
2. the counselor adheres to the code of ethics of the board;
3. the counselor practices within the scope of practice defined by the board;

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§107. Fees

A. The fees in connection with a board certified substance abuse counselor certification shall be as follows:

1. Application fee	\$200
2. Examination fee	150
3. Renewal fee	200
4. Appeal fee	50

5. Re-issuance of lost or destroyed certificate	25
6. Late renewal	100

B. All fees are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§109. Board Procedures and Administration

A. The board shall hold at least six regular meetings and additional meetings as necessary annually.

B. The chairman may call meetings after consultation with the board or by majority of members so voted at a regular meeting.

C. Meeting shall be announced and conducted under the provisions of the Louisiana Open Meetings Law, R.S. 42:1 - R.S. 42:12.

D. A quorum of the board necessary to conduct official business is 50 percent of its current membership.

E. *Robert's Rules of Order Revised* shall be the basis of parliamentary decisions except as otherwise provided by board rules.

F. The executive director shall prepare and submit to each member of the board an agenda which includes items required by law, and other matters of the board's business which has been approved for discussion by the chairman.

G. Minutes

1. The minutes of any board meeting are official only when affixed with the original signature of the chairman or executive director.

2. Drafts of the minutes of each meeting shall be forwarded to each member of the board for review and comments or corrections prior to approval by the board and at least 10 days prior to any regularly scheduled meeting.

3. The official minutes of the board meeting shall be kept in the office of the executive director and shall be available to any person desiring to examine them.

H. Committees

1. The board or the chairman, with the approval of the board, may establish committees deemed necessary to carry out board responsibilities.

2. The chairman shall appoint members of the board to serve on committees.

3. The chairman may appoint non-board members as committee members on a consultant or voluntary basis subject to board approval.

4. The committee chairman shall make regular reports to the board either in writing or at regular meetings and shall direct all such reports or other materials to the executive director for distribution.

5. The committees shall meet when called by the chairman or when so directed by the board.

I. Attendance

1. The attendance policy of the board is that members will attend regular, specially called and committee meetings as scheduled.

2. The board may report to proper governmental agency the attendance records of its members.

J. Executive Director

1. The executive director of the board shall be an employee of the board.

2. The executive director shall keep minutes of the meeting and proceedings of the board and shall be custodian of the

files and records of the board.

3. The executive director shall exercise general supervision over persons employed and administration of the powers and duties of the Louisiana State Board of Certification for Substance Abuse Counselors.

4. The executive director shall be responsible for the investigation of complaints and for the presentation of formal complaints.

5. The executive director shall handle all correspondence for the board and obtain, assemble or prepare reports and information that the board may direct or authorize as required by the board or any other agency with appropriate statutory authority.

6. The executive director shall have the responsibility of assembling and evaluating materials submitted by applicants necessary for the certification process. Any and all determinations made by the executive director may be subject to final approval by the board.

7. The executive director or any assignee may serve as administrator of examinations.

K. Transactions of Official Business

1. The board may transact official business only when in a legally constituted meeting with a quorum present.

2. The board shall not be bound in any way by any statement or action on the part of any board or staff member except when a statement or action is in pursuance of the specific instructions of the board.

L. Official Records

1. All official records of the board including application materials, except materials containing information considered confidential, shall be open for inspection during regular office hours.

2. Any person desiring to examine official records shall be required to properly identify himself and sign statements listing the records questioned and examined.

3. Official records shall not be taken from board's office; however, persons may obtain copies of records upon written request and by paying a fee prescribed by the board.

M. Discrimination Policy

1. The board shall make no decision in the discharge of its duty with regard to any persons' race, religion, color, sex or national origin.

N. Policy on Handicapped Applicants

1. The board recognizes that handicapped applicants may encounter special problems in applying for certification and will make effort to accommodate these applicants.

O. Certificate

1. The board shall prepare and provide to each certified counselor a certificate which lists the counselor's name and certification number.

2. Official certificates shall be signed by the chairman, vice-chairman, secretary-treasurer and be affixed with the official seal of the board.

3. Any certificate issued by the board remains the property of the board and must be surrendered to the board on demand.

P. Registry

1. Each year the board shall make available a roster of board certified substance abuse counselors.

2. The roster shall include but not be limited to the name, addresses and telephone numbers of the counselor. It is the counselor's responsibility to keep the board informed of changes of address or other information.

3. The board shall make copies of the roster available to

counselors, interested agencies and the general public upon request and at a cost prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

Chapter 3. Certification

§301. Requirements

The board shall issue a certification as a substance abuse counselor to each candidate who:

A. is at least 21 years of age;

B. is a citizen of the United States;

C. is not in violation of any ethical standards subscribed to by the board;

D. is not and has not been an abuser of alcohol or other drugs during the previous two years;

E. has not been convicted of a felony. However, the board in its discretion may waive his requirement upon review of the individual's circumstances;

F. has met the following education requirements:

1. possesses a high school diploma or equivalent;

2. has successfully completed a minimum of 30 hours of substance abuse courses or their equivalent from an accredited and board approved institution of higher education. Equivalency may be met by a minimum of 15 semester hours and the remainder, up to 15 equivalent hours, granted by a board approved institution of higher education at the rate of 10 contact hours per one semester hour;

3. applies for certification on or after September 1, 1991, possession of a baccalaureate degree from an accredited institution of higher education;

G. provides evidence of having successfully completed one year of full-time clinical training in board approved institutions in the actual performance of each of the core functions with clients while under the supervision of a qualified professional;

1. One full year equates to 1920 clock hours. These 1920 clock hours can be acquired on a full-time or part-time basis within a five-year time period.

2. Rules for Board Approved Institutions

a. The board will approve or disapprove an institution based on data obtained from the institution.

b. To be considered for approval, an institution must apply for approval on an official board form and pay a designated fee(s) to be set by the board.

c. The institution must agree to on-site visits by the board or a representative of the board. The board may or may not elect to do an on-site assessment.

d. The institution will be notified of approval or disapproval within 90 days of application to the board.

e. The board has the right to revoke approval status based on any deficiency at any time and at the board's discretion.

f. If not approved, the institution will be notified of the reason and may re-submit an application once the deficiency has been corrected to the satisfaction of the board.

H. Demonstrates professional competence in substance abuse counseling by passing a written and oral examination.

1. The board shall determine the scope and administration of the examination.

2. A candidate who fails either examination, but who meets all other requirements, may re-take the examination.

a. If requested the board shall furnish the applicant who fails the examination an evaluation of that applicant's test per-

formance.

3. Notice of Results

a. The board shall notify each candidate of the examination results within 60 days of the date of the examination. If the notice of examination results will be delayed for more than 60 days, the board shall notify the applicant before the sixtieth day.

b. Regardless of which numerical or other scoring system used at arriving at examination results, the official notice of results to applicants shall be stated in terms of passed or failed.

c. If an applicant fails to appear for an examination for reasons other than documented illness or other causes beyond the applicant's control and after having agreed by applying to take a particular examination, the applicant must re-apply and pay another examination fee before being admitted to a subsequent examination.

4. Each application for examination shall be accompanied by a non-refundable fee prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§303. Application

1. Required Application Materials

a. Specific information regarding personal data, employment and type of practice, any other state license and certification held, felony convictions, educational background including practicum experience, supervised experience and references.

b. The applicant's permission to the board to seek any application or reference it deems necessary to determine applicant's qualifications.

c. The statement that the applicant, if issued a certification, shall return the certificate and membership card and any other designations granted by the board upon a revocation or suspension of the certification.

d. A statement that the applicant understands that fees submitted in the certification process are non-refundable.

e. Be signed by the applicant, dated and notarized.

f. Have affixed a recent full face wallet size photo of the applicant with the imprint of the notary seal on the edge.

2. Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official board forms.

3. The board will not consider an application as official until the applicant has paid the application fee which must accompany the application form.

4. The board must receive all required application materials at least 45 days prior to the date the applicant wishes to take the examination, however, the board reserves the right to waive this 45-day requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§305. Acceptance of Application

1. Upon investigation of the application, the board shall, in no less than 30 days prior to the examination, notify each candidate that the application is satisfactory and acceptable or unsatisfactory and rejected. If an application is rejected, the notice shall state the reasons for such rejections.

2. The board reserves the right, upon investigation of the application to ask that any deficiencies found in the application

be clarified before giving final approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§307. Renewal

A. Every person certified under these rules and regulations shall renew his certificate every two years. Upon the receipt of the application for renewal and the renewal fee, the board shall verify the accuracy of the application for renewal and issue to the applicant a certificate for renewal.

B. Within the two years prior to application for certification renewal all applicants must have experienced at least 60 clock hours of education directly applicable to substance abuse counseling. The 60 hours must be workshops, courses and other organized education performance approved by this board. In-service training (conducted by and for the applicant's own agencies) does not count towards this requirement. Conduction or presentation of an educational program also does not qualify. Education for renewal of certification must come from at least three of the following:

1. techniques of screening, intake, orientation and assessment of client/patient;
2. client education approaches for problems of chemical dependency;
3. treatment planning strategies and counseling skills;
4. chemical dependency counseling techniques including individual and group psychodynamics;
5. case management matrices, consultation methods and the utilization of other professional/treatment services and referral systems;
6. chemical dependency crisis intervention skills;
7. awareness of special population needs in reference to substance abuse;
8. utilization of self-help groups and awareness of the 12-step process;
9. basic pharmacologic knowledge and an understanding of the chemical dependency disease concept;
10. skills in reporting and recordkeeping;
11. a thorough understanding of professional ethics of substance abuse counseling;
12. recognition of related medical and psychological disorders that may require referral.

C. Initial Continuing Education Requirement Waiver

1. For all counselors certified by this board before December 31, 1988, the continuing education requirement is waived only for that counselor's initial renewal period. The certification renewal date for counselors certified by this board before December 31, 1988 shall be January 1, 1990 and shall remain January 1 thereafter.

2. For all counselors certified by this board between January 1, 1989 and December 1, 1989, the continuing education requirements shall be 30 hours of continuing education hours for the initial renewal period only.

D. Late Renewal

1. Any application, parts thereof, fees or required materials received by the board after the renewal date shall be considered late. The applicant shall have 90 days to submit application, parts thereof, fees or required materials accompanied by the late renewal fee. Thereafter, renewal is no longer available and the applicant must apply for certification as a new applicant. The board reserves the right to waive any or all of this requirement

only at its discretion, including requiring formal written requests from the applicant as to why the board should issue a waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§309. Denial or Revocation of Certification

A. The board shall have the power to deny, revoke or suspend the certification of any person upon proof that such person:

1. has been convicted of any offense which constitutes a felony under the laws of this state, whether or not the conviction was in a court in this state;
2. is convicted of a felony or other serious crimes;
3. violates any provision of the ethical standards to which the board subscribes;
4. Attempts to practice medicine, psychology, or social work without being licensed in such professions;
5. is impaired in delivery of professional services because of alcohol or drug abuse, or because of medical or psychiatric disability;
6. provides drugs or other restricted chemical substances to another person;
7. allows his certificate to be used by another person to illegally represent himself as a certified substance abuse counselor;
8. engages in sexual misconduct with a client or a family member of a client;
9. obtained certification by means of fraud, misrepresentation, or concealment of material facts;
10. has been found guilty of fraud or deceit in connection with services rendered;
11. has been grossly negligent in practice as a substance abuse counselor;
12. has violated any lawful order, rule, or regulation rendered or adopted by the board;
13. has violated any provisions of these rules and regulations.

B. 1. Any person whose certification is sought to be revoked in accordance with the provisions of these rules and regulations shall be given 30 days notice in writing enumerating the charges and specifying the date for a hearing before the board conducted in accordance with applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

2. In connection with any hearing the board may issue subpoenas, compel the attendance and testimony of witnesses, and administer oaths in the same manner as a district court in the parish wherein the hearing takes place.

3. A stenographic record of all proceedings before the board shall be made and a transcript kept on file with the board.

C. Any person aggrieved by a decision of the board revoking his certification may appeal the decision within thirty days to the district court for the parish wherein the hearing was held. In such a case the board shall transmit to the district court a certified copy of the record. The district court shall try the appeal de novo.

D. Complaint Procedures

1. A person wishing to report a complaint or alleged violation against a board certified substance abuse counselor or other person shall notify the executive director. The initial contact notification of a complaint may be in writing.

2. Upon receipt of a complaint, the executive director

shall send an acknowledgement letter to the complainant and an official complaint form which the complainant must complete and return to the board before further action can be taken.

3. The executive director shall investigate each complaint and gather information required by the board including a notarized response from the board certified substance abuse counselor or other person against whom a complaint or alleged violation has been filed.

4. The executive director may, if the situation does not involve a serious violation, attempt to resolve the issues of the complaint to the satisfaction of all parties involved as evidenced by a signed written statement of agreement from each party to the complaint. The executive director shall keep the board informed of attempts at resolution and any final agreement among the parties involved must be approved by the board before a file is considered closed.

5. The board may hold an informal hearing to resolve any complaint.

6. At least once each quarter, the board shall notify a complainant of the status of his complaint until the complaint is finally disposed of.

7. A complaint or allegation not resolved by the executive director of the board by an informal hearing shall be referred to the board which may set a formal hearing to resolve the complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

Chapter 5. Miscellaneous

§501. Impaired Certificate Holders Identification and Rehabilitation Procedures

A. The board may appoint or designate an examining committee of board certified substance abuse counselors, physicians or other appropriate health care professionals to conduct a physical and/or mental examination on a certified substance abuse counselor to otherwise inquire into the counselor's fitness and ability to practice his/her profession with reasonable skill and safety to patients/clients, and to submit such advisory reports and recommendations to the board, when the board has reasonable cause to believe that such counselor's fitness and ability is affected by mental illness or deficiency, or physical illness, including but not limited to deterioration through the aging process and/or excessive use or abuse of drugs including alcohol. The board may enter into a consent order with an impaired counselor in lieu of the certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§503. Injunctive Relief; Penalties

A. The board may cause an injunction to be issued in any court of competent jurisdiction enjoining any person from violating the provision of these rules and regulations.

B. In a suit for an injunction, the board through its chairman, may demand of the defendant a penalty of not less than \$100 nor more than \$1,000, and attorney's fees besides the costs of court. The judgment for penalty, attorney's fees, and costs may be rendered in the same judgment in which the injunction is made absolute.

AUTHORITY NOTE: Promulgated in accordance with

R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§505. Persons and Practices not Affected

A. Nothing in these rules and regulations shall be construed as preventing or restricting the practice, services, or activities of any person licensed or certified in this state by any other law from engaging in the profession or occupation for which he is licensed or certified.

B. Nothing in these rules and regulations shall be construed as prohibiting other licensed professionals, including members of the clergy and Christian Science practitioners, from the delivery of medical, psychotherapeutic, counseling, social work, psychological, or educational services to substance abusers and their families.

C. Nothing in these rules and regulations shall be construed as prohibiting the activities of any person employed or supervised by a qualified professional supervisor, while carrying out specific tasks under professional supervision. The supervisee shall not represent himself to the public as a substance abuse counselor.

D. Nothing in these rules and regulations shall be construed as prohibiting the activities of any student in an accredited educational institution while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a qualified professional supervisor. Each student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§507. Prohibited Activities

A. No person shall hold himself out as a certified substance abuse counselor unless he has been certified as such under the provisions of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§509. Penalties

A. Whoever violates any provision of the Substance Abuse Counselor Certification Act, R.S. 37:3371 et seq., shall be guilty of misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$500 or imprisonment for not more than six months or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§511. Confidentiality

A. No substance abuse counselor may disclose any information he may have acquired from persons consulting him in his professional capacity that was necessary to enable him to render services to those persons except:

1. with the written consent of the client, or in the case of death or disability, with the written consent of his personal representative, other person authorized to sue, or the beneficiary of any insurance policy on his life, health, or physical condition; or

2. when the person is a minor under the age of 18 and the information acquired by the substance abuse counselor indicated that the child was the victim or subject of a crime, then the substance abuse counselor may be required to testify fully in relation thereto upon any examination, trial, or other proceeding in which the commission of such crime is a subject of inquiry; or

3. when a communication reveals the contemplation of a crime or harmful act; or

4. when the person waives the privilege by bringing charges against the substance abuse counselor for breach of the privilege.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

Chapter 7. Code of Ethics

§701. Professional Representation

A. A counselor shall not misrepresent any professional qualifications or associations.

B. A counselor shall not misrepresent any agency or organization by presenting it as having attributes which it does not possess.

C. A counselor shall not make claims about the efficacy of any service that go beyond those which the counselor would be willing to subject to professional scrutiny through publishing the results and claims in a professional journal.

D. A counselor shall not encourage or, within the counselor's power, allow a client to hold exaggerated ideas about the efficacy of services provided by the counselor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§703. Relationships with Clients

A. A counselor shall make known to a prospective client the important aspects of the professional relationship including fees and arrangements for payment which might affect the client's decision to enter into the relationship.

B. A counselor shall inform the client of the purposes, goals, techniques, rules of procedure, and limitations that may affect the relationship at or before the time that the counseling relationship is entered.

C. A counselor shall provide counseling services only in the context of a professional relationship and not by means of newspaper or magazine articles, radio or television programs, mail or means of a similar nature.

D. No commission or rebate or any other form of remuneration shall be given or received by a counselor for the referral of clients for professional services.

E. A counselor shall not use relationships with clients to promote, for personal gain or the profit of an agency, commercial enterprises of any kind.

F. A counselor shall not under normal circumstances be involved in the counseling of family members, intimate friends, close associates, or others whose welfare might be jeopardized by such a dual relationship.

G. A counselor shall not in normal circumstances offer professional services to a person concurrently receiving counseling assistance from another professional except with knowledge of the professional.

H. A counselor shall take reasonable personal action to

inform responsible authorities and appropriate individuals in cases where a client's condition indicates a clear and imminent danger to the client or others.

I. In group counseling settings, the counselor shall take reasonable precautions to protect individuals from physical and/or emotional trauma resulting from interaction within the group.

J. A counselor shall not engage in activities that seek to meet the counselor's personal needs at the expense of a client.

K. A counselor shall not engage in sexual intimacies with any client.

L. A counselor shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§705. Counselors and the Board

A. Irrespective of any training other than training in counseling which a person may have completed, or any other certification which a person may possess, or any other professional title or label which a person may claim, any person licensed as a counselor is bound by the provisions of the Counselor Act and the rules of the board in rendering counseling services.

B. A counselor shall have the responsibility of reporting alleged misrepresentations or violations of board rules to the board's executive director.

C. A counselor shall keep his/her board file updated by notifying the board of changes of address, telephone number and employment.

D. The board may ask any applicant for certification as a counselor or specialty designation whose file contains negative references of substance abuse to come before the board for an interview before the certification specialty designation process may proceed.

E. The board shall consider the failure of a counselor to respond to a request for information or other correspondence as unprofessional conduct and grounds for disciplinary proceedings.

F. A counselor must participate in continuing education programs which are required by board rule.

G. Applicants for certification as a counselor or for specialty designation shall not use current members of the board as references.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

§707. Advertising and Announcements

A. Information used by a counselor in any advertisement or announcement of services shall not contain information which is false, inaccurate, misleading, partial, out of context, or deceptive.

B. The board imposes no restrictions on advertising by a counselor with regard to the use of any medium, the counselor's personal appearance or the use of his personal voice, the size or duration of an advertisement by a counselor, or the use of a trade name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for

Substance Abuse Counselors, LR 15: (December 1989).

§709. Board Certified Substance Abuse Counselors Must Agree to Affirm:

A. That my primary goal is recovery for client and family, that I have a total commitment to provide the highest quality care for those who seek my professional services.

B. That I shall evidence a genuine interest in all clients, and do hereby dedicate myself to the best interest of my clients, and to assisting my clients to help themselves.

C. That at all times I shall maintain an objective, nonpossessive, professional relationship with all clients.

D. That I will be willing to recognize when it is to the best interest of a client to release or refer him to another program or individual.

E. That I shall adhere to the rule of confidentiality of all records, material, and knowledge concerning the client.

F. That I shall not in any way discriminate between clients or professionals, based on race, creed, age, sex, handicaps, or personal attributes.

G. That I shall respect the rights and views of other counselors and professionals.

H. That I shall maintain respect for institutional policies and management functions within agencies and institutions, but will take the initiative toward improving such policies, if it will best serve the interest of the client.

I. That I have a commitment to assess my own personal strengths, limitations, biases, and effectiveness on a continuing basis, that I shall continuously strive for self-improvement, that I have a personal responsibility for professional growth through further education and training.

J. That I have an individual responsibility for my own conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3371-3384 as amended.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15: (December 1989).

Donald M. Trahan
Executive Director

RULE

Department of Health and Hospitals Board of Nursing

The Louisiana State Board of Nursing hereby gives notice that the board adopted amendments to the administrative rules as follows.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Educational Programs

§3529. Selection and Use of Clinical Facilities

A. Hospitals used for clinical experiences shall be accredited by J.C.A.H. Other health care agencies shall be accredited or approved by a recognized accrediting or approving agency.

B. Board approval shall be secured prior to the time an agency is utilized for student clinical experience.

C. Faculty shall plan for the student's learning experi-

ences in cooperation with agency personnel.

D. Contractual agreements between the program and the agency shall be in writing, shall state rights and responsibilities of each party, shall include a termination clause and shall be reviewed annually.

E. The facility shall have:

1. a written philosophy of patient/client care which gives direction to nursing care;
2. qualified registered nurses to insure the safe care of patients and to serve as role models for students;
3. a sufficient number of patients/clients to provide learning experiences to meet the objectives of courses;
4. an environment in which the student is recognized as a learner;
5. provide for nursing care to be given in accordance with this board's legal standards for nursing care;
6. criteria for making patient assignments;
7. complete and current policy and procedure manuals available;
8. available evidence of nursing quality assurance programs;
9. clearly defined written personnel policies, including job descriptions for all categories of nursing personnel;
10. a planned program for orientation, inservice, and continuing education programs for nursing personnel;
11. a means of communication between faculty and agency administrative personnel and between faculties of all nursing education programs that use the agency;
12. evidence that the agency's personnel understand their relationship to faculty and students and that the responsibility for coordination is specifically identified;
13. designated conference areas on, or in close proximity to, units utilized for students' clinical practice.

F. The program head shall notify the board in writing when a clinical agency being used for students' clinical practice loses J.C.A.H. or other accreditation or approved status.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:189 (April 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 15: (December 1989).

Betty N. Adams, M.N., R.N.
Associate Director/Nursing
Consultant for Education

RULE

Department of Health and Hospitals Board of Nursing

The Louisiana State Board of Nursing hereby gives notice that the board adopted amendments to the administrative rules:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Educational Programs

§3523. Program Evaluation

A. A systematic, ongoing, written plan for evaluation of

the program shall be implemented. The evaluation shall include but not be limited to:

1. Philosophy, purposes and objectives of the curriculum;
2. teaching/learning experiences;
3. expected competencies of the graduate;
4. student's evaluations of courses;
5. instructors' evaluations of students;
6. performance of graduates on the National Council Licensure Examinations (NCLEX-RN);
7. follow up studies of the graduates;
8. employment functioning of the graduates.

B. The nursing education program shall have a pass rate of 80 percent or greater achieved by the graduates of the program writing the licensing examination for the first time in any one calendar year, or this program shall be placed on conditional approval.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977) amended by the Department of Health and Hospitals, Board of Nursing, LR 15: (December 1989).

Betty N. Adams, M.N., R.N.
Associate Director/Nursing
Consultant for Education

RULE

Department of Health and Hospitals Office of Human Services

The Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse is adopting the following rule which was published as a notice of intent in the *Louisiana Register*, Vol. 15, No. 10, dated October 20, 1989.

Title 48

PUBLIC HEALTH

Part VII. Alcohol and Drug Abuse Services

Chapter 7. Group Homes for Recovering Substance Abusers

§701. Introduction

The Anti-Drug Abuse Act of 1988, (Public Law 100-690) established a program entitled Group Homes for Recovering Substance Abusers. This program requires the state to create a revolving fund of at least \$100,000 to make loans of up to \$4,000 to non-profit private entities to provide housing for four or more individuals recovering from alcoholism or other drug abuse. This self-help group housing service is intended to enable recovering persons to sustain a chemical free lifestyle by accepting responsibility for operating a democratically run and self-supported alcohol and drug free recovery house.

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, Division of Alcohol and Drug Abuse, LR 15: (December 1989).

§703. Definitions

A. *Private Entity* refers to non-profit agencies or organizations or groups of four or more individuals. It may include a

single individual, provided such individual provides evidence of recovering status from a treatment organization, and meets other requirements of these guidelines. This definition does not include public (governmental) agencies.

B. *Group Recovery Home* means a private residence, apartment complex or other type housing, with sleeping facilities for not less than four individuals in semi-private quarters, with bathing and kitchen facilities.

C. *Self-Governing* means the required method of management of a group recovery home. Residents are responsible for the democratic operation of the home, the maintenance of rules and regulations including admission guidelines and management of finances. The group may require sponsorship or affiliate with treatment, rehabilitation, or other groups.

D. *Lender* means the Department of Health and Hospitals, Bureau of Fiscal Services, Financial Management Bureau, Box 3797, Baton Rouge, LA 70821.

E. *Bridge Loan* is a short-term, rapid access loan to private, non-profit corporations for the purpose of binding a lease for a planned recovery 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, Division of Alcohol and Drug Abuse, LR 15: (December 1989).

§705. Regulations

All applicants for group recovery home loans must agree to abide by the following regulations in the operation of the home.

A. Homes may have no more than 10 individuals in residence unless granted a specific waiver by the Department of Health and Hospitals, Office of Human Services.

B. Homes must maintain a home-like atmosphere, providing adequate individual privacy for the residents.

C. Homes shall be self-governing to the extent that its members are not governed by any outside source or person. One resident shall be elected to be responsible for administering rules, convening the group, collecting assessments and paying bills. The term of office for the principal officer shall be set by the residents.

D. Homes shall assure that the following required policies are maintained and adhered to:

1. admission to the home shall be on the basis of a majority of residents voting;

2. residents shall remain alcohol and drug-free. There will be no alcohol or drugs (other than those prescribed by a licensed physician) on the premises;

3. residents shall pay their monthly assessments for rent, utilities, food, and other expenses of the home on a regular basis;

4. any resident using alcohol or drugs which have not been prescribed for a bona-fide medical condition will be expelled, and such expulsion documented as to time, date, and reasons thereof;

5. homes may not discriminate in admission practices on the basis of race, religion or ethnic origin. Homes established for men only may deny admission of female applicants and vice-versa;

6. residents shall establish through a majority vote governing policies which regulate admission, application process and approval, committees, duties of residents, attendance at self-government meetings, self-help activities, employment, etc. as the group may deem appropriate.

E. Homes shall be maintained in a safe and sanitary manner. Residents shall assure that regular buildings and grounds maintenance occurs so that the existence of the home in the neighborhood does not attract undue attention or result in discord with neighbors.

F. Homes shall establish policies in regard to relapse-prevention, and residents shall insure that relapse-prone members are promptly referred for appropriate intervention.

G. Homes shall assure that new residents are made fully aware of their duties and responsibilities, of the rules of the house, and the conditions for expulsion.

H. Homes established pursuant to these regulations must meet current local housing codes for private residences with respect to kitchen facilities, bathrooms, water heaters, venting and ventilation, fire-safety exits, etc. Irrespective of those codes, there shall be at least one ABC rated fire extinguisher in each kitchen and in each hallway adjacent to sleeping areas.

I. Recovery homes shall maintain the following documents for review by the lending authority and/or quality assurance monitoring group:

1. cash receipt book;
2. cash disbursement journal;
3. written and posted house rules;
4. written admission/expulsion policies.

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, Division of Alcohol and Drug Abuse, LR 15: (December 1989).

§707. Purpose of the Fund

The Group Homes for Recovering Substance Abusers Program will make available start-up loans of up to \$4,000 per applicant for the following type of expenses:

A. security deposits for rent/lease and utilities;

B. up to two months rent for each individual in the group;

C. purchase or rental of household furniture and equipment such as beds, dressers, dining tables, chairs, lounge furniture, washer, dryer, range, refrigerator;

D. household amenities (television, appliances, linens, utensils);

E. raw food supplies (staples, canned goods, groceries, condiments, etc.);

F. facility modifications of non-extensive nature including materials (paint, lumber);

G. local transportation expenses/employment related but as a part of loan only;

H. employment related clothing (uniform rental, purchase);

I. bridge loans for applicants.

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, Division of Alcohol and Drug Abuse, LR 15: (December 1989).

§709. Eligibility Requirements

A. Eligible Entities include:

1. private non-profit corporations;

2. non-chartered groups of four or more recovering persons;

3. established recovery homes;

4. individuals accepted into established recovery homes.

B. Lender shall require all applicants to provide the fol-

lowing assurances:

1. intended use of the funds derived from the loan (budget);
2. to maintain the recovery home as an alcohol and drug free environment;
3. residents will remain alcohol and drug-free;
4. residents who violate this pledge will be expelled from the home;
5. costs associated with operation of the home, including rent, utilities, food, will be borne by the residents;
6. home will be operated as a self-managed democracy.

C. Lender may require an applicant consisting of an un-chartered group or an individual to provide assurances that each resident is:

1. recovering from chemical dependency;
2. continuing in treatment or has been discharged from treatment;
3. attending self-help (AA, NA, CA) organizations at least once a week;
4. employed, or if not currently employed is actively seeking employment and is registered with the local employment office or a union employment office; or is receiving income on a regular basis from retirement, disability or other source;
5. accepted into an existing group recovery home, or is establishing one.

D. Lender may require a chartered non-profit corporation to provide the following:

1. evidence of charter;
2. evidence of authority to borrow money, i.e., Board Resolution;
3. documented purposes for loan;
4. assurances regarding recovery home residents.

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, Division of Alcohol and Drug Abuse, LR 15: (December 1989).

§711. Application Procedures

A. Applications and guidelines for group recovery home loans may be obtained from any regional alcohol and drug abuse treatment program operated by the Department of Health and Hospitals.

B. Completed applications consist of:

1. application form;
2. assurances form;
3. statement of sobriety;
4. budget;
5. acceptance statement (individual);
6. evidence of available rental property including address and ownership.

C. Application Review Process

1. The completed application package shall be hand-carried to the issuing office by the applicant. The application will be reviewed by the Regional Alcohol and Drug Abuse Treatment Program Manager along with the applicant. The regional manager will determine with the applicant a suitable repayment schedule within the 24-month limit of the loan. Interest shall be calculated at five percent simple interest. The regional manager shall compute the payment, and enter it on the Application Form in the box designated "For Official Use Only."

2. If approved, the application shall be forwarded to the Department of Health and Hospitals (DHH) Office of Human Services, Division of Alcohol and Drug Abuse, Special Projects

Branch. If approved, it will be forwarded to the DHH, Bureau of Fiscal Services, Financial Management Section for issuance of a check to the applicant. The Bureau of Fiscal Services will forward a copy of its transmittal letter to the approving officer in the Division of Alcohol and Drug Abuse.

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, Division of Alcohol and Drug Abuse, LR 15: (December 1989).

§713. Bridge Loans

A. Bridge loans are restricted, short-term loans to private, non-profit chartered organizations in an amount equal to anticipated or quoted security deposits and first month rent. Bridge loans are for the purpose of having funds available at the time of consummating a lease arrangement for a recovery home under sponsorship of that organization.

B. Restrictions on Bridge Loans

1. Private non-profit corporations
2. Ninety day payback
3. Limited to amount needed for security deposit and one month lease cost of house to be used for the recovery home
4. Non-interest bearing
5. Application for loan must state "Bridge Loan"

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, Division of Alcohol and Drug Abuse, LR 15: (December 1989).

§715. Quality Assurance Requirements

A. Quality assurance/monitoring requirements are approached from the perspective that group recovery homes are intended to provide residences for recovering individuals, and are not designed as treatment or rehabilitation programs. Therefore, oversight on the part of DHH shall be limited to the following determinants, as reflected in periodic, but not less than annual, site visits by an agent of DHH.

1. Group recovery homes are required to maintain registration with the Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse on a current basis.

2. Registration shall consist of the following in written form:

- a. name of home or group;
- b. location, including address and zip code;
- c. name of principal officer/manager/organizer;
- d. expected capacity;
- e. telephone number if available;
- f. name of landlord/owner.

3. For the duration of any outstanding group or individual recovery home loan, site visits shall monitor the following areas to assure:

- a. the facility is maintained in a clean, safe and sanitary condition;
- b. cash receipts and disbursement journal are maintained and current;
- c. a policy on admissions and rules of conduct has been established;
- d. a record of admissions and expulsions is maintained;
- e. residents continue to be involved in either an agency recognized treatment program or a self-help support group;
- f. employable residents are employed or actively seeking employment.

B. At the monitor's option, and based upon observations, inspections may be requested by other state or local officials regarding sanitation, health, safety, and fire code compliances.

C. The agency-designated monitor will file a written report, in brief form, within 30 days of any site visit/inspection with the Department of Health and Hospitals, Office of Human Services, Division of Alcohol and Drug Abuse, with a copy to the Bureau of Fiscal Services, Box 3797, Baton Rouge, LA 70821.

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, Division of Alcohol and Drug Abuse, LR 15: (December 1989).

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health amends Title 48, Part V. Subpart 45., Chapter 81 Section 8103 of the Louisiana Administrative Code to include Haemophilus Influenzae b (Hib) vaccine in order to require Hib vaccine as a prerequisite to enrollment in daycare, headstart, and nursery centers for children 18-60 months of age.

This authority is under Louisiana Revised Statutes 17:170 and Louisiana Sanitary Code, Chapter 2:025. The former gives authority to Office of Public Health to establish a schedule of mandatory immunization for schools, nursery or daycare centers enterers, and the latter applies that same authority specifically to any daycare center.

Title 48 PUBLIC HEALTH—GENERAL Part V. Preventive Health Service Subpart 45. Immunization Services

Chapter 81. Vaccine Preventable Disease Program §8103. Eligibility

Immunization delivery services are available to each individual in Louisiana. A \$5 fee will be collected in parish health units for each childhood vaccination visit by a patient whose other pediatric services are provided outside the Department of Health and Hospitals system. No one will be denied services due to inability to pay. All persons in the state may be considered to be at risk of infection although the target population are individuals susceptible to the following vaccine preventable diseases: Diphtheria, Tetanus, Pertussis, Poliomyelitis, Rubeola, Rubella, Mumps, and Haemophilus influenzae b.

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of the Secretary

In accordance with the laws of the State of Louisiana, R.S. 39:55.2(F), the Department of Health and Hospitals, Office of Public Health has adopted the following rule:

Section 3, Retail Food, of the Fee Rule published in LR 15:476 (June 1989) is amended as follows:

3. Retail Food

A. An annual fee will be charged for each permit issued by the Department of Health and Hospitals to all markets, itinerant markets, and food service establishments as defined in Chapters 22 and 23 or the State Sanitary Code. This will include, but is not limited to, restaurants, bars, lounges, deli's, mobile food vendors, retail food manufacturers, and itinerant food vendors. All state and local government owned and operated facilities, churches, and non-profit organizations (as defined by the U.S. Internal Revenue Service) are exempt from the fee portion of this rule. All others will be charged according to the following schedule:

First annual permit — \$100

Second, Third, Fourth and Fifth Permits - \$75 each

Sixth Permit on Up - \$50 each

Day Care Center licensed for:

7 - 15	individuals	\$ 25
16 - 50	individuals	\$ 50
51 - 100	individuals	\$ 75
101 +	individuals	\$100

B. Retail Grocery Stores will be charged a single annual fee per store regardless of the number of permits issued to that store, the fee being based on the annual gross receipts (hereinafter, AGR) of the store.

The AGR Categories and applicable fees are as follows:

CATEGORY	AGR	MAXIMUM ANNUAL FEE
I	Less than \$ 500,000	\$ 75
II	\$ 500,000 - \$1,000,000	\$125
III	\$1,000,001 - \$2,500,000	\$250
IV	\$2,500,001 - \$5,000,000	\$400
V	More than \$5,000,000	\$500

For purposes of this rule, "Retail Grocery Store" is defined as an establishment whose sole or principal business is the retail sale of packaged food and produce to the extent that such sales account for at least 60% of the gross annual sales of the establishment. Upon written request by the Department of Health and Hospitals, each such establishment shall furnish within 30 days, proof of gross receipts for the most recent 12-month period for which such proof is available. In the case of establishments doing business less than one year, proof for less than a 12-month period shall be submitted and the department will calculate a projected annual gross receipts figure. New grocery stores will be issued temporary permits without initial payment of fees and will be required to furnish proof of gross receipts for the first three months of operation, from which the department will calculate projected gross annual receipts and assess the appropriate fee.

Any establishment which does not meet the definition of "Retail Grocery Store" but which sells groceries incidental to its primary business, may apply for a separate grocery permit to be charged at the rate charged to grocery stores, based on gross receipts from sale of grocery items only. However, any other

retail food operations within that establishment will be charged in accordance with the schedule in A. above.

The purpose of these fees is to generate revenue to partially support the Office of Public Health's cost of inspection, monitoring, sampling and laboratory analysis of foods as mandated by the Sanitary Code to assure safety for human consumption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:55.2(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 15:476 (June 1989). Amended LR : (December 1989).

David L. Ramsey
Secretary

RULE

Department of Labor Office of Employment Security

In accordance with the provisions of the Administrative Procedure Act of R.S. 49:950, et seq., the Department of Labor, Office of Employment Security, gives notice that it is hereby repealing LAC 40:IV.303.

Title 40 LABOR AND EMPLOYMENT Part IV. Employment Security

Chapter 3. Employment Security Law

§303. Effective Date of Regulation of Amendment. No Vested Rights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1732.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:488 (June 1989). Repealed LR 15: (December 1989).

Phyllis Coleman Mouton
Secretary

RULE

Department of Labor Office of Employment Security

The Department of Labor, Office of Employment Security, adopted rule changes to the regulations for the administration of the Employment Security Law, as follows:

Title 40 LABOR AND EMPLOYMENT Part IV. Employment Security

Chapter 3. Employment Security Law

§370. Overpayment Recovery

The amount of overpayment is immediately due and payable on demand upon exhaustion and/or expiration of appeal rights against (a) assessment of overpayment and/or (b) denial of waiver of repayment.

1. If the individual is unable to immediately repay the overpayment in full upon demand, a repayment agreement in

writing will be negotiated in compliance with the Repayment Table for Overpayment listed below.

Repayment Table for Overpayment

Total Overpayment Amount is:		Number of Months To Repay	Minimum Acceptable Payment Per Month
At Least	But Less Than		
\$ 001	\$ 250	In Full or 90 Days	\$ 80
\$ 251	\$ 500	12 Months	\$ 45
\$ 501	\$ 1000	12 Months	\$ 85
\$ 1001	\$ 1500	24 Months	\$ 65
\$ 1501	\$ 2000	24 Months	\$ 85
\$ 2001	\$ 2500	24 Months	\$ 105
\$ 2501	\$ 3000	24 Months	\$ 125
\$ 3001	\$ 3500	36 Months	\$ 100
\$ 3501	\$ 4000	36 Months	\$ 115
\$ 4001	\$ 4500	36 Months	\$ 125
\$ 4501	\$ 5000	36 Months	\$ 140
\$ 5001	\$ 5500	48 Months	\$ 115
\$ 5501	\$ 6000	48 Months	\$ 125
\$ 6001	\$ 6500	48 Months	\$ 135
\$ 6501	\$ 7000	48 Months	\$ 145
\$ 7001	\$ 7500	60 Months	\$ 125
\$ 7501	\$ 8000	60 Months	\$ 135
\$ 8001	\$ 8500	60 Months	\$ 145
\$ 8501	\$ 9000	60 Months	\$ 150

2. Initial payment must be received within 45 days of the date upon which the repayment agreement is signed. Subsequent payments are due to be paid in monthly increments which must be received no later than 30 days thereafter.

3. An adjustment of the repayment schedule may be granted at the written request of the claimant only if there has been a material change in his or her financial condition.

4. Requests to adjust the repayment schedule will only be granted if in compliance with criteria set forth in §369.A.2, Waiver of Overpayment Recovery.

5. No administrative appeal is provided from adjustment of or refusal to adjust repayment schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1732.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (December 1989).

Phyllis Coleman Mouton
Secretary

RULE

Department of Labor Office of Employment Security

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Employment Security has adopted the following rule relative to determinations granting and/or denying waivers of overpayment recovery of unemployment insurance benefits.

Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security

Chapter 3. Employment Security Law
§369. Waiver of Overpayment Recovery

A. A waiver of the overpayment may be granted only if (1) the claimant was without fault in causing the overpayment, and (2) repayment would be against equity and good conscience.

1. To determine if fault existed on the part of the claimant, it must be established whether the claimant:

- a. gave inaccurate information; or
- b. failed to disclose a material fact; or
- c. knew or should have known that he/she is not entitled to the benefits, or
- d. caused the overpayment by an act of omission of information known to the claimant; or
- e. had a determination of ineligibility due to fraud.

An affirmative finding on any one of the above precludes waiver of the overpayment.

2. Regardless of fault for the overpayment, the following factors must also be considered to determine if repayment would be contrary to equity and good conscience:

a. whether recovery of the overpayment would cause extraordinary financial hardship to the claimant for at least three months.

i. Extraordinary financial hardship shall be considered inability to obtain minimal necessities of living.

ii. All cash resources and income of the claimant, as well as of the family of the claimant, shall be considered.

b. whether the overpayment was the result of a decision on appeal.

c. whether claimant was given notice that a reversal on appeal would result in overpayment.

B. Determinations granting or denying waivers of overpayment shall be made only on a signed request from the claimant for a waiver determination. Upon filing by claimant of request for waiver, a written questionnaire shall be provided to claimant for answer to be returned to the administrator within 15 days of the date of such questionnaire.

C. All notices of determination of overpayment shall include information regarding rights of appeal and waiver provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1732.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (December 1989).

Phyllis Coleman Mouton
Secretary

RULE

Department of Labor
Office of Labor

One of the basic purposes of the Louisiana Minor Labor Law is to prevent oppressive use of children in commerce and industry. However, the Law does not prohibit children of reasonable minimum age to work and earn wages at occupations which

are commensurate with capabilities of children at such age, but regulates all conditions under which minor may be employed.

The following paragraphs describe regulations and standards demanded by laws of the State of Louisiana.

Title 40
LABOR AND EMPLOYMENT
Part VII. Regulations of Conditions Under Which Minor Labor may be Used

Chapter 1. Minimum Age Standards for Nonagricultural Employment

§101. Oppressive Child Labor

Oppressive child labor is defined as employment of children under legal minimum ages in specified occupations as listed in the following subparagraphs.

A. Minimum Age 14

This is the minimum age for certain specified occupations which are allowed after school hours. These occupations, along with hours and time standards, are listed in Sections 103, 201, 203, 301 and 303.

B. Minimum Age 16

This is the basic minimum age for employment. At 16 years of age, youths may be employed in any occupations other than a nonagricultural occupation declared hazardous by the assistant secretary of Labor after a public hearing, or any occupation prohibited by R.S. 23:161.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15: (December 1989).

§103. Employment Standards for Minors Under 16 Years of Age

Employment of minors under 16 years of age is limited to certain occupations under conditions which do not interfere with their schooling, health, or well-being.

A. Hours and Time Standards

Minors under 16 years of age may not work:

1. during school hours, except as provided for in R.S. 23:151;

2. before 7 a.m. or after 10 p.m. except when employed in street trades;

3. before 4:30 a.m. or after 7 p.m., nor after 8 p.m. during the period from June 1 through Labor Day when employed in street trades;

4. more than three hours a day on school days;

5. more than eight hours a day on non-school days;

6. more than 40 hours or six days a week during non-school weeks;

7. more than five hours continuously without an interval of at least 30 minutes for meals;

NOTE: Such an interval shall not be included as part of the working hours of the day.

8. When employed in theatrical performances;

a. more than six hours in any day;

b. more than 24 hours in any week;

c. between the hours of 11 p.m. and 6 a.m.;

NOTE: The minor may not be present in the theater, nor shall appear in any performance during above periods of time.

9. When employed in commercial motion picture, film or video productions:

a. Before 7 a.m. for studio production, 6 a.m. for location productions, and shall end no later than time specified be-

low:

- i. for minors under six years of age, 7 p.m.;
- ii. for minors six years of age to 15 years of age, 8 p.m. on days preceding school days and 10 p.m. on days preceding non-school days;

b. Minors under six years of age shall not work more than six hours per day; minors six years of age to 15 years of age shall not work more than eight hours per day;

c. Minors shall receive a 12-hour rest break at the end of each work day, before the commencement of the next day of work;

d. Minors shall not be employed more than six consecutive days in any one week, nor more than 36 hours per week for minors under six years of age, nor more than 48 hours per week for minors six years of age to 15 years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15: (December 1989).

Chapter 2. Occupations Permitted for 14- and 15-Year-Old Minors in Retail, Food Service, and Gasoline Service Establishments

§201. Types of Employment 14- and 15-year-old Minors may be Employed in:

A. office and clerical work (including operation of office machines);

B. cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping;

C. price marking and tagging by hand or machine, assembling orders, packing, and shelving;

D. bagging and carrying out customers' orders;

E. errand and delivery work by foot, bicycle, and public transportation;

F. cleanup work, including use of vacuum cleaners and floor waxers; and maintenance of grounds, but not including use of power-driven mowers or cutters;

G. kitchen work and other work involved in preparing and serving food and beverages, including operation of machines and devices used in performance of such work, such as, but not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, and coffee grinders;

H. work in connection with cars and trucks if confined to the following:

1. dispensing gasoline and oil;

2. courtesy service on premises of gasoline service station;

3. car cleaning, washing, and polishing;

NOTE: Work involving use of pits, racks or lifting apparatus, or involving inflation of any tire mounted on a rim equipped with a removable retaining ring is not permitted.

I. cleaning vegetables and fruits; and wrapping, sealing, weighing, labeling, pricing, and stocking goods when performed in areas physically separated from areas where meat is prepared for sale, and outside freezers and meat coolers;

J. selling, offering for sale, soliciting for or displaying articles, goods, merchandise, commercial service, posters, circulars, newspapers, or magazines;

K. blacking or shining shoes on any street or public place, or from house to house;

L. processing of sugar cane or sorghum into sugar molasses, or syrup;

M. processing strawberries into preserves, coldpack, juices, or other products;

N. delivery of, and collection for newspapers and periodicals;

O. work as golf caddy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Labor, LR 7:45 (February, 1981), amended LR 15: (December 1989).

§203. Occupations Permitted for Minors under 16 years of age in Theatrical Performances, Exhibitions, Commercial Motion Pictures, Films or Video Productions.

A. Minors may be employed in theatrical performances or exhibitions as follows:

1. as a singer, musician, or actor in a church, school, or academy;

2. teaching, or learning the science or practice of music or singing;

3. as a singer, musician, or actor in a concert, or in the presentation of a play or musical comedy under the following conditions:

a. not more than nine weekly performances may be presented;

b. a permit must be granted by the assistant secretary of labor at least five days prior to the performance.

4. as a singer, musician, or actor in a play or musical comedy presented by a traveling theatrical company, provided that no more than eight performances are given in any one week. During a week in which a national or state holiday occurs, nine performances may be given under the following conditions.

a. A special permit must be obtained from the assistant secretary of the Office of Labor by the manager of the theater in which the minor is to appear.

b. The minor must hold a valid certificate from the state or city where the minor resides which permits participation in theatrical performances.

c. In the opinion of the assistant secretary of the Office of Labor, employment in such performances is not detrimental to the health and morals of the minor.

B. Minors may be employed in Commercial Motion Pictures, Films or Video productions as follows:

1. A duly authorized agent shall make applications for a permit to the secretary of Labor at least five days before the minor is scheduled to begin work.

2. The secretary of Labor shall issue permits after satisfying himself that the supervision of the minor is adequate, and that the conditions of employment are not detrimental to the health, morals or safety of the minor.

C. Occupations Permitted for Other Minors

1. Minors between the ages of 14 and 16 may be employed after school hours and during vacations as golf caddies.

2. Minors twelve years of age and over may deliver and collect for afternoon and Sunday newspapers over fixed routes in residential areas upon issuance of a street trades permit.

3. In municipalities which have a population of 30,000 or less, minors 10 years of age or over may deliver and collect for newspapers before and after school hours over fixed routes in residential areas. A permit is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Adopted by the Department of La-

bor, Office of Labor, LR 7:45 (February 1981), amended LR 15: (December 1989).

Chapter 3. Occupations not Permitted

§301. Occupations Not Permitted for 14- and 15-Year-Old Minors

- A. 14- and 15-year-old minors may not be employed in:
1. any manufacturing occupation;
 2. any mining occupation;
 3. processing occupations such as filleting fish, dressing poultry, cracking nuts, or laundering as performed by commercial laundries, and dry-cleaning (except in a retail, food service, or gasoline service establishment);
 4. occupations which require performance of any duties in workrooms or workplaces where goods are manufactured, mined, or otherwise processed (except to the extent expressly permitted in retail, food service, or gasoline service establishments);
 5. public messenger service;
 6. operating or tending hoisting apparatus or any power driven machinery;
 7. occupations connected with:
 - a. transportation of persons or property by rail, highway, air, water, pipeline, or other means;
 - b. warehousing and storage;
 - c. communications and public utilities;
 - d. construction, including repair work.

NOTE: Office and sales work in connection with Subparagraphs a, b, c, and d above when not performed at the actual construction site or on transportation media are excepted.

8. any of the following occupations in a retail food service, or gasoline service establishment;
 - a. work performed in or about boiler or engine rooms;
 - b. work in connection with repair of machines or mechanical equipment;
 - c. outside window washing and all other work that involves use of ladders and scaffolds or their substitutes;
 - d. cooking (except at soda fountains, lunchrooms, snack bars, or cafeteria serving counters) and baking;
 - e. occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, choppers and cutters, and bakery type mixers;
 - f. work in freezers and meat coolers, and all work in preparation of meat for sale (except wrapping, sealing, labeling, weighing, pricing, and stocking when such work is performed in processing areas);
 - g. loading and unloading goods on and off trucks, railroad cars, and conveyors;
 - h. all occupations in warehouses, except office and clerical work.
9. any work in connection with a pool room, or billiard room;
10. any occupation about or in connection with power-driven machinery;
11. any other occupation found and declared to be hazardous by the assistant secretary of Labor after a public hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15: December 1989).

§303. Employment of Minors 16 and 17 Years of Age

- A. Minors may not work at any occupation which the assistant secretary of Labor has found and declared to be hazard-

ous for 16- and 17-year-old persons. This minimum age applies even when the minor is employed by a parent or person standing in place of the parent.

B. A minor age 16 or over who is indentured as an apprentice is exempt from provisions of Paragraph 3A.

C. There are no time standards for minors 16 and 17 years of age regarding the numbers of hours worked per day or per week.

D. When employed more than five hours continuously they shall receive an interval of at least 30 minutes for meals.

NOTE: Such an interval shall not be included as part of the working hours of the day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:251.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15: (December 1989).

Phyllis Coleman Mouton
Secretary

RULE

Department of Labor Plumbing Board

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LV. Plumbers

Chapter 3. Licenses

§305. Requirements to Take Exam for Journeyman Plumber's License

A. Requirements

1. An applicant for journeyman plumber's examination shall have performed 8,000 hours of manual labor of plumbing under the direct on-the-job supervision of a licensed journeyman plumber.

2. He shall have sufficient education to read and write the answers to the examination questions and shall understand the plumbing terms used in the Louisiana State Board of Health rules and regulations in regards to the installation or repair of plumbing.

3. He shall furnish a 2" x 2" picture of himself with the application that he shall fill out in his own handwriting.

4. He shall have his application in the New Orleans office 30 days before the examination.

5. He must attach a U.S. Postal money order or check for the appropriate fee with the application.

6. No master plumber's certificates shall permit any master plumber to do the work of a journeyman plumber.

7. Regarding applications from areas not previously under the board's jurisdiction, the board shall treat each case as an individual case, and have special cases come before the board, for specific action to be decided on at that particular time, by the entire board.

B. Regular quarterly examinations will be held on the first Saturday of January, April, July, and October in the City of New Orleans, and on the second Saturday of January, April, July, and October in the City of Alexandria, Louisiana. The above is subject to postponement for holidays or other conditions beyond the control of the board.

C. Failure to report for examination after the second notice will result in the forfeiture of the applicant's fee, unless for a valid excuse or an advance approval.

D. Special examinations may be held at such times and places as the board may direct. Any person or persons may request that he be examined by the board at times and places other than the regularly scheduled examination dates, and the board shall examine such applicant or applications as are qualified, at a reasonable time and place designated by the board after notice of such request, at the special fee as established by the board.

E. The examination may be given by one or more examiners, with at least one board member present.

F. The president of the board shall appoint the examiner or examiners as required. The president of the board will be the director of examinations, the vice-president would be the assistant director and the secretary would act as an alternate assistant. They will appoint the supervisors and examiners. However, at each examination, there will be only four people to be paid for their services, they being three examiners, one of which will also act as custodian, and one board member who will act as supervisor of examination, and who will be paid his regular per diem and expenses.

G. Notwithstanding the foregoing provisions of this Section, any person or persons who at any time within one year of being cited by the board or its agents for engaging in the work of a journeyman plumber at a time when he did not possess a license or renewal thereof issued by the board, or was otherwise subject to civil or criminal prosecution for doing the work of a journeyman plumber without possessing a license or renewal thereof issued by the board, may request that he be examined by the board pursuant to this Section, but only after the payment of a special enforcement fee as established by the board, which shall be in addition to the regular license fee established by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board of Louisiana, 1968, amended LR 15: (December 1989).

§309. Fees

A. The fees and charges of the board shall be as follows:

- | | |
|-------------------------|-------|
| 1. Special examinations | \$500 |
| 2. Examinations | \$ 75 |
| 3. Initial license fee | \$ 30 |

(This fee to be paid after applicant has successfully passed the exam, in order to receive his first license.)

- | | |
|-----------------------------|-------|
| 4. Renewal fee | \$ 30 |
| 5. Revival fee | \$ 10 |
| (If renewed after March 31) | \$ 20 |
| 6. Temporary permits | \$ 50 |
| 7. Roster | \$300 |

8. Administrative charges for processing exam 50% of exam fee

(To be retained by the board should an applicant withdraw his application before taking the examination.)

- | | |
|--|-------|
| 9. Fee for N.S.F. or returned check | \$ 8 |
| 10. Special "endorsement penalty fee" imposed under §305 | \$500 |

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1371 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board of Louisiana, 1968, promulgated and

amended LR 7:588 (November 1981), amended LR 15: (December 1989).

Don Traylor
Executive Director

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Title 55 PUBLIC SAFETY Part III. Motor Vehicles

Chapter 1. Driver's License

§101. General Knowledge Required of all Applicants for a Commercial Driving License

A. All commercial motor vehicle operators must have knowledge of:

1. Safe Operations Regulations: Driver-related elements of:
 - a. motor vehicle inspection, repair, and maintenance;
 - b. procedures for safe vehicle operations;
 - c. the effects of fatigue, poor vision, hearing, and general health upon safe commercial motor vehicle operation;
 - d. the types of motor vehicles and cargoes subject to the requirements of 49 C.F.R. part 397 and R.S. 32:408, and
 - e. the effects of alcohol and drug use upon safe commercial motor vehicle operations.

2. Commercial Motor Vehicle Safety Control Systems: Proper use of the motor vehicle's safety system, including lights, horns, side and rear-view mirrors, proper mirror adjustments, fire extinguishers, symptoms of improper operation revealed through instruments, motor vehicle operation characteristics, and diagnosing malfunctions. The commercial driver shall have knowledge on the correct procedures needed to use these safety systems in an emergency situation, e.g. skids and loss of brakes.

3. Safe Vehicle Control

- a. Control Systems. The purpose and function of the controls and instruments commonly found on commercial motor vehicles;
- b. Basic Control. The proper procedures for performing various basic maneuvers, including:
 - i. starting, warming up, and shutting down the engine;
 - ii. putting the vehicle in motion and stopping;
 - iii. backing in a straight line, and
 - iv. turning the vehicle, e.g., basic rules, offtracking, right/left turns and right curves;
- c. Shifting. The basic shifting rules and terms, as well as shift patterns and procedures for common transmissions, including:
 - i. key elements of shifting, e.g., control, when to shift and double clutching;
 - ii. shift patterns and procedures, and
 - iii. consequences of improper shifting;
 - d. Backing. The procedures and rules for various backing maneuvers, including:
 - i. backing principles and rules, and
 - ii. basic backing maneuvers, e.g., straight-line backing, and backing on a curved path;
 - e. Visual Search. The importance of proper visual search,

and proper visual search methods, including:

- i. seeing ahead and to the sides;
- ii. use of mirrors, and
- iii. seeing to the rear;

f. Communication. The principles and procedures for proper communications and the hazards of failure to signal properly, including:

- i. signaling intent, e.g., signaling and changing speed or direction in traffic;
- ii. communicating presence, e.g., using horn or lights to signal presence, and
- iii. misuse of communications;

g. Speed Management. The importance of understanding the effects of speed, including:

- i. speed and stopping distance;
- ii. speed and surface conditions;
- iii. speed and the shape of the road;
- iv. speed and visibility, and
- v. speed and traffic flow;

h. Space Management. The procedures and techniques for controlling the space around the vehicle, including:

- i. the importance of space management;
- ii. space cushions, e.g., controlling space ahead and to the rear;
- iii. space to the sides, and
- iv. space for traffic gaps;

i. Night Operation. Preparations and procedures for night driving, including:

i. night driving factors, e.g., driver factors (vision, glare, fatigue, inexperience), roadway factors (low illumination, variation in illumination, familiarity with roads, other road users, especially drivers exhibiting erratic or improper driving), vehicle factors (headlights, auxiliary lights, turn signals, windshields and mirrors), and

ii. night driving procedures, e.g. preparing to drive at night and driving at night;

j. Extreme Driving Conditions. The basic information on operating in extreme driving conditions and the hazards that are encountered in extreme conditions, including:

- i. adverse weather;
- ii. hot weather, and
- iii. mountain driving;

k. Hazard Perceptions. The basic information on hazard perception and clues or recognition of hazards, including:

- i. importance of hazard recognition;
- ii. road characteristics, and
- iii. road user activities;

l. Emergency Maneuvers. The basic information concerning when and how to make emergency maneuvers, including:

- i. evasive steering;
- ii. emergency stop;
- iii. off-road recovery;
- iv. brake failure, and
- v. blowouts;

m. Skid Control and Recovery. The information on the causes and major types of skids, as well as the procedures for recovering from skids.

4. Relationship of Cargo to Vehicle Control. The principles and procedures for the proper handling of cargo, including:

- a. the importance of proper cargo handling, e.g., consequences of improperly secured cargo, drivers' responsibilities, federal/state and local regulations;
- b. principles of weight distribution, and

c. principles of cargo securement;

5. Vehicle Inspections: The objectives and proper procedures for performing vehicle safety inspections, as follows:

- a. the importance of periodic inspections and repair to vehicle safety and prevention of enroute breakdowns;
- b. the effects of undiscovered malfunctions upon safety;
- c. what safety related parts to look for when inspecting vehicles, e.g.,

- i. fluid leaks,
- ii. interference with visibility,
- iii. excessively worn tires,
- iv. wheel and rim defects,
- v. braking systems defects,
- vi. steering system defects,
- vii. suspension system defects,
- viii. exhaust system defects,
- ix. coupling system defects, and
- x. cargo problems;

d. pre-trip/enroute/post trip inspection procedures; and,

e. reporting findings;

6. Hazardous Materials Knowledge. Such as:

- a. what constitutes hazardous material requiring an endorsement to transport;
- b. classes of hazardous materials;
- c. labeling and placarding requirements; and,
- d. the need for specialized training as a prerequisite to receiving the endorsement and transporting hazardous cargoes.

7. Airbrake Knowledge

- a. general airbrake system nomenclature;
- b. the dangers of contaminated air supply (dirt, moisture and oil);

c. implications of severed or disconnected air lines between the power unit and the trailer(s);

d. implications of low air pressure readings;

e. procedures to conduct safe and accurate pre-trip inspections, including knowledge about:

- i. automatic fail safe devices;
- ii. system monitoring devices, and
- iii. low pressure warning alarms;

f. procedures for air actuated systems, including the ability to detect defects which may cause the system to fail, including:

i. tests which indicate the amount of air loss from the braking system within a specified period, with and without the engine running, and

ii. tests which indicate the pressure levels at which the low air pressure warning devices and the tractor protection system should activate.

B. The following additional knowledge shall be required for the combination vehicle group.

1. Coupling and Uncoupling. The procedures for proper coupling and uncoupling a tractor to semi-trailer, and

2. Vehicle Inspection. The objectives and proper procedures that are unique for performing vehicle safety inspections on combination vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicles, 1974, amended LR 15: (December 1989).

§103. Examinations and Skills Tests

A. All examinations and skills tests shall be constructed in such a way as to determine if the applicant possesses the re-

quired knowledge and skills contained in the driver's manual made available to all applicants by the Office of Motor Vehicles and the skills required by these regulations.

B. Each basic knowledge test for any applicable vehicle group shall contain at least 30 items, exclusive of the number of items testing airbrake knowledge or any special endorsements.

C. Each endorsement knowledge test, and the airbrake component of the basic knowledge test, shall contain a number of questions that is sufficient to test the driver applicant's knowledge of the required subject matter with validity and reliability.

(1) The driver applicant must correctly answer at least 80 percent of the questions on each knowledge test in order to achieve a passing score.

(2) To achieve a passing score on the skills test, the driver applicant must demonstrate that he can successfully perform all of the skills required and achieve at least an 80 percent satisfactory completion rating by the examiner.

(3) If the driver applicant does not obey applicable traffic laws, or causes an accident during the test, he shall automatically fail the skills test.

(4) The scoring of the basic knowledge and skills test shall be adjusted to allow for the airbrake restriction.

(5) If the applicant scores less than 80 percent on the airbrake component of the basic knowledge test as described above, the driver will have failed the airbrake component, and if the driver is issued a Commercial Driver's License, an airbrake restriction shall be indicated on said license.

(6) If the applicant performs the skills test in a vehicle not equipped with airbrakes, and is issued a Commercial Driver's License, the airbrake restriction shall be indicated on said license.

D. Except as otherwise provided herein, a person shall not drive a motor vehicle unless he has first taken a written examination administered by the Office of Motor Vehicles.

(1) The written examination shall be administered by the Office of Motor Vehicles, on a form prescribed by the Office of Motor Vehicles.

(2) Prior to and during the examination, the applicant shall be permitted to examine and consult a copy of the Federal Motor Carrier Safety Regulations.

(3) There is no time limit for completing the examination and the persons taking it shall be so advised in advance.

(4) Upon completion of the examination and its grading by the examiner, the examiner shall advise the applicant of the correct answers to any questions which the applicant failed to answer correctly and additional instructions in the pertinent regulations as appears to be warranted on the basis of the applicant's performance on the examination.

E. At the sole discretion of the Office of Motor Vehicles, the driving skills test may be waived for a driver applicant who is licensed prior to the institution of the new testing program and substituted with either an applicant's driving record and previous passage of an acceptable skills test, or an applicant's commercial driving record, in combination with at least two years of prior driving experience in a commercial motor vehicle representative of the type of commercial motor vehicle he operates or expects to operate.

F. Except as otherwise provided herein, a person shall not drive a commercial motor vehicle unless he first successfully completed a skills test and has been issued a certificate of successful completion of a skills test in accordance with this Section.

G. The skills test shall be administered by the Office of Motor Vehicles or by a designated third-party examiner.

(1) The skills test must be of sufficient duration to enable

the person who administers it to evaluate the skill of the applicant who takes it in the handling of the commercial motor vehicle, and associated equipment, that the motor carrier intends to assign to the applicant or which the applicant anticipates operating.

(2) At a minimum, the applicant must be tested, while operating the type or class of commercial motor vehicle which the applicant intends to operate, on his skill at performing each of the following operations:

(a) A pre-trip inspection during which the following equipment situations are inspected: service brakes, including trailer brake connections, parking or hand brake, steering mechanism, lighting devices and reflectors, tires, horn, windshield wiper or wipers, rear-vision mirror or mirrors, all coupling devices, all required emergency equipment and the loading condition and load-securing devices; and

(b) Placing the vehicle in operation, including the proper procedures for performing starting, warming up, shutting down the engine, placing the vehicle smoothly and safely in motion and stopping, backing in a straight line, backing through a curve, turning the vehicle, shifting, use of turn signals and hand signals, use of mirrors, and speed and space management procedures.

H. The Office of Motor Vehicles shall provide a skills test grading sheet on a form to be designated by it upon which the examiner shall rate the performance of the applicant who takes the skills test for each operation or activity which is a part of the test. The examiner shall require the applicant to sign the test form at the completion of the skills test and shall state the date upon which the test was administered.

(1) If the applicant attains a passing score of 80 percent or better on the skills test, the Office of Motor Vehicles, or the designated third-party examiner, shall issue the applicant a certificate on a form prepared by the Office of Motor Vehicles attesting to the successful completion of the skills test.

(2) A motor carrier may require any person who presents a certificate of successful completion of a skills test to take a skills test as a condition of his employment by the motor carrier.

I. The Office of Motor Vehicles may require an applicant for a Commercial Driver's License to adequately demonstrate knowledge and/or skills set forth in Parts 383-399 of the Federal Motor Carrier Safety Regulations, which regulations are incorporated herein and made a part hereof by reference hereto.

J. In addition to the above, all applicants for a Commercial Driver's License shall satisfactorily demonstrate knowledge and/or skills to be designated herein for each endorsement to a Commercial Driver's License.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicles, 1974, amended LR 15: (December 1989).

§105. Substitute for Driving Skills Tests for Operators of Commercial Motor Vehicles

At the discretion of the department, the driving skills test as specified may be waived for a commercial motor vehicle operator who is currently licensed at the time of his application and substituted with either an applicant's driving record and previous passage of an acceptable skills test, or an applicant's driving record in combination with certain driving experience.

A. An applicant must certify that, during the two-year period immediately prior to applying for a Commercial Driver's License, he:

(1) has not had more than one license (except during the

10-day period beginning on the date the person is issued a driver's license, and, until December 31, 1989, whenever a state law, enacted on or before June 1, 1986 requires the person to have more than one driver's license);

(2) has not had any license suspended, revoked, or cancelled;

(3) has not had any convictions for any type of motor vehicle for the disqualification offenses contained in R.S. 32:414.2; and

(4) has not had any violation of state or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident in a commercial motor vehicle, and has no record of an accident in which he was at fault.

B. An applicant must provide evidence and certify that he is regularly employed in a job requiring operation of a commercial motor vehicle, and that either:

(1) he has previously taken and passed a skills test given by a state with a classified licensing and testing system, and that the test was behind-the-wheel in a representative vehicle for that applicant's driver license classification; or

(2) he has operated, for at least two years immediately preceding application for a Commercial Driver's License, a vehicle representative of the class of commercial motor vehicle the driver operates or expects to operate. The evidence of experience shall be provided on an approved certificate of driving experience issued by an authorized employer, or in such other manner determined by the Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicles, 1974, amended LR 15: (December 1989).

§107. Knowledge and Skills Test for Endorsements to a Commercial Driver's License

The following tests are required for endorsements to the Commercial Driver's License:

A. Double/Triple Trailer Endorsements - In order to obtain a double/triple trailer endorsement an applicant must satisfactorily demonstrate knowledge covering:

(1) units;

(2) proper placement of the heaviest trailer;

(3) coupling and uncoupling of units;

(4) handling and stability characteristics, including off-tracking, response to steering, sensory feedback, braking, oscillatory sway, roll over in steady turns and skid avoidance;

(5) potential problems in traffic operations, including problems the double/triple trailer motor vehicle creates for other motorists due to slower speeds on steep grades, longer passing times, possibility for blocking entry or exit of other vehicles on freeways, splash and spray impacts, aerodynamic buffeting, view-blockages and lateral placement; and

(6) skills test during which the basic maneuvers specified in Section 113 must be satisfactorily performed and an 80 percent or better score obtained during the skills test.

B. Passenger Endorsement - In order to obtain a passenger endorsement, an applicant must satisfactorily demonstrate the additional knowledge and test requirements set forth below:

(1) all applicants for the passenger endorsement must have knowledge covering the following topics:

(a) proper procedures for loading and unloading of passengers,

(b) proper use of emergency exits, including push-out

windows,

(c) proper safety and emergency equipment requirements for the type of passenger vehicle to be operated,

(d) proper responses to such emergency situations as fires and unruly passengers,

(e) proper procedures at railroad crossings and draw bridges,

(f) proper braking procedures, and

(g) the requirements of Parts 392 and 393 of the Federal Motor Carrier Safety Regulations; and

(2) proper braking procedures for the motor vehicle when it is empty, full and partially full;

(3) differences in handling of baffled or compartmental tank interiors versus baffled or non-compartmental tank interiors;

(4) differences in tank vehicle type and construction;

(5) differences in cargo surge for liquids of varying product densities;

(6) effect of road grade and curvature on motor vehicle handling when filled, half-filled and with empty tanks;

(7) proper use of emergency systems;

(8) knowledge of all applicable federal motor carrier safety regulations specific to tank vehicles, including lighting and marking requirements;

D. Hazardous Materials Endorsement - In order to obtain a hazardous materials endorsement an applicant must satisfactorily demonstrate knowledge of:

(1) the information and requirements contained in 49 Code of Federal Regulations, Parts 171, 172, 173, 177, 178, and 397;

(2) Title 46, Code of Federal Regulations, Parts 30-60, 64, 98, 148, and 151;

(3) 49 Code of Federal Regulations, Parts 391-396, as pertains to the knowledge of hazardous materials on highways;

(4) L.S.A.-R.S.32:1501-1520;

(5) hazardous materials handling, including forbidden materials, loading and unloading materials, cargo segregation, passenger-carrying buses and hazardous materials, attendance of motor vehicles, cargo tanks and "safe havens";

(6) operation of emergency equipment, including use of equipment to protect the public, special precautions for equipment to be used in fires, special precautions for use of emergency equipment when loading or unloading of hazardous materials, use of emergency equipment for tank vehicles and required emergency equipment for vehicles hauling or handling hazardous materials; and

(7) emergency response equipment including the special care and precautions necessary for different types of accidents, special precautions for driving in the vicinity of a fire with hazardous materials, smoking and transporting hazardous materials, emergency procedures and existence of special requirements for transporting Class A and B explosives.

E. Combination Tank Vehicle and Hazardous Materials - In order for an applicant to obtain a combination tank vehicle and hazardous materials endorsement, he must satisfactorily demonstrate his knowledge by obtaining an 80 percent or better score on the knowledge and skills test of all the requirements set forth above for the applicable type and class of vehicle and the hazardous materials requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicles, 1974, amended LR 15: (De-

ember 1989).

§109. Color of Licenses

Except as otherwise provided herein, the background of all Commercial Driver's Licenses for classes A, B, C and D shall be gold in color and shall specify on the front thereof "Commercial Driver's License" or "C.D.L.". The background of all Commercial Driver's Licenses issued to minors shall be red in color to insure ease of identification and differentiation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicles, 1974, amended LR 15: (December 1989).

§113. License Duration

All Commercial Driver's Licenses issued after April 1, 1990 shall be for a four-year duration. Notwithstanding anything to the contrary, the Office of Motor Vehicles is hereby authorized to withhold issuance of Commercial Driver's Licenses until such time as the Office of Motor Vehicles is administratively prepared to begin issuance of same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicles, 1974, amended LR 15: (December 1989).

§115. Intoxicating Beverages and Controlled Substances

A. No operator of a commercial motor vehicle shall consume an intoxicating beverage, regardless of its alcoholic content, or be under the influence of an intoxicating beverage, or controlled substance, within four hours before going on duty or operating, or having physical control of a commercial motor vehicle or consume an intoxicating beverage regardless of its alcoholic content, be under the influence of an intoxicating beverage or controlled substance, or have any measured alcoholic concentration or concentration of controlled substance while on duty or while operating or in physical control of the commercial motor vehicle. Additionally, no operator of a commercial motor vehicle shall be on duty or operate a commercial motor vehicle while in immediate possession of an intoxicating beverage or controlled substance, regardless of its content. However, this prohibition does not apply to possession of an intoxicating beverage which is manifested and transported as part of a shipment by a commercial motor vehicle.

B. No motor carrier shall require or permit an operator of a commercial motor vehicle to violate any provision of this Section or any regulation prohibiting the consumption, possession or use of intoxicating beverages or controlled substances, nor shall said motor carrier allow any operator of a commercial motor vehicle to be on duty or to operate a motor vehicle if by his general appearance or by his conduct or by other substantiating evidence said operator appears to have consumed an intoxicating beverage or controlled substance within the preceding four hours.

(1) Any driver or operator who is found to be in violation of the provisions of this Section shall be placed out-of-service for a period of not less than 24 hours.

(2) Said 24-hour out-of-service period will commence upon issuance of an out-of-service order.

(3) No driver of a commercial motor vehicle shall violate the terms of an out-of-service order issued under this Section, and said operator shall report the issuance of out-of-service order to his employer within 24 hours of said issuance.

(4) The act of operating a commercial motor vehicle on the public highways and roads of the state of Louisiana shall constitute implied consent of said operator to be tested for any trace of alcohol or controlled substances.

(a) An operator of a commercial motor vehicle suspected to have consumed or be under the influence of an alcoholic beverage or controlled substance shall be tested by the methods approved by the Department of Public Safety and Corrections pursuant to R.S. 32:663, et seq., and the regulations promulgated thereunder.

(b) Any operator of a commercial motor vehicle who has been determined to have consumed or be under the influence of an alcoholic beverage or controlled substance while operating a commercial motor vehicle or within the time limits prescribed by this Section prior to operating a commercial motor vehicle shall be subject to the penalties and disqualifications set forth in R.S. 32:401 et seq., and the regulations promulgated thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicles, 1974, amended LR 15: (December 1989).

§117. Third-party Testers

A. All persons or entities desiring certification as third-party testers shall apply for certified third-party tester status on a form prepared and furnished by the Department of Public Safety and Corrections, Office of Motor Vehicles and shall furnish all requested information contained thereon and all necessary documentation requested. In order to qualify for a certified third-party tester status an applicant must, at a minimum, meet the following qualifications:

(1) Maintain a place of business in the state of Louisiana which operates from a permanent and regularly occupied structure which is safe and meets all requirements of federal, state or local law.

(2) Maintain at least one full-time certified third-party examiner on its payroll.

(3) Agree to maintain at each approved third-party testing site or place of business for a minimum of five years all records of each driver-applicant for whom third-party tester has conducted any skills testing, whether or not said driver-applicant passes or fails any such testing.

(4) Agree to further maintain at each approved third-party testing site or place of business for a minimum of five years a record of each certified third-party examiner in the employ of the third-party tester.

(5) For purposes of this Section, the five-year period specified for maintaining driver-applicant records runs from the date of the test and said period relative to third-party examiners is to commence from the date the third-party examiner leaves the employ of third-party tester.

(6) Applicants that are not proprietary schools or educational institutions shall employ at least 15 licensed commercial drivers on a full or part-time basis.

(7) All applicants must have been in operation in the state of Louisiana for a minimum period of two years prior to the date of application for certified third-party testing status.

(8) Have currently established a Commercial Motor Vehicle Training Program.

(9) Agree to enter into a third-party tester agreement with the Department of Public Safety and Corrections, Office of Motor Vehicles setting forth the responsibilities and any additional requirements for certified third-party tester status.

B. All applicants for certified third-party tester status shall submit with their application an application fee of \$50, which fee is non-refundable. All certificates of certified third-party tester status shall be valid for a period of one year from the date of issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicles, 1974, amended LR 15: (December 1989).

§119. Third-party Examiners

A. All persons desiring to obtain certified third-party examiner status shall make application to the Department of Public Safety and Corrections, Office of Motor Vehicles on a form prepared and approved by the department, and shall furnish all requested information thereon. In order to obtain certified third-party examiner status, an applicant must, at a minimum, meet the following qualifications:

(1) hold a current and valid Commercial Driver's License for all commercial driver's license classes for which the applicant seeks examiner status, issued either by the state of Louisiana or by a state whose commercial driver's license criteria meets the requirements of the Code of Federal Regulations relative to Commercial Driver's Licenses;

(2) be employed on a full-time basis by an employer who is a certified third-party tester;

(3) has successfully completed an approved third-party examiner training course;

(4) applicant must have taken and successfully passed a commercial driver's license written examination;

(5) applicant must have no violations, except parking violations, within one year prior to the date of application relative to a commercial motor vehicle or its operation;

(6) applicant must have had no convictions, guilty pleas or forfeitures for driving under the influence of alcohol or any controlled dangerous substance in any class of vehicle within three years prior to the date of application;

(7) applicant must have had no license suspensions, revocations, cancellations or disqualifications in any class of vehicle within three years prior to the date of application;

(8) applicant must be at least 21 years of age;

(9) applicant must at least have a high school diploma or equivalent education.

B. All applicants for certified third-party examiner status who currently hold a certificate of third-party examiner status from a state other than Louisiana must make application to the department for certified third-party examiner status and must meet all of the above requirements. Additionally, all third-party examiners must take a skills test from either a departmental examiner or an approved third-party examiner upon renewal of the Commercial Driver's License of said applicant for the classes of vehicles he is applying to be a third-party examiner for.

C. All certificates of certified third-party examiner status shall be valid for a period of one year from the date of issuance. All applications for certified third-party examiners must be accompanied by an application fee of \$10 which is non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicles, 1974, amended LR 15: (December 1989).

§121. State Examiners

A. In order to achieve the highest possible standards of consistency and reliability, all commercial driver's license examiners employed on a full-time basis by the Department of Public Safety and Corrections, Office of Motor Vehicles, must, at a minimum, meet the following qualifications.

(1) Hold a current and valid Commercial Driver's License issued by the state of Louisiana for all commercial driver's license classes for which the applicant seeks examiner status, if said examiner is to conduct skills testing.

(2) Have successfully completed the commercial driver's license examiner training course of the National Commercial Driver's License Training Program or successfully complete a commercial driver's license training course of instruction by the Department of Public Safety and Corrections, Office of Motor Vehicle, and present satisfactory certification of same.

(3) Applicant must have taken and successfully passed a commercial driver's license written examination, if said examiner is to conduct skills testing.

(4) Applicant must have no violations, except parking violations, within one year prior to the date of application relative to a commercial motor vehicle or its operation.

(5) Applicant must have had no convictions, guilty pleas or forfeitures for driving under the influence of alcohol or any controlled dangerous substance in any class of vehicle within three years prior to the date of application.

(6) Applicant must be at least 21 years of age.

(7) Applicant must have had no license suspensions, revocations, cancellations, or disqualifications in any class of vehicle within three years prior to the date of application.

(8) Applicant must have at least a high school diploma or equivalent education.

B. Additionally, all commercial driver's license examiners employed on a full-time basis by the Department of Public Safety and Corrections, Office of Motor Vehicles must take a skills test from a departmental examiner prior to being certified as a state commercial driver's license examiner. All state commercial driver's license examiners shall utilize in their evaluation of the skills of individual applicants for Commercial Driver's Licenses and the endorsement thereto, the commercial driver's license road test criteria and protocol formulated by ESSEX Corporation for the National Commercial Driver's License Examiner's Training Program. All state commercial driver's license examiners shall periodically examine and compare skills test data resulting from the skills test administered by each examiner for purposes of aiding consistency, uniformity and reliability of skills testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicles, 1974, amended LR 15: (December 1989).

§123. Enforcement

Commencing April 1, 1990 enforcement of all of the requirements and provisions of the Commercial Driver's License Law (L.S.A. - R.S. 32:401 et seq.) shall begin by the Department of Public Safety and Corrections, Office of Motor Vehicles. This date is necessitated by the administrative requirements of said law and the limitations of the Commercial Driver's License Information System. All violations of the Commercial Driver's License Law shall become part of all license holders' driving records on the above date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public

Safety, Office of Motor Vehicles, 1974, amended LR 15: (December 1989).

§125. Basic Maneuvers

The following specified basic maneuvers will be required to be performed by an applicant for a Class A, B, C, or D commercial driver's license during the administration of the skills test. These maneuvers will be required to be performed in a vehicle of the class of same class as the license being sought by the applicant.

A. Applicant must perform at least four right and four left turns.

B. Applicant must successfully demonstrate safe and correct operation of the vehicle by performing two intersection stops and two intersection drive-throughs.

C. Applicant must perform the required maneuvers while negotiating one and one-half to two miles each of rural roads and urban streets.

D. Applicant must successfully demonstrate safe and correct operation of the vehicle while traversing at least one simulated railroad crossing and one actual railroad crossing.

E. The basic maneuvers to be performed shall include at least one curve.

F. The basic maneuvers to be performed should include at least one each of an expressway merger and exit, if same is available in the testing area.

G. Applicant should perform one each of an actual or simulated drive up and down a grade, if same is available in the testing area.

H. Applicant should negotiate at least one overpass.

I. Applicant should successfully demonstrate safe and correct operation of the vehicle while performing at least one each of a stop and start on an actual or simulated grade.

J. Applicant will be graded on skills demonstrated in use of the clutch of the commercial motor vehicle, as well as use of the transmission gears, brakes, steering, obeying of traffic signals and signs and proper lane usage.

Chapter 2. Administrative Procedure

§201. Suspension, Revocation or Cancellation of License, Administrative Hearings

The following administrative regulations shall apply to all hearings conducted under the statutory authority of the secretary of the Department of Public Safety and Corrections and which concern matters arising out of actions taken by the state police or the Office of Motor Vehicles.

A. Renewal

All administrative hearings shall be public and shall be conducted in accordance with the provisions of the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) and the rules set forth herein.

B. Control of Hearings

All administrative hearings will be conducted and controlled by an administrative law judge or the chief administrative law judge.

C. Notice

The secretary of Public Safety Services or his representative shall give notice of the time and place of all administrative hearings not less than 10 days in advance of the hearing date. He shall give such notice to all persons whose pecuniary interest is to be directly and immediately affected by such hearing.

D. Mailing Address

The notice of hearing shall be mailed to the party requesting the hearing at the last known address provided to the department.

E. Assignment of Hearing

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

F. Summary Disposition

1. At any time after scheduling, a written request may be filed by any interested party for summary disposition thereof on any of the following grounds:

a. That the administrative law judge lacks jurisdiction over the subject matter, or over the person against whom relief is sought.

b. That the notice of hearing has not been made in the required manner or within the prescribed period of delay.

c. That the action has become moot.

d. That a party has failed to appear at the time fixed for hearing, without having been granted a continuance.

e. That the written notice of hearing expressing the cause of action does not constitute a ground for revocation or suspension.

2. Any request for summary disposition, when made prior to the date fixed for hearing, may be supported by admissions of fact and written argument or briefs.

3. If the administrative law judge conducting the hearing denies the request or refers it to the merits, he may reconsider same at any time prior to final disposition of the action.

4. The administrative law judge conducting the hearing may, at any time summarily dispose of an appeal or action on any of the grounds listed in Subsection A above.

G. Location of Hearings

The hearings shall be conducted in a place convenient and accessible to the public, selected by the secretary. With the consent of the secretary, his representative, the chief administrative law judge or the administrative law judge, the parties may agree to any place of public accessibility within the state of Louisiana for any hearing.

H. Continuance or Reschedule of Hearings

1. Once a hearing has begun, it may be continued without prejudice to either party:

a. By the secretary or the chief administrative law judge upon submission of justification deemed adequate by them;

b. By the administrative law judge conducting the hearing for cause deemed sufficient at that time; or

c. If time does not permit completion of the hearing on the scheduled date.

2. A hearing may, when proven necessary, be rescheduled by the administrative law judge, with the approval of the chief administrative law judge.

3. No continuances of scheduled administrative hearings shall be granted except for compelling cause or to serve the ends of justice.

I. Representation of Parties

All parties shall have the right to be represented by counsel, but shall not be required to be so represented. Any such counsel representing a party to an administrative hearing must be duly licensed to practice law in the state of Louisiana. When any party is represented by more than one attorney in any hearing, only one attorney for any such party shall be permitted to examine the same witness.

J. Evidence

The admissibility of evidence submitted at any administrative hearing shall be governed by the Louisiana Administrative Procedure Act (R.S. 49:950, et seq.). Departmental records, papers, documents and other written exhibits may be offered in evidence at the hearing by either a representative of the agency

involved or by documentary submission by the agency involved. All such evidence shall be available for inspection by all parties. All testimony adduced at the administrative hearing will be recorded and shall be taken under oath.

K. Written Statements

Affidavits or other *ex-parte* statements may be received in evidence in an administrative hearing; however, all parties shall be given an opportunity to inspect such statements prior to their admission into the record.

L. Stipulation

The parties may be required by the administrative law judge to stipulate to any or all undisputed facts.

M. Corroboration

The presentation of corroborative evidence may be limited by the administrative law judge conducting the hearing in the event same is merely repetitive or irrelevant.

N. Sequestration

The administrative law judge conducting the administrative hearing, whether or not at the request of any party, may order that the witnesses in any such hearing be sequestered so as to preclude any witness from hearing the testimony of any other witness.

O. Oral Argument

The administrative law judge conducting the hearing may limit the total time to be allowed for oral argument, according to the circumstances of each case. Except with special leave, only one attorney may be permitted to present oral argument for any party to an administrative hearing. Any party may request leave of the administrative law judge to submit written arguments at the conclusion of a hearing within a time limit to be specified by the administrative law judge. A copy of all such written arguments must be served on all parties, or on their counsel, and shall be certified by the writer.

P. Subpoena of Witnesses and Production of Documents

1. The administrative law judge, chief administrative law judge, the secretary or his representative shall have the power to compel the appearance of witnesses and the production of documents, books and papers pertinent to the issues involved in any administrative hearing, provided such witnesses, documents, books and papers are within the state of Louisiana.

2. Any party desiring the issuance of a subpoena for any witness at an administrative hearing must apply for it in writing properly addressed to the Administrative Hearing Section, postmarked or received at least 15 days prior to the date fixed for the hearing and must provide the full name and address of the witness to whom the subpoena is to be directed, specifying the purpose for which such witness is subpoenaed. Each such request must be accompanied by a money order, certified check or check drawn on the account of an attorney made payable to the order of the witness whose presence is requested in the amount of \$15 for each witness who is not a law enforcement officer or \$25 for each witness who is a law enforcement officer for issuing said subpoenas.

3. Any party desiring the production of books, papers or other documents at any administrative hearing must apply for an appropriate order in writing properly addressed to the Administrative Hearing Section, and postmarked or received at least 15 days prior to the date fixed for the hearing. Such application must describe the items to be produced in sufficient detail for identification and must give the full name and address of the person required to make such production, and must state briefly the purposes for which the items are being subpoenaed. All such requests must be accompanied by a money order, certified check

or check drawn on the account of an attorney made payable to the department in the amount of \$15 for each person or entity which is requested to produce said documents at the hearing.

4. Authentic copies of books, papers or other documents in the custody of any department, board or agency of the state, or any subdivision thereof, which have been subpoenaed may be admitted in evidence with the same effect as the originals.

5. The administrative law judge, chief administrative law judge, the secretary or his representative, for cause deemed sufficient, may issue an appropriate order at any time recalling any subpoena, subpoena duces tecum or request issued under the provisions of this rule.

6. No subpoena or subpoena duces tecum or request for production of documents shall be issued until the party who requests the subpoena of said documents first deposits with the department a sum of money sufficient to pay all of the fees and expenses of issuing said subpoenas set forth in Paragraphs 2 and 3 above.

Q. Non-Appearance

If a party fails to appear at the place and time fixed for any hearing, the hearing may be dismissed or the administrative law judge conducting said hearing may, in his discretion, continue the case or proceed with the hearing and render a decision upon such evidence as may be adduced at said hearing.

R. Interlocutory Ruling

1. Formal exceptions to any interlocutory rulings or orders are unnecessary if, at the time the ruling is made or the order is communicated, the party objecting shall make known his objection and the grounds therefor on the record.

2. The administrative law judge conducting the administrative hearing may at any time prior to a final decision, recall, reverse or revise any interlocutory ruling or order made in connection with the hearing.

S. Decision

Within a reasonable time following the conclusion of an administrative hearing, the administrative law judge shall make a written decision containing findings of fact and conclusions of law. The decision of the administrative law judge shall be final ten days after the date of the notice of decision by the department, unless a timely request for rehearing, reopening or reconsideration is received. Copies shall be furnished to all interested parties.

T. Rehearings

1. Any administrative decision rendered shall be subject to reopening, rehearing or reconsideration by written application to the Department of Public Safety and Corrections postmarked or received within 10 days from the date of mailing of the notice of decision by the department. The grounds for any such rehearing, reopening or reconsideration shall be either that:

a. the decision is clearly contrary to the law and the evidence adduced;

b. a party has discovered, since the hearing, evidence material to the issues presented which could not have, with due diligence, been obtained prior to the hearing;

c. there is a convincing showing that issues not previously considered should be examined in order to properly dispose of the issues raised; or

d. there are other good grounds for further reconsideration of the issues and the evidence, in the public interest.

2. A rehearing, reopening or reconsideration of an administrative hearing may be granted only by the chief administrative law judge, the secretary or his representative.

3. An application for a rehearing, reconsideration or re-

opening shall set forth the grounds which justify such action. Nothing in this Section shall prevent a rehearing, reopening or reconsideration of a matter by the department in accordance with any statutory provisions applicable, or on account of any fraud practiced by the prevailing party or by the use of perjured testimony or fictitious evidence. Any hearing upon an application for reconsideration, rehearing or reopening shall be strictly confined to the issues raised in such application. If an application for reconsideration, rehearing or reopening has been denied, the period within which judicial review must be sought shall run from the date of the notice of denial.

U. Appeal Costs

In all instances where judicial review of a final decision is sought by a party from any administrative hearing, the secretary shall require the party appealing to deposit with the Department of Public Safety and Corrections all costs of preparing a transcript of the hearing. The cost of the transcript shall be the sum of \$50 per recorded side of each standard cassette utilized in recording the hearing. These costs must be paid by the appellant-party before preparation of the transcript will be requested by the department.

V. Recusation

The administrative law judge conducting an administrative hearing shall withdraw from any adjudicative proceeding in which he cannot accord a fair and impartial hearing or other consideration or which he has a conflict of interest. Any party may request a disqualification of such administrative law judge by filing an affidavit setting forth the succinct grounds therefor. Said application for disqualification may be determined ex-parte by the chief administrative law judge or the secretary or, may be determined at a hearing to be conducted contradictorily with the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, LR 15: (December 1989).

Marlin A. Flores
Deputy Secretary

RULE

Department of Public Safety and Corrections Office of State Police

The Department of Public Safety and Corrections, Office of State Police, is adopting these rules in accordance with R.S. 32:1711 and R.S. 32:1731 regarding the recovery, towing and storage of vehicles.

These rules govern the licensing of those persons engaged in the towing and storage business, the licensing of the vehicles engaged in this business; the qualifications for licensing applicants; require notice of towed vehicles to law enforcement agencies and to the Department of Public Safety and Corrections; require maintenance of records; provides civil and criminal penalties, requires regulations for the sale or other disposition of abandoned stored vehicles; provides for license fees; and any other contingencies the secretary deems necessary to properly regulate the towing and storage industry in keeping with mandates of the Act.

These rules may be viewed in their entirety at the Office

of the State Register, 900 Riverside North, Capitol Annex, Baton Rouge or at the Office of the State Police, 7901 Independence Boulevard, Baton Rouge, LA.

Col. Marlin A. Flores
Deputy Secretary

RULE

Department of Revenue and Taxation Tax Commission

Title 61 REVENUE AND TAXATION Part V. Ad Valorem Taxation

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Tax Commission adopted amendments to the following sections of the Louisiana Tax Commission Real/Personal Property rules and regulations:

Constitutional And Statutory Guides To Property Taxation (LAC 61:V. Chapter 1), pages CS-1 thru CS-6
Loan And Finance Companies (LAC 61:V.503), pages LF-2 and LF-3

Watercraft (LAC 61:V.701 and 703), pages WC-1, WC-3 and WC-4

Oil And Gas Properties (LAC 61:V.909), page OG-6
Drilling Rigs And Related Equipment (LAC 61:V.1101), page DR-1

Pipelines (LAC 61:V.1301), page PL-1

Aircraft (LAC 61:V. 1503), page AC-2

Inventories (LAC 61:V.1703, 1705, 1707 and Appendix B), pages IV-4 thru IV-7

Insurance Companies (LAC 61:V.2301), page IC-1

General Business Assets (LAC 61:V.2501 and 2503), pages GB-2, GB-10 and GB-12

Use Value (LAC 61:V.2701, 2703, 2705, 2707, Appendix A and B), pages UV-1 thru UV-6 and UV-14

Public Exposure To Assessments; Appeals (LAC 61:V. Chapter 31), pages AP-1 thru AP-12

These amendments will be furnished automatically to all subscribers to the rules and regulations and are available in the office of the Louisiana Tax Commission, 923 Executive Park Avenue, Suite 12, Baton Rouge, LA, between the hours of 8 a.m. and 4 p.m. for anyone else desiring copies.

Mary K. Zervigon
Chairman

RULE

Department of Social Services Rehabilitation Services

The Department of Social Services, Rehabilitation Services, has adopted the following rule for change in policy regarding minimal ACT Test Score for Rehabilitation Services' clients entering college.

This change in policy mandates an ACT Score of 19 for Rehabilitation Services' clients entering a college training pro-

gram.

RULE

Effective December 20, 1989, Section C. College Training 1. (e) will change the minimum ACT Score of 16 to a minimum ACT Score of 19.

May Nelson
Secretary

RULE

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its Plan Documents of Benefits as follows:

To Article I., between Sections III and IV, add the following Section IV and renumber current Sections IV and V to Sections V and VI, respectively:

IV. ADDING OR DELETING DEPENDENTS

Notice must be furnished to the program by the plan member whenever a dependent, as defined in Article 1, Section I(l) is added to or deleted from the plan member's coverage, regardless of whether or not such addition or deletion would result in a change in the class of coverage. Such notice must be provided within 30 days of the addition or deletion of the dependent.

In the event that the addition or deletion of a dependent results in a change in the class of coverage, the provisions of Article I., Section V will apply.

James D. McElveen
Executive Director

RULE

Department of Wildlife and Fisheries Office of Fisheries

The secretary, Louisiana Department of Wildlife and Fisheries hereby promulgates a rule to amend the regulations governing the Experimental Fisheries Program. Authority for adoption of this rule is included in R.S.56:571.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Program §701. Permits

A. Purpose-Under Louisiana law, only gear which is legally sanctioned may be used in a fishery. All other types of gear require permits. These permits may be issued for the development of new fisheries, gear designed to harvest underutilized species and to persons who are interested in the development of experimental gear. The purpose of the permit system is to:

1. allow the department to closely supervise all fisheries not sanctioned by statutory law which may conflict with established fisheries or which may use gear prohibited by statutory

law;

2. allow the permittee to develop experimental gear for fisheries development, while providing information of this activity to the department for scientific purposes.

The following points delineate criteria used in the issuance of permits.

B. General Regulations

1. Permits will not be issued for species which are threatened or endangered or for fisheries, gear types or applications of otherwise legal gear which are specifically prohibited by law.

2. Possession of a permit does not exempt the bearer from laws or regulations except for those which may be specifically exempted by the permit. Violation of a fish or game law which carries a Class II penalty or greater shall constitute a violation of the permit.

3. Permits will be issued only for such time to allow the department to properly evaluate the fishery, gear or methods being used. The department may withdraw any permit because it has a deleterious effect, may withdraw any permit in order to conduct its own evaluation of the gear or fishery, may effect management regulations which render any permit inoperative or may extend any permit as a means of regulating the fishery until such time the fishery comes under statutory laws.

4. The secretary reserves the right to limit the number of permits issued each year. When the number is limited, permits will be granted on a first come, first served basis. A permit does not entitle the bearer the exclusive harvest of the resource.

5. Information gained by the department through the issuance of a permit is not privileged and will be disseminated to the public.

6. 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.

7. Permits shall not be issued to any applicant who within three years of the date of his application, has been convicted or plead guilty to a Class II fish or game violation or greater, as defined in the laws pertaining to wildlife and fisheries.

8. Applicants found guilty of two or more Class II fish or game violations or greater within five years of the application date shall not receive a permit.

9. The bearer of a permit shall report monthly the catch and effort under the permit, even when catch or effort is zero. This report shall contain total catch, effort, and other parameters which may be required by the department. A report shall be received by the department no later than 30 days following the last day of each month.

10. When a permit is issued, only the permitted specie(s) can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

11. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferrable without written permission from the department secretary.

12. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

13. If citation(s) are issued to any permittee for violation of a Class II fish or game law or conditions regulated by the permit, all permittee's permits shall be suspended until such time as the permittee appears before department officials for the purpose of reviewing the citation(s) issued. The secretary, after reviewing the proceedings, may reinstate or revoke the permit, and the permittee may lose all rights and privileges to participate in the program.

14. Any violation of the conditions of the permit shall result in the immediate suspension of the permit and forfeiture of the deposit, and may result in the permanent revocation of the permit.

C. Saltwater Area Regulations

1. All permits shall be applied for and/or granted from January 1 to July 31 of each year. All permits expire December 31 following the date of issuance. All permits shall be returned to the department by January 31 following expiration.

2. Each applicant for a permit under this program will be assessed an administrative fee of \$50 at the time of appointment. Each applicant who is a resident of Louisiana will be required to post a performance fee deposit of \$1,000 payable by cashier's check. All non-residents shall post a performance fee deposit of \$4,000, also payable by cashier's check. These deposits are required upon application and are valid until December 31 of each year.

3. Permit requests for experimental gear shall include complete descriptions of the gear and methods used, including drawings or pictures, and the specie(s) to be fished. All potential permittees shall request an appointment by contacting seafood division personnel in the New Orleans office. Proof of ownership of the proposed permitted vessel(s) shall be provided at the time of appointment and the person requesting a permit shall show proof that all applicable licenses have been applied for before a permit is issued. Proof of bona fide residency is also required at this time.

4. The department reserves the right to observe the operations taking place under the permit at any time and permittee shall be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

5. All permittees shall notify the department prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling a designated phone number.

6. If any permittee does not report monthly as required, his permit shall be suspended. If no report is received by January 31 following suspension, the deposit is forfeited.

7. The permitted boat used in the program shall have a distinguishing sign so that it may be identified. The sign shall have the word "EXPERIMENTAL" printed on it in at least six-inch high letters on a contrasting background so as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

D. Freshwater Area Regulations

1. Permits will be issued to use experimental gear for the harvest of underutilized specie(s) and to harvest said underutilized specie(s) in a manner that will not be deleterious to established fisheries or the fish community.

2. Permit applications for the development of new gear shall include complete descriptions of the gear and methods used, including drawings or pictures, the specie(s) to be fished and the area to be fished.

3. Permit applications shall be accompanied by proof that all applicable licenses have been applied for.

4. Each applicant for a permit under the program will be assessed an administrative fee of \$20 per permit.

5. Permits will be issued on a calendar year basis and will expire on December 31 of the year issued.

6. The department reserves the right to observe the operations taking place under the permit at any time.

7. All permittees shall notify the department prior to leaving to fish under permitted conditions and shall give the approximate hour of departure and the general location where the permittee will fish.

8. If any permittee does not report monthly as required by Subsection B.9, his permit may be suspended and the permittee may lose all rights and privileges to participate in the program in future years.

9. Permittees shall be required to mark and identify the permitted gear as described in the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S.56:571.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, L.R. 12:119 (February 1986), L.R. 12:847 (December 1986), amended by the Office of Fisheries, LR 15: (December 1989).

Virginia Van Sickle
Secretary

RULE

Department of Wildlife and Fisheries Office of Wildlife

The Louisiana Department of Wildlife and Fisheries does hereby promulgate a rule to determine those species that have been designated as endangered or threatened pursuant to the Federal Endangered Species Act. These species are deemed to be endangered or threatened under the provisions of R.S. 56, Chapter 8, Part IV.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter E. Louisiana Natural Heritage Program

§317. Threatened and Endangered Species, Determination; Lists.

The secretary of the Department of Wildlife and Fisheries hereby determines that those species designated as endangered or threatened pursuant to the Federal Endangered Species Act, are designated as such by the U.S. Fish and Wildlife Service at 50 CFR 17.11 (January 1, 1989). Based upon the above determination, said species, which are enumerated below, are deemed to be endangered or threatened species under the provisions of Louisiana Revised Statutes Title 56, Chapter 8, Part IV.

A. BIRDS

Brown Pelican	<i>Pelecanus occidentalis</i>	E
Bald Eagle	<i>Haliaeetus leucocephalus</i>	E
Peregrine Falcon	<i>Falco peregrinus</i>	T/E
Whooping Crane	<i>Grus americana</i>	E
Eskimo Curlew	<i>Numenius borealis</i>	E
Piping Plover	<i>Charadrius melodus</i>	T/E

Interior Least Tern	<i>Sterna antillarum athalassos</i>	E
Ivory-billed Woodpecker	<i>Campephilus principalis</i>	E
Red-cockaded Woodpecker	<i>Picoides borealis</i>	E
Bachman's Warbler	<i>Vermivora bachmanii</i>	E

B. REPTILES

Green Sea Turtle	<i>Chelonia mydas</i>	T
Hawksbill Sea Turtle	<i>Eretmochelys imbricata</i>	E
Kemp's Ridley Sea Turtle	<i>Lepidochelys kempii</i>	E
Leatherback Sea Turtle	<i>Dermochelys coriacea</i>	T
Loggerhead Sea Turtle	<i>Caretta caretta</i>	T
Gopher Tortoise	<i>Gopherus polyphemus</i>	T
Ringed Sawback Turtle	<i>Graptemys oculifera</i>	T

C. MAMMALS

West Indian Manatee	<i>Trichechus manatus</i>	E
Blue Whale	<i>Balaenoptera musculus</i>	E
Finback Whale	<i>Balaenoptera physalus</i>	E
Sei Whale	<i>Balaenoptera borealis</i>	E
Sperm Whale	<i>Physeter catodon</i>	E
Florida Panther	<i>Felis concolor corvi</i>	E

D. INVERTEBRATES

Louisiana Pearlshell	<i>Margaritifera hembeli</i>	E
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E = endangered

T = threatened

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1904.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife LR 15: (December 1989).

Virginia Van Sickle
Secretary

RULE

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

The following season dates, bag limits and shooting hours have been adopted to govern the hunting of migratory birds during the 1989-90 Hunting Seasons. Regulations are within the framework established by the U. S. Fish and Wildlife Service (*Federal Register* Volume 54, No. 107, pg. 24290-24293).

Dove

September 2-10

October 14-November 12

December 9-January 8

The daily bag limit is 12 with a possession limit after opening day of 24.

Snipe

November 11-February 25

The daily bag limit is 8 with a possession limit after opening day of 16.

Woodcock

December 9-February 11

The daily bag limit is 5 with a possession limit after opening day of 10.

Rail

November 18-January 20

The daily bag limit is 15 Clapper and King in the aggregate and a possession limit of 30 after opening day; 25 Sora and Virginia in the aggregate and possession limit is the daily bag limit.

Gallinule

November 18-January 20

The daily bag limit is 15 with a possession limit of 30 after opening day.

Ducks and Coot

West Zone:

Nov. 18-Dec. 4

Dec 26-Jan. 7

East Zone:

Nov. 18-Nov. 23

Dec. 15-Jan. 7

Duck Limits

The daily bag limit of ducks is 3, and may include no more than 2 mallards (no more than 1 of which may be a female). 2 wood ducks, 1 black duck, 1 redhead and 1 pintail. Canvasback may not be taken at any time.

Merganser Limits

The daily bag limit of mergansers is 5 of which only 1 may be a hooded merganser. The possession limit is 10 with only 2 hooded mergansers.

Coot Limits

The daily bag and possession limits of coots are 15 and 30, respectively.

Geese Statewide (West and East Zone)

Season Dates	Daily Bag Possession	
	Limit	Limit
Nov. 18-Dec. 4	7	14 (WHITE FRONT, SNOW GOOSE, BLUE GOOSE)
Dec. 15-Feb. 5		(WHITE FRONT, SNOW GOOSE, BLUE GOOSE)
Feb. 6-Feb. 14		(SNOW AND BLUE GOOSE ONLY)

The daily bag limit is 7 in the aggregate of Blue, Snow, or White-fronted geese of which not more than two may be white-fronted. Possession limit is twice the daily bag limit.

Shooting Hours

Dove: One-half hour before sunrise to sunset; EXCEPT on the opening weekend of each split (Sept. 2-3, Oct. 14-15, and Dec. 9-10) when shooting hours will be 12:00 Noon until sunset.

All other migratory birds: One-half hour before sunrise to sunset.

CITATION: None - Changes Annually

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15: (December 1989).

Virginia Van Sickle
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and with R.S. 56:433, which allows the Commission to designate what parts or portions of the natural reefs may be fished for oysters, the Louisiana Wildlife and Fisheries commission sets the 1989/90 oyster harvest season in the following manner.

1. The Public Oyster Seed Grounds will open one-half hour before sunrise September 6, 1989.

2. The Public Oyster Seed Grounds will close one-half hour after sunset September 15, and remain closed until they reopen one-half hour before sunrise October 16, 1989.

3. The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action if necessary to close areas where oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival.

4. The Sister Lake, Hackberry Bay, Bay Junop and Bay Gardene Oyster Seed Reservation, the shell plant in American (California) Bay, all of Bay Crabe and that portion of Black Bay west of a line from Mozambique Point to Bell Island will be closed for the 89/90 oyster season.

5. Bedding will not be allowed in sacks or any type of container but will consist of shovelling back on the deck of the vessel.

6. For the 89/90 oyster season only, no more than 10 percent loose shell with no oyster on them will be allowed in the bedding operations or seed oyster loads on all the public oyster seed grounds and public oyster seed reservations.

7. Public notice of any opening, delaying of or closing of a season will be given at least 72 hours prior to such action.

8. The oyster season in Calcasieu and Sabine Lakes will open one-half hour before sunrise Wednesday, November 15, 1989 and extend until one-half hour after sunset, Wednesday, March 15, 1990. Harvest will be by tonging only. The waters of Calcasieu and Sabine Lakes will be open only when the Louisiana Department of Health and Hospitals classifies these waters as safe for the harvest of oysters.

CITATION: None - changes annually

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:433 and R.S. 56:435.1

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15: (December 1989).

Don Hines
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Culture, Recreation and Tourism Office of State Museum

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

Title 25

CULTURAL RESOURCES

Part III. Office of State Museum

Chapter 1. Public Access

§103. Building Rental Policy

The Louisiana State Museum is responsible for the preservation of the historic buildings placed in its care and the collections contained within the buildings. In order to meet this responsibility the Board of Directors of the Louisiana State Museum has adopted the following policy for use of the Museum's facilities for functions not sponsored by the Louisiana State Museum.

A. Requests for Usage

Requests will be considered from:

1. Nonprofit organizations with purposes similar to the educational and historical Museum purposes of the Louisiana State Museum.

2. Official governmental agencies for governmental functions.

3. Groups and individuals whose proposed usage does not involve commercial or political promotion or fundraising and whose usage is, in the opinion of the Museum Board, not in conflict with the purpose of the Louisiana State Museum.

B. Procedures

1. Requests will be considered from

a. Eligible organizations/agencies/groups/individuals for receptions and similar functions numbering no more than 500 persons and occurring during non-public hours.

b. Eligible organizations/agencies/groups/individuals for business meetings, lectures and slide presentations numbering no more than 200 persons and occurring during non-public hours.

c. Eligible organizations/agencies for business meetings, lectures and slide presentations numbering no more than 100 persons and occurring during public hours.

2. The Museum Director is authorized to approve usage of the building within the provisions of this policy, in addition to Museum-sponsored programs/functions.

3. Requests for usage of the buildings that do not clearly come within this policy will be submitted to the Museum Board's Buildings and Grounds Committee. The committee will make a recommendation to the Museum Board for final action.

4. The Museum Board will deny an application if, in the board's opinion, the proposed usage would endanger the Museum's building and/or collections or interfere with its interpretive exhibitions and other programs.

5. The Museum Board may waive the tax-deductible gift donation when the board determines that to do so would be in the best interest of the Museum.

6. Base service charge fees will not be waived for non-Museum functions.

7. The Museum does not provide catering services. Host organizations must make arrangements with the caterer of their choice. The Museum reserves the right to reject caterers that do not comply with the Museum's instructions concerning proper care of Museum facilities.

8. All requests must be submitted in writing prior to the anticipated function in sufficient time (14 days) to allow for proper planning, coordination and completion of the necessary written agreement.

9. All rentals will be based on a written agreement signed at least 10 days in advance of the event or function by the authorized representative of the Museum and the organization or group renting the space. The agreement must specify all costs, fees and arrangements. All arrangements must be pre-approved. Spaces in all buildings may be designated as not available.

10. Base service charge fees are established to cover costs of security, custodial and utility services. The Museum may, at its discretion, make additional charges based on the nature of the function. Such additional charges will be specified in the rental agreement.

11. The Museum will not remove collections/exhibition items to accommodate host organization.

12. Smoking is prohibited in the Museum.

13. Host organization will designate an authorized representative who will be present at the function and responsible for all coordination with the Museum.

14. If the number in attendance, time and space used is greater than indicated in the written agreement, the host organization will be billed the additional required fees, in accordance with this policy.

15. A deposit of 50 percent of the written agreement indicated cost is required one week prior to the date of the event/function. The balance will be payable upon billing after the function.

16. The Museum does not furnish special equipment, tables, etc. for functions in excess of 100 persons or for sit-down dinners.

17. Approved functions which require closing any portion of the Museum prior to the scheduled time will be charged an additional \$100 per hour for the period closed.

18. Host organizations will be charged no less than the actual costs for repairing damage to the Museum's building and/or collections caused by the function. These charges will be in addition to all other charges.

C. Rates

(Established rates apply to buildings open/available at the time of the request)

1. Tax deductible donation.

Applicants eligible under category "A3" above will donate a tax deductible gift to the Louisiana Museum Foundation fund designated for use by the State Museum for endowment, educational, acquisitions, publications, conservation, and building function support purposes, in accordance with the following schedule:

Location	Building	Rate (3 hours)	Each Additional Hour
New Orleans	Cabildo	\$3000	\$1000
New Orleans	Presbytere	\$3000	\$1000
New Orleans	Old U.S. Mint	\$2500	\$ 900
Baton Rouge	Old State Capitol	\$2500	\$ 900
Shreveport	State Exhibit Museum	\$2000	\$ 700
New Orleans	1850 House	\$1500	\$ 500
New Orleans	Arsenal	\$1500	\$ 500
New Orleans	Jackson House	\$1500	\$ 500
New Orleans	Creole House	\$1000	\$ 350
New Orleans	Madame John's Legacy	\$1500	\$ 500

2. Base Service Charge Fees - All Buildings

a. Business Meetings, Lectures, Slide Presentations 10

a.m.-5 p.m. Maximum 100 persons-\$100

After 5 p.m. Maximum 200 persons Minimum 1 hour

Guests 1st Hour Ea. Additional 1/2 Hour

1-100 \$200 \$50

101-200 \$300 \$75

An additional cleaning and repair fee of \$100 during public hours and \$300 during non-public hours will be charged for costs involved in preparation and post function cleaning, set-up and take down.

b. Receptions and similar functions

After 5 p.m. - Maximum 500 persons

Minimum 1 hour

Guests 1st Hour Ea. Addition 1/2 Hour

1st floor 2nd floor 1st floor 2nd floor

1-200 \$250 \$300 \$50 \$ 75

201-300 \$300 \$350 \$75 \$100

301-500 Both Floors \$450 Both Floors \$150

An additional cleaning repair fee of \$300 will be charged for costs involved in preparation and post function cleaning, set-up and take down.

c. Sit-Down Dinner

After 5 p.m. - Maximum 100 persons

Guests 1st Hour Ea. Additional 1/2 Hour

1-50 \$250 \$100

50-100 \$500 \$200

An additional cleaning and repair fee of \$500 will be charged for costs involved in preparation and post function cleaning, set-up and take down.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:343 - 25:344.

Written comments may be addressed to James F. Sefcik, Assistant Secretary, Department of Culture, Recreation and Tourism, Box 2448, New Orleans, LA 70176.

James F. Sefcik
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Public Access, Building Rental Policy

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

The proposed rule change will have no implementation costs to the agency.

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

The proposed rule change will increase agency self-generated revenues by \$4,000 in FY 89-90, by \$11,000 in FY 90-91 and by \$14,000 in FY 91-92. The rule will also provide additional restricted funds for the Museum's use for endowment, education, acquisitions, publications, conservation and building function support purposes from other than State General Fund. These additional restricted funds will total \$10,000, \$25,000 and \$33,000 in Fiscal Years 89/90, 90/91 and 91/92.

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

The proposed rule change will provide a savings to groups using building due to reduction in fees, necessary to be more competitive.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will require like institutions/museums to be more competitive in rental of buildings.

James F. Sefcik
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Office of Commerce and Industry**

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

Chapter 3. Financial Incentive Fees

§301. Advance Notification Fee

Advance notification fee of \$100 per advance notification, which shall be due 90 days prior to the beginning of construction, to be submitted with the advance notification form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104B (7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12:659-666 (October, 1986), LR 15:

§303. Application Fee for all Programs

To amend each fee that is submitted with each application for the following programs administered by the Department of Economic Development, Office of Commerce and Industry, Finance Division: Industrial Tax Exemption Program, Article VII, Part II, Section 21 (F) of the Louisiana Constitution of 1974; Enterprise Zone Program R.S. 51:1781-1790, et seq.; Energy Conservation Program R.S. 47:305.30; Restoration Tax Abatement Program, Article VII, Part II, Section 21 (H) of the Louisiana Constitution and R.S. 47:4319-4322, Louisiana Capital Companies (Venture Capital) R.S. 51:1921-1932; Industrial Tax Equalization Program R.S. 47:3201-3206; Corporate Headquarters Tax Equalization Program R.S. 47:3201-3206; Industrial Assistance Program, R.S. 47:4302-4306; Warehousing and Distribution Tax Equalization, R.S. 47:3201-3206; and Transportation Equalization, R.S. 51:941-946. The fee shall be .2 percent of the estimated total amount of taxes to be exempted.

The fee shall be submitted with each application received for all the programs administered by the Department of Economic Development, Office of Commerce and Industry. In no case shall an application fee be less than \$200 and in no case shall a fee exceed \$5000 per project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104B(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12: 659-666 (October, 1986), LR 15:

§305. Inspection Fee

Inspection fees of \$100 for each plant inspection shall be submitted with each affidavit of final cost/energy saved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104B(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12:659-666 (October, 1986), LR 15:

§307. Renewals

A fee of \$50 shall be charged for the renewal of a contract for the benefits of the Industrial Tax Exemption Program Article VII, Part II, Section 21 (F) of the Louisiana Constitution of 1974; Enterprise Zone rebates (where applicable), R.S. 51:1781-1790, et seq., Corporation Headquarters (where applicable), R.S. 47:3201-3206; Industrial Tax Equalization (where applicable), R.S. 47:3201-3206, Industry Assistance (where applicable), R.S. 7:4301-4306; and Warehousing and Distribution Establishment Tax Equalization Program (where applicable), R.S. 47:3201-3206.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104B(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12:659-666 (October, 1986), LR 15:

§309. Collection Procedure

This regulation provides for the implementation of new fees to be collected from all businesses submitting Advance Notifications, Applications, Affidavits, and/or Contract Renewals for programs referenced in §303, on or after May 4, 1988. No documents will be processed until such time as the fee is received in the Office of Commerce and Industry, Finance Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104B(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12:659-666 (October, 1986), LR 15:

Robert Paul Adams
Director
Finance Division

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Financial Incentive Fee**

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

There will be no implementation costs to state or to local governments.

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

State revenue will increase by approximately \$93,056; and no impact to local government.

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

Application fees have increased for businesses applying for the various financial incentive programs administered by the state, by approximately \$93,056. This rule is to make fees already in effect permanent. Individual applicants will experience no increase in fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

None.

Robert P. Adams
Finance Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to adopt the following rule.

**Title 35
HORSE RACING**

Part I. General Provisions

**Chapter 7. Quarter Horse Racing
§711. Mixed Races; Distance**

All racing associations in this state shall be allowed to schedule races in which quarter horses and thoroughbred horses can participate in the same race. The length of the races provided by this Section shall be at least one turn in the track but shall not exceed a distance of 870 yards. All races scheduled under the provisions of this Section shall be conducted as races for quarter horses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, 179 and 182.1

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1989.

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, Alan J. LeVasseur, Chief Auditor or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, January 5, 1990 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Mixed Races; Distance**

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

There are no costs to implement this rule.

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

There is no effect on revenue collections.

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

The proposed rule is a benefit to owners and breeders by allowing different breeds of horses to compete between each other.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Used Motor Vehicle and Parts Commission**

The Used Motor Vehicle and Parts Commission, in accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, advertises its intent to adopt these proposed amendments, after determining, pursuant to R.S. 49:953 (E.), that this action will not result in any increase in the expenditure of state funds.

These additional rules cover requirements for eligibility, for individuals or other entities, to participate as a buyer, promoter, exhibitor, or otherwise, in Motor Vehicle Trade Shows or Motor Vehicle Exhibitions.

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part V. Automotive Industry**

Subpart 2. Used Motor Vehicle and Parts Commission

**Chapter 36. Motor Vehicle Trade Shows
§3601. Definitions**

A. *Exhibitor* means a non-resident dealer who meets the definition of a used motor vehicle dealer subject to license under R.S. 32:773, but holds a current dealer license in another state and whose Louisiana business is limited to participation in vehicle trade shows or expositions in this state.

B. *Manufacturer or Distributor* means any person, firm, association, corporation or trust, resident or non-resident who fabricates, manufactures, or assembles new and unused vehicles or who in whole or in part maintains distributor representatives licensed under R.S. 32:773.

C. *Permit* means a temporary license issued to a licensed used motor vehicle dealer, exhibitor, manufacturer or distributor, to display vehicles at a vehicle trade show or exposition. The permit issued shall be for the duration of the trade show only and shall not exceed 14 days.

D. *Promoter* means any person, firm, association, corporation, or trust, who alone or with others assumes the financial responsibility of a vehicle trade show or exposition in which vehicles are displayed by dealers, manufacturers or distributors, licensed under R.S. 32:773.

E. *Trade Show* means a controlled event in which a promoter charges for either booth space and/or spectator entrance in which a used motor vehicle dealer exhibits vehicles.

F. *Used Motor Vehicle Dealer* means a dealer subject to license under LA R.S. 32:773.

G. *Vehicle* means any used car or truck, or any new or used motorhome, motorcycle, motorscooter, ATV, watercraft, boat, or a boat with an inboard or outboard motor attached and shall also include new and used trailers, recreational trailers, semi-trailers and travel trailers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:

§3603. License, Fees and Applications

A. Promoters of motor vehicle trade shows shall be required to obtain a license from the Louisiana Used Motor Vehicle and Parts Commission and shall consist of the following:

1. Application for license shall be on forms prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant.

2. A license fee of \$100.

3. A promoter's license shall be for one calendar year and shall expire on December 31.

B. An exhibitor shall be required to obtain a permit to display vehicles in a trade show or exposition which shall consist of the following:

1. An oath or affirmation that the exhibitor has complied with all registration requirements of the state in which he conducts his business including any requirements pertaining to posting of bond and demonstration of fiscal responsibility.

2. A notarized copy of the dealer's current license issued in the state in which he conducts his business.

3. The name, site, and dates of the show or exposition for which an exhibitor's permit is sought and the name and address of the promoter of that show or exposition.

4. Such other pertinent information consistent with the safeguarding of the public interest and public welfare.

5. An application fee of \$50.

C. A used motor vehicle dealer shall be required to obtain a permit to display vehicles in trade shows or expositions and consist of the following:

1. An application giving the dealer name, address and current dealer number.

2. A licensed used motor vehicle dealer who participates in a motor vehicle show or exposition shall not be deemed to have an additional place of business at that show or exposition and shall not be charged any additional fees.

D. All applications for permits received within 48 hours of the start of the trade show or exposition shall be charged a \$15 late processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:

§3605. Qualifications and Eligibility of Motor Vehicle Trade Shows

A. Promoters of motor vehicle trade shows or expositions in which a dealer, manufacturer, or distributor, which is required to be licensed under R.S. 32:773, displays vehicles, are required to notify by mail the Louisiana Used Motor Vehicle and Parts Commission no later than 60 days prior to the start date of the vehicle trade show and shall give the start date, ending date,

location of the proposed trade show or exposition, and the type of vehicles to be promoted.

B. Within 15 days of the start of the event the promoter shall also furnish a complete list of all licensed Louisiana dealers and exhibitors who will participate. This list shall also include the dealer's current dealer number.

C. A promoter may invite exhibitors to attend the trade show or exposition by providing proof to this commission that:

1. All Louisiana dealers who sell the type vehicles being promoted, starting within a 50-mile radius of the proposed location of the trade show or exposition, have been contacted and given the opportunity to attend and space is still available.

2. That the exhibitor invited is a greater distance away than a Louisiana dealer selling the same make, model or brand and that the Louisiana dealer has declined to attend.

3. Or, that the exhibitor invited will only display a make, model, or brand not sold by any Louisiana dealer.

D. A promoter shall not allow an exhibitor who has secured a permit to exhibit any used vehicles of any type.

E. A promoter shall not allow an exhibitor to display any vehicles of the same make, model or brand as an attending licensed Louisiana dealer at a trade show or exposition.

F. A promoter is required to keep all records of attending dealers and exhibitors and all records of dealers that have declined to attend a trade show or exposition for a period of five years.

G. A manufacturer or distributor may exhibit vehicles through a licensed Louisiana dealer and may only display suggested list price.

H. Any promoter who violates any provisions of these rules and regulations shall be subject to the civil penalties under R.S. 32:780.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 E. and 32:774 E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:

Interested persons may submit written comments concerning these proposed amendments to Linda Stroud, Executive Officer, Louisiana Used Motor Vehicle and Parts Commission, 10925 Perkins Road, Suite A, Baton Rouge, LA, 70810.

Rodley J. Henry
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amendment to Title 46, Part V Subpart 2, Used Motor Vehicle and Parts Commission

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

It is estimated that \$75 is necessary to cover the cost of printing and postage for licenses, permits and applications for trade shows in FY 89-90. The costs for FY 90-91 and FY 91-92 will be estimated at the same cost. The expenses for personnel, forms and postage will be absorbed within the current source of funding and fees generated from licenses and permits issued.

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

There will be an increase in revenues from trade shows

due to fees charged for each license and permit issued. Eight licenses @ \$100 = \$800; 20 permits @ \$50 = \$1,000; and a possible late fee of five applicants @ \$15 = \$75. Revenues for trade shows for FY 89-90 will be \$1,875. The same amount of \$1,875 is estimated for FY 90-91 and FY 91-92.

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

Trade shows will enhance public interest in outlying areas of the state. State revenues will be increased due to consumers and dealers from other states who will be staying overnight and purchasing food and drinks. This agency is unable to determine an effect of costs or impact of revenues since we have no knowledge of hotel/motel rates and restaurant charges. The Promoter is required to keep records of attending dealers and exhibitors and those who declined for a period of five years. This will prevent Louisiana dealers from being excluded from trade shows without just cause since the promoter is aware that the LUMVPC will conduct periodic checks of his records. Louisiana dealers will be given preference over out-of-state dealers for participation in trade shows or expositions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Due to out-of-state dealers attending trade shows or expositions, this would allow more competition for licensed Louisiana dealers.

Rodley J. Henry
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

8(g) Strategic Long-Range Plan

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the 8(g) Strategic Long-Range Plan. Copies of the plan may be seen in the office of the *Louisiana Register* or in the office of the State Board of Elementary and Secondary Education, Room 104 of the Education Building in Baton Rouge, Louisiana.

Interested persons may comment on the proposed change and/or additions in writing, until 4:30 p.m., February 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: 8(g) Strategic Long-Range Plan**

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

There are no implementation costs or savings to state or local governmental units associated with this rule.

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

There are no effects on revenue collections of state or local governmental units associated with this rule.

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

There are no costs or economic benefits to directly affected persons or non-governmental units associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment associated with this rule.

Em Tampke
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Appeals Council for the Providers of Psychological Services

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 amended Board Policy 1.00.40 (Revised Procedures for Appeals to BESE) to include the Appeals Council for Providers of Psychological Services as listed below:

1.00.40.f Appeals Council for the Providers of Psychological Services

A. Composition

An Appeals Council for Providers of Psychological Services shall be appointed by the board and shall consist of five members as follows:

1) one member to be recommended by the Louisiana Psychological Association;

2) one member to be recommended by the Louisiana School Psychological Association;

3) one member to be a state certified, practicing school psychologist employed full-time by a local education agency in the area of school psychology;

4) one member to be a full-time faculty member employed in a university setting engaged in the professional training of school psychologists; and

5) one member to be a practicing psychologist licensed under state licensure laws to practice psychology in the state of Louisiana.

B. Duties and Responsibilities

1) The Appeals Council for Providers of Psychological Services shall perform the following duties:

a) Evaluate the appeals of persons seeking Louisiana certification as school psychologist under the standards in Bulletin 746, Louisiana Standards for State Certification of School Personnel whose appeals cannot be processed according to the Guidelines in PM 1.00.40.C.

b) Submit a written record of its findings and recommendations to an appeals committee composed of board members for its review and recommendations to the full board.

2) The responsibilities of the providers of Psychological

Services shall be to:

- a) evaluate the appeals documents, including the transcripts of appellants, for consideration of Bulletin 746 (minimum requirement) waivers;
- b) interview each appellant who chooses to appear before the council;
- c) make recommendations to the BESE Appeals Committee on waivers of minimum certification standards.

Interested persons may comment on the proposed change and/or additions in writing, until 4:30 p.m., February 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Appeals Council for Providers of
Psychological Services**

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

This rule will not impact expenditures of state or local governments.

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

The rule will not impact revenue collections of state or local government units.

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

Providers of psychological services (school psychologists) who exercise their option to appear before the Appeals Council for providers of Psychological Services will pay for their expenses from their home bases to Baton Rouge. If certification is awarded school personnel may benefit by gainful employment related to the area of licensures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Certified school personnel in a parish must be employed as priorities over noncertified personnel. Persons receiving certification via the appeals process cannot be given preferential treatment over persons already certified. However, the award or denial of an appeal can impact employment opportunities of the appellants as they become competitive with other certified persons.

Em Tampke
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Standard 2.099.01 of Bulletin 741

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an amendment to Standard 2.099.01 of Bulletin 741 to provide that the 23 units

required for graduation shall include 15¹/₂ required units and 7¹/₂ elective units and that the elective units can be earned at vocational-technical schools as provided in Standard 2.015.35.

Interested persons may comment on the proposed change and/or additions in writing, until 4:30 p.m., February 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amend Bulletin 741**

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

The revision and distribution of Bulletin 741 will cost approximately \$100.

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

There will be no effect on revenue collection of state or local government.

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

There will be no cost to directly affect non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Graig Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Hazardous Waste Policy for Nonpublic Schools

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 a new nonpublic school standard 6.065.05 concerning the controlling of hazardous wastes to be added to page 11 of Bulletin 741 as listed below:

Chemical Redistribution Standards

"A site safety officer charged with the supervision of safe practice in storage, use, and distribution of all chemicals shall be designated in each school. The school must assess the safety of the facilities and equipment, including the location, quantities, and states of all regulated hazardous substances. A plan to redistribute the unwanted substances must be prepared and kept on file in the office. Remaining chemicals must be listed on an inventory system. A copy of the inventory must be kept on site in each school and at the local fire chief's office."

Interested persons may comment on the proposed change and/or additions in writing, until 4:30 p.m., February 8,

1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Standard #6.065.05 of Bulletin 741 and
BESE Policy and Procedure Manual relative to
Chemical Redistribution Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated implementation costs of this rule for 1989-90 is \$50.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of local or state governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The designation of a site safety officer will provide each nonpublic school with an individual who shall assume the responsibility for: supervision of safe practice in storage, use, and distribution of all chemicals; preparation of a plan to redistribute the unwanted substances; maintenance of inventory files to be kept in central office of each school system and each school and at the local fire chief's office.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be increased job opportunities and/or levels of professional skill.

Graig Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Standard 2.090.08 of Bulletin 741

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an amendment to Standard 2.090.08 of Bulletin 741 to state that beginning with the 1990-91 school year, Introduction to Algebra (Bulletin 1802) shall be required in the area of mathematics for all eighth grade students.

Interested persons may comment on the proposed change and/or additions in writing, until 4:30 p.m., February 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bulletin 741**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The minimum estimated cost to the state is \$895,200 to purchase additional textbooks, inservice teachers, pay for substitute teachers, to supply supplementary materials and teaching aids and to reprint and distribute pages to Bulletin 741. The majority of the cost will be incurred during the 1990-91 fiscal year.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effects on revenue collections of state and local governmental units is expected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No direct cost is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Since this is not a new course, no drastic effect on competition and employment is anticipated. It could provide additional jobs for teachers who have mathematics certification. This depends upon whether the teachers who are teaching the regular eighth grade mathematics are retrained to teach Introduction to Algebra or are given new assignments and mathematics certified teachers are hired to teach Introduction to Algebra.

Graig Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

American History Curriculum Guide, Bulletin 1599

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the revised *American History Curriculum Guide, Bulletin 1599*. Copies of this guide may be seen in the office of the *Louisiana Register*, the State Department of Education, or the office of the Board of Elementary and Secondary Education located in Room 104 of the Education Building at 626 N. Fourth Street, Baton Rouge, LA.

Interested persons may comment on the proposed change and/or additions in writing, until 4:30 p.m., February 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: American History Curriculum Guide,
Bulletin 1599**

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

The printing and distribution costs for the revised guide will be \$13,404.

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

There will be no effect on revenue collection of state or local government.

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

There will be no cost to directly affect non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Graig Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

include the costs for printing and mailing out the corrected board policy.

In 1985, BESE adopted a policy which stated that permission was needed to continue a class which enrollment fell below the minimum for a period of 60 days. The old policy stated that permission was needed to continue a class which enrollment fell below the minimum for 90 days. This deletion is to correct this conflict in policy.

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

There will be no effect on revenue collections of state or local governmental units as a result of this action.

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

There will be no cost to persons or non-governmental groups from this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment from this action.

Graig Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Delete Board Policies 3.03.10.a and 3.03.10.b

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 deleted Board Policies 3.03.10.a and 3.03.10.b (listed below) because they are in conflict with Board Policy 4.03.05.

Delete:

3.03.10.a Any class in which there is an average daily attendance of less than seven students for a period of 90 days shall be closed.

3.03.10.b The discontinuance of any preparatory class must be approved by the board.

Interested persons may comment on the proposed change and/or additions in writing, until 4:30 p.m., February 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Delete Board Policies 3.03.10.a and
3.03.10.b**

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

This change is needed because Board Policy No. 4.03.05 is in conflict with Board Policy 3.03.10.a and 3.03.10.b. The cost of this change will be approximately \$50. This will

NOTICE OF INTENT

Board of Elementary and Secondary Education

Salary Schedule for Unclassified
Vocational-Technical School Personnel

In accordance with the Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the new salary schedule for unclassified vocational-technical school personnel and directed the vocational-technical directors to include the salary increase in their budgets for FY 90-91.

POSTSECONDARY VOCATIONAL-TECHNICAL REGIONAL DIRECTOR'S PAY SCALE

Steps	Level 1	Level 2	Level 3	Level 4	Level 5
1	32,000	32,100	32,200	32,300	32,400
2	32,600	32,800	33,000	33,200	33,400
3	33,200	33,500	33,800	34,100	34,400
4	33,800	34,200	34,600	35,000	35,400
5	34,400	34,900	35,400	35,900	36,400
6	35,000	35,600	36,200	36,800	37,400
7	35,600	36,300	37,000	37,700	38,400
8	36,200	37,000	37,800	38,600	39,400
9	36,800	37,700	38,600	39,500	40,400
10	37,400	38,400	39,400	40,400	41,400
11	38,000	39,100	40,200	41,300	42,400
12	38,600	39,800	40,900	42,000	43,400
13	39,200	40,500	41,600	42,700	44,400
14	39,800	41,200	42,300	43,400	45,400
15	40,400	41,900	43,000	44,100	46,400
16	41,000	42,600	43,700	44,800	47,400
17	41,600	43,300	44,400	45,500	48,400
18	42,200	44,000	45,100	46,200	49,400
19	42,800	44,700	45,800	46,900	50,400
20	43,400	45,400	46,500	47,600	51,400
21	44,000	46,100	47,200	48,300	52,400
22	44,600	46,800	47,900	49,000	53,400
23	45,200	47,500	48,600	49,700	54,400
24	45,800	48,200	49,300	50,400	55,400
25	46,400	48,900	50,000	51,100	56,400

- When moving from one step to another step within a salary level, move down when computing an individual's salary on July 1.
- When moving from one salary level to another salary level, move across and down one step when computing an individual's salary on July 1.
- When an individual has reached Step 3 on Salary Level 1, he/she must have accumulated 520 points in order to move to Salary Level 2.
- When an individual has reached Step 10 on Salary Level 2, he/she must have accumulated 970 points in order to move to Salary Level 3.
- When an individual has reached Step 15 on Salary Level 3, he/she must have accumulated 1,470 points in order to move to Salary Level 4.
- When an individual has reached Step 20 on Salary Level 4, he/she must have accumulated 2,020 points in order to move to Salary Level 5.

Placement of Individual on Pay Scale for

Points	Step	Pay
Basic Cert. (200 Points)	1	32,000
240	2	32,600
280	3	33,200
320	4	33,800
400	5	34,400
445	6	35,000
490	7	35,600
535	8	36,200
580	9	36,800
625	10	37,400

No individual entering the system as a Regional Director for the first time can exceed Step 10 of Level 2 (\$38,400) in base pay.

NOTES:

- Yearly Step Increment
Steps 1-5 = \$600
Steps 6-10 = \$700
Steps 11-15 = \$800
Steps 16-20 = \$900
Steps 21-25 = \$1,000
- Points Needed to Enter Pay Level
Level 1 = Meet Basic Cert. Requirements
Level 2 = 520 Level 4 = 1,470
Level 3 = 970 Level 5 = 2,020
- Salary Adjustments will be given on July 1.
- To receive a Step increment, an employee must have been employed in a position for more than six (6) months in the prior fiscal year and have a Temporary VTIE Certificate or higher.

Salary Adjustment Factors

- Supervise:
1. Directors (Region Wide)
1 - \$ 500
2 - \$ 600
3 - \$ 700
4 - \$ 800
5 - \$ 900
6 - \$1,000
7 - \$1,100
8 - \$1,200
9 - \$1,300
10 - \$1,400
11 - \$1,500
12 - \$1,600
- Classified Personnel (Regional Staff)
1 - \$ 400
2 - \$ 500
3 - \$ 600
4 - \$ 700
5 - \$ 800
6 - \$ 900
7 - \$1,000
8 - \$1,100
9 - \$1,200
10 - \$1,300
11 - \$1,400
12 - \$1,500
- Personnel (Region Wide)
1-25 - \$ 500
26-50 - \$ 600
51-100 - \$ 700
101-125 - \$ 800
126-150 - \$ 900
151-175 - \$1,000
176-200 - \$1,100
201-225 - \$1,200
226-250 - \$1,300
251-300 - \$1,400
301-350 - \$1,500
351-400 - \$1,600
- Facilities (Campuses)
1 - \$ 600
2 - \$ 700
3 - \$ 800
4 - \$ 900
5 - \$1,000
6 - \$1,100
7 - \$1,200
8 - \$1,300
9 - \$1,400
10 - \$1,500
11 - \$1,600
12 - \$1,700

REGIONAL DIRECTOR ENTERING THE POSTSECONDARY/SECONDARY VOCATIONAL-TECHNICAL PAY SCALE FOR THE FIRST TIME

	<u>Points</u>
I. <u>Work Experience</u> (Area of Certification)	
A. One Year Work Experience Part-Time (2,000 hours) at Entry Level	30
B. One Year Work Experience Full-Time at Entry Level	40
C. One Year Work Experience Full-Time at Journeyman Level	50
II. <u>Teaching Experience</u>	
A. One Year Teaching Experience Part-Time (180 days)	20
B. One Year Teaching Experience Full-Time	30
C. One Year Teaching Experience Full-Time in Certified Field at Secondary Level	40
D. One Year Teaching Experience Full-Time in Certified Field at Postsecondary Level	50
E. One Year Administrative Experience at Secondary Level	40
F. One Year Administrative Experience at Postsecondary Level	50
III. <u>Vocational Competency/Certification/Licenses</u> (Area of Certification)	
A. Passed State Approved Occupational Competency Test	100
B. National or State Certification	100
C. National or State Licenses	100
IV. <u>Degrees/Diplomas</u> (Highest Degree/Diploma Only)	
A. Three Year R.N. Diploma	80
B. B.S. Degree	80
C. B.S. Degree in Education	90
D. B.S. Degree in Certified Field	100
E. Master's Degree	110
F. Master's Degree in Certified Field	120
G. Master's Degree Plus 30 Hours	130
H. Specialist Degree in Certified Field	140
I. Doctor's Degree in Education	150
J. Doctor's Degree in Certified Field	160

POINT COUNT

Postsecondary Vocational-Technical Personnel Point Count to Move From One Pay Level to Another Pay Level

<u>Item</u>	<u>Point Count</u>
1. Approved College Course (3 semester hours after employment)	20
2. New Instructor Workshop	30
3. State Sponsored Inservice Workshop	One (1) Point per Inservice Hour
4. State Approved Inservice Workshop	One (1) Point per Inservice Hour
5. One Year Successful Employment	50
6. State Sponsored Professional Conference	10
7. National Sponsored Professional Conference	5
8. National or State Certification in Area of Certification	50
9. National or State License in Area of Certification	50
10. Complete a Degree After Employment	
A. B.S. Degree	80
B. B.S. Degree in Education	90
C. B.S. Degree in Certified Field	100
D. Master's Degree	110
E. Master's Degree in Certified Field	120
F. Master's Degree Plus 30 Hours	130
G. Specialist Degree in Certified Field	140
H. Doctor's Degree in Education	150
I. Doctor's Degree in Certified Field	160

*If you had a degree when employed and earned a higher degree or degrees after employment, you will receive the difference in the point count.

Prior to attendance, all workshops and conferences must be approved by the Office of Vocational Education.

POSTSECONDARY VOCATIONAL-TECHNICAL DIRECTOR'S PAY SCALE

Steps	Level 1	Level 2	Level 3	Level 4	Level 5
1	30,000	30,100	30,200	30,300	30,400
2	30,600	30,800	31,000	31,200	31,400
3	31,200	31,500	31,800	32,100	32,400
4	31,800	32,200	32,600	33,000	33,400
5	32,400	32,900	33,400	33,900	34,400
6	33,000	33,600	34,200	34,800	35,400
7	33,600	34,300	35,000	35,700	36,400
8	34,300	35,000	35,800	36,600	37,400
9	35,000	36,700	36,600	37,500	38,400
10	36,400	36,400	37,400	38,400	39,400
11			38,200	39,300	40,400
12			39,000	40,200	41,400
13			39,800	41,100	42,400
14			40,600	42,000	43,400
15			41,400	42,900	44,400
16				43,800	45,400
17				44,700	46,400
18				45,600	47,400
19				46,500	48,400
20				47,400	49,400
21					50,400
22					51,400
23					52,400
24					53,400
25					54,400

- When moving from this step to another step within a salary level, move down when computing an individual's salary on July 1.
- When moving from one salary level to another salary level, move across and down one step when computing an individual's salary on July 1.
- When an individual has reached Step 5 on Salary Level 1, he/she must have accumulated 520 points in order to move to Salary Level 2.
- When an individual has reached Step 10 on Salary Level 2, he/she must have accumulated 970 points in order to move to Salary Level 3.
- When an individual has reached Step 15 on Salary Level 3, he/she must have accumulated 1,470 points in order to move to Salary Level 4.
- When an individual has reached Step 20 on Salary Level 4, he/she must have accumulated 2,020 points in order to move to Salary Level 5.

Salary Adjustment Factors

- Supervise Assistant Director = \$400
 - Assistant Directors = \$500
 - Assistant Directors = \$600
 - Assistant Directors = \$700
 - Assistant Directors = \$800
- Supervise Student Personnel Officer = \$300
 - Student Personnel Officers = \$400
 - Student Personnel Officers = \$500
 - Student Personnel Officers = \$600
 - Student Personnel Officers = \$700

Supervise Instructors

- 1 - 6 Instructors = \$ 900
- 7 - 12 Instructors = \$1,000
- 13 - 18 Instructors = \$1,100
- 19 - 24 Instructors = \$1,200
- 25 - 30 Instructors = \$1,300
- 31 - 36 Instructors = \$1,400
- 37 - 42 Instructors = \$1,500
- 43 - 48 Instructors = \$1,600
- 49 - 54 Instructors = \$1,700
- 55 - 60 Instructors = \$1,800
- 61 - 66 Instructors = \$1,900
- 67 - 72 Instructors = \$2,000

Supervise Classified Personnel

- 1 - 3 Classified Personnel = \$200
- 4 - 6 Classified Personnel = \$300
- 7 - 9 Classified Personnel = \$400
- 10 - 12 Classified Personnel = \$500
- 13 - 15 Classified Personnel = \$600
- 16 - 18 Classified Personnel = \$700
- 19 - 21 Classified Personnel = \$800

Supervise Off-Campus Facilities

- 1 Facility = \$ 500
- 2 Facilities = \$ 750
- 3 Facilities = \$1,000
- 4 Facilities = \$1,250
- 5 Facilities = \$1,500

Placement of Individual on Pay Scale for 1st Time

Points	Step	Pay
Basic Cert. (200 Points)	1	30,000
240	2	30,600
280	3	31,200
320	4	31,800
400	5	32,400
445	6	33,000
490	7	33,600
535	8	34,200
580	9	34,800
625	10	35,400

No individual entering the system as a Director for the first time can exceed Step 10 of Level 2 (\$35,400) in base pay.

NOTES:

- Yearly Step Increment
 - Steps 1-5 = \$600
 - Steps 6-10 = \$700
 - Steps 11-15 = \$800
 - Steps 16-20 = \$700
 - Steps 21-25 = \$1,000
- Points Needed to Enter Pay Level
 - Level 1 = Meet Basic Cert. Requirements
 - Level 2 = 520
 - Level 3 = 970
 - Level 4 = 1,470
 - Level 5 = 2,020
- Salary Adjustments will be given on July 1.
- To receive a Step increment, an employee must have been employed in a position for more than six (6) months in the prior fiscal year and have a Temporary VTIE Certificate or higher.

DIRECTOR ENTERING THE POSTSECONDARY/SECONDARY VOCATIONAL-TECHNICAL PAY SCALE FOR THE FIRST TIME

	<u>Points</u>
I. <u>Work Experience</u> (Area of Certification)	
A. One Year Work Experience Part-Time (2,000 hours) at Entry Level	30
B. One Year Work Experience Full-Time at Entry Level	40
C. One Year Work Experience Full-Time at Journeyman Level	50
II. <u>Teaching Experience</u>	
A. One Year Teaching Experience Part-Time (180 days)	20
B. One Year Teaching Experience Full-Time	30
C. One Year Teaching Experience Full-Time in Certified Field at Secondary Level	40
D. One Year Teaching Experience Full-Time in Certified Field at Postsecondary Level	50
E. One Year Administrative Experience at Secondary Level	40
F. One Year Administrative Experience at Postsecondary Level	50
III. <u>Vocational Competency/Certification/Licenses</u> (Area of Certification)	
A. Passed State Approved Occupational Competency Test	100
B. National or State Certification	100
C. National or State Licenses	100
IV. <u>Degrees/Diplomas</u> (Highest Degree/Diploma Only)	
A. Three Year R.N. Diploma	80
B. B.S. Degree	80
C. B.S. Degree in Education	90
D. B.S. Degree in Certified Field	100
E. Master's Degree	110
F. Master's Degree in Certified Field	120
G. Master's Degree Plus 30 Hours	130
H. Specialist Degree in Certified Field	140
I. Doctor's Degree in Education	150
J. Doctor's Degree in Certified Field	160

POINT COUNT

Postsecondary Vocational-Technical Personnel Point Count to Move From One Pay Level to Another Pay Level

<u>Item</u>	<u>Point Count</u>
1. Approved College Course (3 semester hours after employment)	20
2. New Instructor Workshop	30
3. State Sponsored Inservice Workshop	One (1) Point per Inservice Hour
4. State Approved Inservice Workshop	One (1) Point per Inservice Hour
5. One Year Successful Employment	50
6. State Sponsored Professional Conference	10
7. National Sponsored Professional Conference	5
8. National or State Certification in Area of Certification	50
9. National or State License in Area of Certification	50
10. Complete a Degree After Employment	
A. B.S. Degree	80
B. B.S. Degree in Education	90
C. B.S. Degree in Certified Field	100
D. Master's Degree	110
E. Master's Degree in Certified Field	120
F. Master's Degree Plus 30 Hours	130
G. Specialist Degree in Certified Field	140
H. Doctor's Degree in Education	150
I. Doctor's Degree in Certified Field	160

*If you had a degree when employed and earned a higher degree or degrees after employment, you will receive the difference in the point count.

Prior to attendance, all workshops and conferences must be approved by the Office of Vocational Education.

**POSTSECONDARY VOCATIONAL-TECHNICAL INSTRUCTOR'S/DATA MANAGER'S/CURRICULUM SPECIALIST'S/
COMPUTER SPECIALIST'S/STUDENT PERSONNEL SERVICES OFFICER'S AND ASSISTANT DIRECTOR'S PAY SCALE**

Steps	Level 1	Level 2	Level 3	Level 4	Level 5
1	24,000	24,100	24,200	24,300	24,400
2	24,600	24,800	25,000	25,200	25,400
3	25,200	25,500	25,800	26,100	26,400
4	25,800	26,200	26,600	27,000	27,400
5	26,400	26,900	27,400	27,900	28,400
6	27,000	27,600	28,200	28,800	29,400
7	27,700	28,300	29,000	29,700	30,400
8	29,000	29,800	30,600	31,500	31,400
9	29,700	30,600	31,500	32,400	33,400
10	30,400	31,400	32,400	33,400	34,400
11		32,200	33,300	34,400	35,400
12		33,000	34,200	35,400	36,400
13		33,800	35,100	36,400	37,400
14		34,600	36,000	37,400	38,400
15		35,400	36,900	38,400	39,400
16			37,800	39,400	40,400
17			38,700	40,400	41,400
18			39,600	41,400	42,400
19			40,500	42,400	43,400
20			41,400	43,400	44,400
21				44,400	45,400
22				45,400	46,400
23				46,400	47,400
24				47,400	48,400
25					48,400

- When moving from one step to another step within a salary level, move down when computing an individual's salary on July 1.
- When moving from one salary level to another salary level, move across and down one step when computing an individual's salary on July 1.
- When an individual has reached Step 5 on Salary Level 1, he/she must have accumulated 520 points in order to move to Salary Level 2.
- When an individual has reached Step 10 on Salary Level 2, he/she must have accumulated 970 points in order to move to Salary Level 3.
- When an individual has reached Step 15 on Salary Level 3, he/she must have accumulated 1,470 points in order to move to Salary Level 4.
- When an individual has reached Step 20 on Salary Level 4, he/she must have accumulated 2,020 points in order to move to Salary Level 5.

SALARY ADJUSTMENT PER PAY PERIOD

Data Manager	=	\$100
Curriculum Specialist	=	\$125
Computer Specialist	=	\$125
Student Personnel Services Officer	=	\$150
Assistant Director	=	\$175

Placement of Individual on Pay Scale for 1st Time

Points	Step	Pay
Basic Cert. (200 Points)	1	24,000
240	2	24,600
280	3	25,200
320	4	25,800
400	5	26,400
445	6	27,000
490	7	28,300
535	8	29,000
580	9	29,700
625	10	30,400

No individual entering the system as an instructor/data manager/curriculum specialist/computer specialist/student personnel services officer or assistant director for the first time can exceed Step 10 of Level 2 (\$30,400) in base pay.

NOTES:

- Yearly Step Increment**
Steps 1-5 = \$600
Steps 6-10 = \$700
Steps 11-15 = \$800
Steps 16-20 = \$900
Steps 21-25 = \$1,000
- Points Needed to Enter Pay Level**
Level 1 = Meet Basic Cert. Requirements
Level 2 = 520 Level 4 = 1,470
Level 3 = 970 Level 5 = 2,020
- Salary Adjustments will be given on July 1.
- To receive a Step increment, an employee must have been employed in a position for more than six (6) months in the prior fiscal year and have a Temporary VTIE Certificate or higher.
- Department Head Increments**
4-6 Staff Members = \$700
(Including Head)
7+ Staff Members = \$800
(Including Head)

Instructor/Data Manager/Curriculum Specialist/Computer Specialist/Student Personnel Services Officer and Assistant Director entering the Postsecondary Vocational-Technical Pay Scale for the First Time

	<u>Points</u>
I. <u>Work Experience</u> (Area of Certification)	
A. One Year Work Experience Part-Time (2,000 hours) at Entry Level	30
B. One Year Work Experience Full-Time at Entry Level	40
C. One Year Work Experience Full-Time at Journeyman Level	50
II. <u>Teaching Experience</u>	
A. One Year Teaching Experience Part-Time (180 days)	20
B. One Year Teaching Experience Full-Time	30
C. One Year Teaching Experience Full-Time in Certified Field at Secondary Level	40
D. One Year Teaching Experience Full-Time in Certified Field at Postsecondary Level	50
III. <u>Vocational Competency/Certification/Licenses</u> (Area of Certification)	
A. Passed State Approved Occupational Competency Test	100
B. National or State Certification	100
C. National or State Licenses	100
IV. <u>Degrees/Diplomas</u> (Highest Degree/Diploma Only)	
A. Three Year R.N. Diploma	80
B. B.S. Degree	80
C. B.S. Degree in Education	90
D. B.S. Degree in Certified Field	100
E. Master's Degree	110
F. Master's Degree in Certified Field	120
G. Master's Degree Plus 30 Hours	130
H. Specialist Degree in Certified Field	140
I. Doctor's Degree in Education	150
J. Doctor's Degree in Certified Field	160

POINT COUNT

Postsecondary Vocational-Technical Personnel Point Count to Move From One Pay Level to Another Pay Level

<u>Item</u>	<u>Point Count</u>
1. Approved College Course (3 semester hours after employment)	20
2. New Instructor Workshop	30
3. State Sponsored Inservice Workshop	One (1) Point per Inservice Hour
4. State Approved Inservice Workshop	One (1) Point per Inservice Hour
5. One Year Successful Employment	50
6. State Sponsored Professional Conference	10
7. National Sponsored Professional Conference	5
8. National or State Certification in Area of Certification	50
9. National or State License in Area of Certification	50
10. Complete a Degree After Employment	
A. B.S. Degree	80
B. B.S. Degree in Education	90
C. B.S. Degree in Certified Field	100
D. Master's Degree	110
E. Master's Degree in Certified Field	120
F. Master's Degree Plus 30 Hours	130
G. Specialist Degree in Certified Field	140
H. Doctor's Degree in Education	150
I. Doctor's Degree in Certified Field	160

*If you had a degree when employed and earned a higher degree or degrees after employment, you will receive the difference in the point count.

Prior to attendance, all workshops and conferences must be approved by the Office of Vocational Education.

Interested persons may comment on the proposed change and/or additions in writing, until 4:30 p.m., January 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: New Vo-Tech Salary Schedule**

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

The estimated additional cost to the state in Fiscal Year 90-91 to implement the new vocational-technical salary schedule for existing positions is \$6,861,009. The last change in the salary schedule was September 1, 1984. The cost of printing and distributing the new salary schedule is estimated at \$45. This includes 100 sets of 15 pages at .03 per page. The new salary schedule will be explained to the directors at their monthly meeting in Baton Rouge.

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

The new salary schedule for all unclassified employees of the vocational-technical system will increase state income tax collection and also increase local government tax collection because of an increase in take-home pay. The increase in tax collections cannot be determined at this time.

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

The new salary schedule will bring the present vocational-technical school employees closer to the present salaries of business and industry. It will strengthen the vocational-technical system by allowing us to employ competent, up-to-date personnel. In return, we will be able to provide better trained personnel to business and industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The new salary schedule will bring our salaries closer to business and industry, therefore allowing us to employ up-to-date personnel. In return, we will be able to turn out better job entry level personnel for business and industry.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Air Quality and Nuclear Energy**

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.2123 Organic Solvents.

These proposed revisions will add requirements for test-

ing and recordkeeping for painting and coating industries. The revisions will also change regulations regarding surface coating of automobiles and light-duty trucks to incorporate alternate means of compliance.

The proposed regulations are to become effective on February 20, 1990, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held at 1 p.m. on Thursday, January 4, 1990, in the Mineral Board Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, January 5, 1990 at 4:30 p.m., to Joan Albritton, Office of Legal Affairs and Enforcement, Box 44066, Baton Rouge, LA 70804. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

State Land and Natural Resources Building, Room 615, Sixth Floor, 625 North Fourth Street, Baton Rouge, LA 70804;
Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101-4388;

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;

Department of Environmental Quality, 2945 North I-10 Service Road, Metairie, LA 70002; and

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

Mike McDaniel, Ph.D.
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Revision to LAC:33.III Section 2123**

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

There should be no additional cost to state or local government. Regulations are made more enforceable and do not add any significant additional work load for state and local government.

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

No significant effect.

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

These revisions will add some additional record keeping requirements for regulated industries and some additional testing of emissions. Except for some of the larger industries, the additional cost should be minor and most industries already record most of the data required for the records.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor Division of Administration Community Development Section

Louisiana Community Development Block Grant
(LCDBG) Program
FY 1990 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 60 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 1990 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 1990 pro-

gram will also be used to determine the grants selected for funding under the FY 1991 LCDBG Program. In other words, the top ranked applications, to the extent that monies are available, will be funded under the FY 1990 Program; the next highest ranked applications will be funded in FY 1991 to the extent that monies are available. Only one application for housing or public facilities can be submitted for FY 1990 funds; that same application will be considered for FY 1991 funds. No new applications for housing and public facilities will be accepted in FY 1991. Only new applications for economic development and demonstrated needs funds will be accepted for FY 1991.

B. ELIGIBLE APPLICANTS. Eligible applicants are units of general local government, that is, municipalities and parishes, excluding the following areas: Alexandria, 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. Two or more eligible applicants may submit a joint application for activities of mutual need of each eligible applicant. Joint projects shall necessitate a meeting with state staff prior to submitting the application to determine the appropriate applicant. All local governing bodies involved must be eligible according to the threshold criteria.

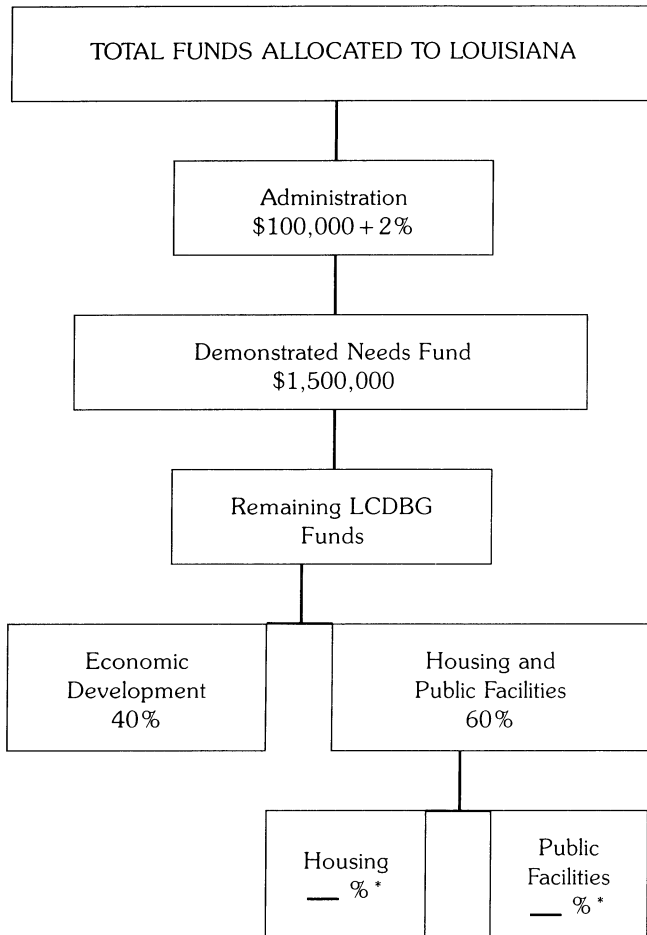
C. ELIGIBLE ACTIVITIES. An activity may be assisted in whole or in part with LCDBG funds if the activity meets the provisions of Title 24 of the U. S. Code of Federal Regulations, Subpart C, as provided in Appendix 2. For application purposes, eligible activities are grouped into the program areas of housing, public facilities, economic development or demonstrated need.

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, etc.) 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 \$23,000,000 (subject to federal allocation) in funds will be available for the FY 1990 LCDBG Program. Figure 1 shows how the total funds will be allocated among the various program categories.

Of the total CDBG funds allocated to the state, up to \$100,000 plus two (2) percent will be used by the state to administer the program.

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 fifteen percent of the total funds available for housing and public facilities. Four subcategories (sewer systems, water systems addressing potable water, water systems primarily for fire protection, and other) will be established under public facilities. 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.

In addition, \$1,500,000 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 40 percent of the remaining LCDBG funds will be allocated specifically for economic development type projects. Only economic development applications will compete for these funds. Economic development applications and demonstrated needs applications will be accepted on a continual basis within the time frame designated by the state. Public facilities and housing applications will be funded with the remaining LCDBG funds.

There will be one funding cycle for housing and public facilities applications. 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 1990 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 fifteen percent of the funds allocated to housing. Within the maximum fifteen 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, water (potable water and fire protection), and other type projects.

Six months following the date of the state's executed grant agreement with HUD, the status of the monies originally allocated (40 percent) for economic development will be evaluated. At that time, any monies in excess of half of the original allocation which have not yet been awarded for economic development projects 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. Twelve months following the date of the state's executed grant agreement with HUD, all unawarded monies remaining 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.

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 \$350,000 for demonstrated needs grants. The state has established a funding ceiling of \$600,000 for economic development projects involving a loan for the creation of a new business and for economic development projects involving a grant to the local governing body a funding ceiling of \$1,000,000 for infrastructure improvements, and a funding ceiling of \$300,000 for the acquisition, construction or rehabilitation of buildings by the local governing body when necessary for the creation/retention of jobs; 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 12 percent of the estimated housing costs. A maximum of \$30,000 in LCDBG funds will be allowed for administrative costs on public facilities and demonstrated needs projects; the state will make a determination of the actual amount of administrative funds which will be allowed on a case-by-case basis for each project funded. A maximum of \$30,000 for general administrative funds will be allowed the local governing body for economic development programs; the state will determine the actual amount of funds allowed for administrative funds on a case-by-case basis for each project funded.

In addition to the general administrative funds on economic development programs involving a loan to a new business, the state will provide an additional 2 percent of the estimated economic development project costs; this additional 2 percent is 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 1990 LCDBG Program; that application will also be considered for funding under the FY 1991 LCDBG Program. Those parishes which have an unincorporated population of more than 25,000 may submit a maximum of three single purpose applications for housing or public facilities with a combined maximum request of \$1.5 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.

Those parishes as identified by the U. S. Bureau of the Census, Current Population Reports, Series P-26, No. 86-S-Sc, South-1986 Population and 1985 Per Capita Income Estimates for Counties and Incorporated Places include: Acadia, Ascension, Bossier, Caddo, Calcasieu, Lafayette, Lafourche, Livingston, Ouachita, Plaquemines, Rapides, St. Bernard, St. Charles, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Vermilion, Vernon, and Washington.

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 1990 will be made as of the deadline date for submittal of the housing and public facilities applications. Performance and capacity determinations for FY 1991 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 1990, the following thresholds must have been met:

(a) Units of general local government will not be eligible to receive funding unless past CDBG programs awarded by HUD have been closed out.

(b) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1983, FY 1984, FY 1985, FY 1986, FY 1987, FY 1988 and FY 1989) awarded by the state have been conditionally closed-out with the following exception.

For recipients of economic development awards under the FY 1987, FY 1988 and FY 1989 LCDBG Programs and for recipients of demonstrated needs awards under the FY 1989 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 1990 funding.

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

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

(e) 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 1991, the following thresholds must have been met:

(a) Units of general local government will not be eligible to receive funding unless past CDBG programs awarded by HUD have been closed out.

(b) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1983, FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, and FY 1990) awarded by the state have been conditionally closed out with the following exception.

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 1990 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 1991 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 1990 LCDBG Program will also be eligible for an FY 1991 award if the state makes the determination that the recipient has thus far performed adequately.

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

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

(e) 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 1990 funding will be re-evaluated for eligibility for FY 1991 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 as in Act 590 of the 1970 Parish Redevelopment Act, Section Q-8. (See Appendix 1.)

5. *Division* refers to the Division of Administration.

III. METHOD OF SELECTING GRANTEEES.

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 utilize either census data (if available) or conduct 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 twelve 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 1990 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 1989 median income for non-metropolitan Louisiana was \$23,400; therefore, the non-metropolitan state low/moderate income level would amount to \$18,700 and the low income limit would be \$11,700. 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 in-

come based on family size, the following sliding scale must be used:

# OF PERSONS IN HOUSEHOLD	% OF PARISH/MSA* MEDIAN INCOME
1	50
2	64
3	72
4	80
5	85
6	90
7	95
8 or more	100

*MSA = Metropolitan Statistical Area

When a local survey, rather than census data, is used to determine the low/moderate income 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, the 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 I. 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 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 one hundred 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.

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

of owner occupied substandard units including those in need of demolition and replacement + vacant units in need of demolition inside the target area

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 score 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, four separate subcategories will be established (sewer systems, 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/moderate income persons benefitting will be assigned according to the following ranges:

- 85% or more - 5 points
- at least 70% but less than 85% - 4 points
- at least 60% but less than 70% - 3 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, 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 that 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 and water systems addressing potable water and fire protection.

In assigning points for project severity, the following general criteria will be critiqued for the type of project proposed.

Water Systems primarily for fire protection purposes - well capacity, reliability of supply, amount of water stored, ex-

tent 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 will 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 must 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 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.

(d) USE OF LOCAL FUNDS (Maximum Possible Points-1)

Those applicants which will 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 are used to pay for any engineering and/or administrative services.

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-ED 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 governmental unit and the state.

An application for LCDBG-ED 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-ED 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 the LCDBG-ED 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-ED 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, etc. to establish that the business is likely to be successful, and will create the appropriate number of jobs at the site in a specified time frame. 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, availability of site to local governing body upon failure or change in operation by the developer, etc. 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 \$1,000,000 limit for infrastructure improvements on any single project or a \$300,000 limit for the acquisition, construction, or rehabilitation of a building.

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 non-manufacturing 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 acquisition, construction, or rehabilitation of a building for economic development, the private funds/public funds ratio must be 1:1.

In addition, the state must be assured that non-manufacturing 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, etc. 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-ED 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 \$1.5 million reserve fund will be established to alleviate critical/urgent community needs.

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 systems.

Each proposed activity must address one of the 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 division. 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 one 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 eight, 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.

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 definition 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 location 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, 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 submittal 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. 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.

Applicants must submit a notarized proof of publication of

each public notice.

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.

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 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;

(e) provide for a timely written answer to written complaints and grievances, within 15 days where practicable; and

(f) identify how the needs of non-English speaking 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) 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.

(13) 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, in writing, 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, certi-

fying 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 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. Any of the items identified under E. SUBMISSION REQUIREMENTS are not included in the application.

G. PROGRAM AMENDMENTS FOR LCDBG PROGRAM.

The division may consider amendments if they are necessitated 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.

A. 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.

B. All amended activities must receive environmental clearance prior to construction.

C. The state will ascertain as 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, etc.

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 FY 1982, FY 1983, FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, and FY 1990 LCDBG Program years as well as subsequent funding cycles, until later amended. One exception to this rule is that funds recaptured from economic development 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 1990 program year will be transferred to the public facilities category for distribution as described above. 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 on February 20, 1990, and are to remain in force until they are amended or rescinded. Anyone having any comments should submit them in writing by January 29, 1990, to Susan Elkins, Policy and Program Manager, Community Development Section, Division of Administration, Box 94095, Baton Rouge, LA 70804-9095.

Dennis Stine
Commissioner

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 de-

velopment, 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 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 improvements 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 other-

wise) 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 percentum of the amount of any assistance to a unit of general local government under this Title 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 1 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 necessary or appropriate to carry out an economic development project;

(18) the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937; and

(19) 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.

(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 person 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 sys-

tem 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.

APPENDIX 3

1989 Median Family Income
By Parish and MSA

Parish	1989 Median Family Income	Low/Mod Income* Limit	Low Income* Limit
Acadia	\$ 22,300	\$ 18,700	\$ 11,700
Allen	23,500	18,800	11,750
Ascension	See MSA - Baton Rouge		
Assumption	27,900	22,300	13,600
Avoyelles	17,900	18,700	11,700
Beauregard	26,100	20,900	11,950
Bienville	21,800	18,700	11,700
Bossier	See MSA - Shreveport		
Caddo	See MSA - Shreveport		
Calcasieu	See MSA - Lake Charles		
Caldwell	19,600	18,700	11,700
Cameron	30,800	24,650	13,900
Catahoula	19,100	18,700	11,700
Claiborne	22,900	18,700	11,700
Concordia	22,700	18,700	11,700
DeSoto	23,500	18,800	11,750
East Baton Rouge	See MSA - Baton Rouge		
East Carroll	16,100	18,700	11,700
East Feliciana	31,000	24,800	12,500
Evangeline	18,900	18,700	11,700
Franklin	18,500	18,700	11,700
Grant	20,800	18,700	11,700
Iberia	29,200	23,350	14,600
Iberville	33,200	26,550	12,500
Jackson	21,600	18,700	11,700
Jefferson	See MSA - New Orleans		
Jefferson Davis	26,500	21,200	11,950
Lafayette	See MSA - Lafayette		
Lafourche	See MSA - Houma-Thibodaux		
LaSalle	22,800	18,700	11,700
Lincoln	26,300	18,950	11,850
Livingston	See MSA - Baton Rouge		
Madison	16,600	18,700	11,700
Morehouse	20,100	18,700	11,700
Natchitoches	21,000	18,700	11,700
Orleans	See MSA - New Orleans		
Ouachita	See MSA - Monroe		
Plaquemines	31,200	24,950	15,600
Pointe Coupee	28,600	22,900	12,350
Rapides	See MSA - Alexandria		
Red River	19,700	18,700	11,700
Richland	18,800	18,700	11,700

1989 Median Family Income
By Parish and MSA
(Continued)

PARISH	1989 Median Family Income	Low/Mod Income* Limit	Low* Income Limit
Sabine	\$21,300	\$18,700	\$11,700
St. Bernard	See MSA - New Orleans		
St. Charles	See MSA - New Orleans		
St. Helena	21,800	18,700	11,700
St. James	33,900	27,100	15,600
St. John	See MSA - New Orleans		
St. Landry	20,900	18,700	11,700
St. Martin	See MSA - Lafayette		
St. Mary	31,300	25,050	15,650
St. Tammany	See MSA - New Orleans		
Tangipahoa	22,800	18,700	11,700
Tensas	16,200	18,700	11,700
Terrebonne	See MSA Houma - Thibodaux		
Union	21,700	18,700	11,700
Vermilion	24,000	19,200	12,000
Vernon	18,400	18,700	11,700
Washington	21,700	18,700	11,700
Webster	23,500	19,500	12,200
West Baton Rouge	See MSA - Baton Rouge		
West Carroll	16,800	18,700	11,700
W. Feliciana	27,400	21,900	12,350
Winn	18,600	18,700	11,700

*For those parishes which have a median family income less than the State nonmetropolitan median family income (\$23,400), the low/mod income and the low income limits were based on the State nonmetropolitan median family income.

MSA Metropolitan Statistical Areas

MSA Alexandria ¹	26,500	21,200	13,250
MSA Baton Rouge, LA ²	31,800	25,450	15,900
MSA Houma-Thibodaux, LA ³	29,700	23,750	14,850
MSA Lafayette, LA ⁴	33,800	27,050	16,900
MSA Lake Charles, LA ⁵	32,700	26,150	16,350
MSA Monroe, LA ⁶	27,000	21,600	13,500
MSA New Orleans, LA ⁷	32,600	26,100	16,300
MSA Shreveport, LA ⁸	30,400	24,300	15,200

Footnotes:

¹Includes Rapides Parish only.

²Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.

³Includes Terrebonne and Lafourche Parishes.

⁴Includes St. Martin and Lafayette Parishes.

⁵Includes Calcasieu Parish only.

⁶Includes Ouachita Parish only.

⁷Includes Jefferson, Orleans, St. Tammany, St. Bernard, St. John the Baptist, and St. Charles Parishes.

⁸Includes Caddo and Bossier Parishes.

Source: Income data provided by U. S. Department of Housing and Urban Development, December 1, 1988.

APPENDIX 4

1980 Median Family Income
By Parish and MSA

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	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
E. 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		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	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:

¹Includes Rapides and Grant Parishes.

²Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.

³Includes Lafayette Parish only.

⁴Includes Calcasieu Parish only.

⁵Includes Ouachita Parish only.

⁶Includes Jefferson, Orleans, St. Bernard, and St. Tammany Parishes.

⁷Includes Bossier, Caddo, and Webster Parishes.

Source: 1980 Census and Formula provided by U. S. Department of Housing and Urban Development.

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LCDBG Program - FY 1990 Final Statement**

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

Approximately \$560,000 in federal funds will be provided to administer the LCDBG Program; a state match of \$460,000 is required and will be allocated in the division's budget over a six-year period. As in the past, the state will maximize the use of in-kind services to match the federal funds.

To ensure that the local units of government do not have to expend local funds to administer these grants, administrative funds are provided in the grant to cover the cost of program implementation.

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

The state anticipates receiving approximately \$23,000,000 of which \$22,440,000 will be used to benefit local governing units in the areas of housing, public facilities, and economic development. The distribution of these funds will slightly increase the amount previously available for housing and slightly decrease the amount previously available for public facilities.

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

The LCDBG Program basically benefits persons of low/moderate income throughout the state. Although slightly less persons will receive benefits from infrastructure improvements (water, sewer, and other), more persons will receive housing assistance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All construction projects are subject to state and federal bid laws. All professional contracts must be awarded in accordance with OMB Circular A-102. The allocation of less funds to public facilities projects will result in approximately one less construction contract. This will be offset by the fact that more monies will be available to small contractors participating in the housing rehabilitation program.

Dennis Stine
Commissioner of Administration

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners for Speech Pathology

The Louisiana Board of Examiners for Speech Pathology and Audiology hereby announces its intent to adopt the following rule which defines the use of aides, assistants and helpers by speech-language pathologists/audiologists.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 3. Aides, Assistants and Helpers

§301. Qualifications

Licensed speech-language pathologists, sometimes referred to as speech therapists or speech clinicians and audiologists are legally, ethically and morally responsible for the activities of aides, assistants or helpers who assist them. The requirements for the use of aides, assistants and helpers by speech-language pathologists/audiologists follow.

A. A licensed speech-language pathologist/audiologist may employ or utilize an aide, assistant or helper who meets the following qualifications:

1. The aide, assistant or helper shall be at least 18 years old.
2. The aide, assistant or helper shall possess appropriate communication skills for the population to be served.
3. The aide, assistant or helper shall have a high school education or G.E.D.
4. The aide, assistant or helper shall have good moral character which is presumed by the board unless otherwise advanced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 16:

§303. Requirements of Speech-Language Pathologists/Audiologists in Monitoring Aides, Assistants and Helpers

A. The supervising speech-language pathologist/audiologist is responsible for determining that the aide, assistant or helper is satisfactorily qualified and prepared for the duties which he/she will be assigned.

B. The schedule of supervision by the licensed speech-language pathologist/audiologist must include direct supervision for at least 25 percent of the patient/client contact time of the aide, assistant or helper for the initial year of the aide, assistant or helper's employment. For the following years, the direct supervision time shall be developed by the supervising speech-language pathologist/audiologist on an individual basis and be no less than 10 percent of the clinical contact time. In all cases, 50 percent of the patient/client supervision must be in person, but other avenues of supervision may be pursued. Documentation by the supervising speech-language pathologist/audiologist is required.

C. The supervising speech-language pathologist/audiologist must report annually to the Licensure Board the names and employment locations of aides, assistants and helpers supervised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology

and Audiology, LR 16:

§305. Activities of Aides, Assistants or Helpers

A. The supervising speech-language pathologist/audiologist may use an aide, assistant or helper to do the following:

1. setting up room and equipment for evaluation/intervention/conference;
2. clearing room and storing equipment after evaluation/intervention/conference;
3. preparing materials for use by the speech-language pathologist/audiologist in intervention, evaluation and carryover, such as making copies, typing forms;
4. transporting clients to and from clinical sessions;
5. assisting with field trips and other communication stimulation situations;
6. applying basic language stimulation strategies and exercises in daily living skills as directed and approved by the speech-language pathologist/audiologist;
7. performing basic speech, language or hearing screening with supervision of the speech-language pathologist/audiologist;
8. performing industrial audiometric testing;
9. recording, charting, graphing or otherwise displaying objective data relative to the client's performance;
10. reporting objective changes in performance to the speech-language pathologist/audiologist responsible for that client;
11. testing equipment to determine if the equipment is performing adequately.

B. Only the speech-language pathologist/audiologist shall exercise independent judgment in performing professional procedures for the client. The speech-language pathologist/audiologist may not delegate the exercise of his/her independent judgment to the aide, assistant or helper under any circumstances. Specifically, the speech-language pathologist/audiologist may not delegate any of the following to the aide, assistant or helper.

1. Diagnosis or treatment planning for individuals with speech, language or hearing disorders.
2. Interpretation or discussion of confidential information or test results despite the fact that this information may be requested by the patient, parent or referring agent.
3. Performance of any procedure for which they are not qualified and/or have not been adequately trained.
4. Use of the title "Speech Pathologist" or "Audiologist" either verbally or in writing. Aides may however, wish to refer to themselves as aides, assistants or helpers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech Pathology and Audiology, LR 16:

Interested persons may submit written comments or objections until 4:30 p.m. on December 31, 1989 to Dianne P. Orlesh, Chairperson, Louisiana Board of Examiners for Speech Pathology and Audiology, Box 355, Prairieville, LA 70769.

The board will hold an open meeting to discuss the rule at 10 a.m. in the Governor Long Room of the Bellemont Motor Hotel, 7370 Airline Highway, Baton Rouge, LA, on December 28, 1989.

Dianne P. Orlesh
Chairperson

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Aides, Assistants and Helpers**

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

The cost to implement this rule will be approximately \$110 in personal services which covers the clerical services involved in copying and mailing the rule to licensees for comments. The \$1,500 in operating expenses covers the cost of reproducing and mailing the proposed rule to all licensees and the cost of scheduling a public hearing. The \$300 allocated for professional services covers legal counsel's review of the rule. The total estimated cost to implement the rule is \$1,910.

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

There will be no increase in the board's revenue due to the implementation of this rule. The rule only defines the requirements for the use of aides, assistants or helpers who assist speech-language pathologists/audiologists in the State of Louisiana.

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

There will be no costs and/or economic benefits to licensees based on the implementation of this rule. The rule only defines the requirements for the use of aides, assistants and helpers who assist speech-language pathologists/audiologists in the State of Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The board estimates that there will no effect on competition and employment based on the implementation of this rule.

Suzanne L. Pevey
Executive Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

The Bureau of Health Services Financing has developed program policy and payment standards which will allow federal financial participation in the funding of Optional Targeted Case Management Service for mentally retarded/developmentally disabled (MR/DD) individuals under Title XIX of the Social Security Act. Such funding will become available upon implementation of these services, which are provided in accordance with Title XIX requirements.

Under this proposed rule, Case Management Services will be provided to mentally retarded/developmentally disabled individuals, subject to Title XIX limitations necessary to receive federal financial participation. Provision of such services will enable recipients to receive multiple health/social/informal services

which the recipient is unable to arrange without assistance.

Certain service and cost limitations are applicable for provision of this service. Reimbursement will be a statewide prospective rate based on allowable cost not to exceed \$9.37 per unit of service. A maximum unit of service limitation based on utilization shall be established. Maximum caseload size for each case manager is 45 cases. It is anticipated that 350 recipients will receive these services the first year, 550 recipients the second year, and 750 recipients the third year.

PROPOSED RULE

Case Management for mentally retarded/developmentally disabled individuals is defined as:

1. development of initial service plan which identifies the evaluations necessary to determine the recipient's service needs;
2. arrangements for and compilation of interdisciplinary team or other evaluative materials;
3. coordination and participation in the development of a comprehensive service plan for each recipient which includes both formal and informal services;
4. training and support of the recipients in the use of personal and community resources identified on the care plan;
5. advocacy on behalf of recipients so that they may receive appropriate benefits or service;
6. periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs;
7. maintenance of documentation of each service provided to a recipient;
8. during such time as the state has an approved §1915(c) waiver, monitoring service delivery in order to assess progress, the quality of services and that the services are being provided as ordered by the ID Team.

9. for recipients of MR/DD waiver services, implementation and maintenance of cost containment measures through periodic calculation of each recipient's waiver service costs.

This service will be reimbursed when provided to MR/DD individuals subject to the limitations specified below.

1. The following conditions must be met for services to be reimbursed:

A. A recipient of services must meet the criteria listed below:

(1) the recipient must meet the definition of "Developmentally Disabled" as defined by the Division of Mental Retardation and Developmental Disabilities, and

(2) the recipient is unable to access the necessary services, and

(3) the recipient, except in the instance of waiver recipients, must require services from multiple health/social/informal services providers, and

(4) (a) the individual is at risk of becoming homeless or in need of protection from harm due to environmental or live circumstances, need for supervision, or potential threat of abuse or neglect, or

(b) the individual has been institutionalized, is at risk of becoming institutionalized or would otherwise require ICF/MR level of care unless eligible to participate in Medicaid Home and Community Based Waiver Services.

B. A recipient may receive services on an inpatient or an outpatient basis.

C. Providers of case management services under this provision will not be reimbursed for specific services provided to individuals in institution settings when those services are included in the per diem rate for the institution.

D. The recipient will not be forced under this provision to

receive case management services for which he or she may be eligible.

E. Case management services under this provision will not be used to restrict the access of the recipient to other services available under the State Plan.

F. Payment for case management services under this provision will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

G. The maximum number of units of service covered by this provision per individual per calendar year shall be limited in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

2. Standards for Participation

The provider of case management services must:

A. enter into a provider agreement with the Bureau of Health Services Financing;

B. be licensed to provide case management services in the state.

C. have been certified by the Office of Mental Retardation/Developmental Disabilities as having adequate programming and administration to provide the service effectively and efficiently.

3. Standards for Payment

In order to be reimbursed by the state, the provider of case management services must:

A. insure that all case management services are provided by individuals who meet the following education and experience requirements:

(1) an individual with at least a bachelor's degree in a human service related field plus two years of experience in such a field;

(2) years of experience in human services related field may be substituted for the bachelor's degree on an equivalent basis of one year of experience for 30 hours of course credit;

(3) 30 hours or more graduate level course credit in the human services field may be substituted for one year of the experience;

B. insure that services are provided according to an individualized plan of care developed by an interdisciplinary team of professionals;

C. insure that only one individual who is an employee of the case management agency is assigned as the primary case manager for each recipient;

D. insure that the one case manager for each recipient under this provision visits the recipient in accordance with the plan of care;

E. insure that the individual assigned as the case manager maintains contact with the recipient or his/her legal representative and that these contacts are documented in progress notes and address the efficacy of the care plan;

F. insure that the case manager assigned to serve the recipient as well as any other employee of the case management provider providing services keep sufficient records to document the services being provided;

G. insure that appropriate professional consultation is available to each case manager at all times;

H. insure that appropriate referrals for services are made and documented for each recipient served under this provision;

I. insure that the maximum caseload established by the Bureau of Health Services Financing for a case manager is not exceeded;

J. insure that each recipient has freedom of choice with

regard to providers of any service, including case management services;

K. abide by the articles of the Provider Agreement entered into with the Bureau of Health Services Financing.

4. General Provisions

A. Providers of case management services will be reimbursed on a unit of service basis. A unit of service negotiated fee will be established based on the cost of providing case management service. Reimbursement will be based on allowable cost not to exceed limitations established by the Bureau of Health Services Financing.

B. Providers of case management services shall maintain time sheets which are completed by their case managers to document the units of service they have provided. A unit of service will be defined for each provider as 15 minutes. Time sheets shall contain the dates and times of service provision and be maintained for audit as prescribed in the Standards for Payment.

C. The number of units of service to be reimbursed by the state for each individual in a calendar year shall not exceed the maximum established under the Title XIX State Plan agreement.

D. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in the Standards for Payment shall be adhered to by providers of Case Management Services.

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 70821-1030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on January 3, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Bureau of Health Services Financing, MR/DD Case Management Services

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

Implementation of the proposed rule could result in decreased state expenditures of \$94,038 in FY 89/90, \$265,389 in FY 90/91, and \$202,131 in FY 91/92. Changes in amounts of state and federal funds are due to change in match rates from administrative (50/50) to the current Title XIX service rate for each year.

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

Implementation of the proposed rule could increase federal matching funds for Title XIX vendor payments by \$124,569 for FY 89/90, by \$88,887 for FY 90/91, and by \$276,880 for FY 91/92.

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

Implementation of the proposed rule will provide addi-

tional case management services to mentally retarded/developmentally disabled individuals, resulting in enhanced health/social/informal services necessary to support independent living which the recipient is unable to arrange without assistance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

PL 90-1

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq, notice is hereby given that the Louisiana Office of Conservation has initiated rulemaking procedures to adopt drug testing regulations.

A public hearing will be held at 9 a.m. on January 18, 1990, in the Conservation Auditorium, State Land and Natural Resources Building, 625 North Fourth Street.

A copy of the proposed regulations may be obtained from the Office of Conservation at the address below.

Written comments should be submitted not later than January 17, 1990, to J. Patrick Batchelor, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

J. Patrick Batchelor
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Drug Testing**

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

There will be no increase in the cost of the State Pipeline Safety Program because administration of the drug testing requirements will be carried out with existing personnel. Local governments will be required to comply with the drug testing regulations and this will cost municipally owned gas systems about \$100 per year for each employee involved in the operation of the gas distribution system.

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

The proposed rule does not provide for revenue collections by state or local governmental units.

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

The federally mandated drug testing requirements are designed to provide for a safer gas system and a drug-free work environment. The proposed rule may increase operating

costs of regulated gas companies by up to an estimated \$100 per year for each employee involved in the operation of the gas distribution system. Operators will be required to test at least 50 percent of employees each year, to contract with a drug testing laboratory and to designate or contract with a physician as a medical review officer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The drug testing requirements of the proposed rule are designed to help ensure a drug-free work force. Operators may not knowingly employ persons who fail or refuse to take a drug test, except that persons failing a drug test may be retested after successful completion of a rehabilitation program.

J. Patrick Batchelor
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Private Security Examiners**

In accordance with the provisions of the Administrative Procedure Act (LSA-R.S. 49:950 et seq.) and under the authority of LSA-R.S. 37:3270-3298, the Department of Public Safety and Corrections, the Louisiana State Board of Private Security Examiners is hereby giving notice of its intention to repromulgate its rules and regulations to govern the private security industry under Title 46, Part LIX, Professional and Occupational Standards.

The first rules and regulations of the Louisiana State Board of Private Security Examiners were published in the December 20, 1987 issue of the *Louisiana Register*. Amendments to the rules were published in the January 20, 1989 issue and October 20, 1989 issue of the *Louisiana Register*.

A description of the rules is outlined as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIX. Private Security Examiners

Chapter 1. Organization and General Provisions

§101. Organization and General Provisions

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- B. Domicile of the board
- C. Meetings of the board
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Chapter 2. Application and Requirements for Company License

§201. Application and Requirements for Company License

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§301. Examination

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Chapter 4. Registration of Security Officers

§401. Registration of Security Officers

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- D. Denial of application due to conviction
- E. Procedure for registration. Provisions for special events and dual registration
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- G. Registrant to advise board in writing within 10 calendar

days of any change in status, eligibility or address

- H. Registration cards are valid for 2 years
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- J. Registrant must surrender registration card upon termination or loss of eligibility within 48 hours
- K. Licensee shall return registration card to board within 10 working days of registrant who ceases employment
- L. Registration cards are the property of the board
- M. Registrant responsible for loss or mutilation of registration card and will be assessed a \$10 fee for reissuance of the card
- N. Transfer procedure
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R. Board required to inform company 45-60 days prior to expiration date of registration card of each security officer in their employ. Renewal form must be submitted to board within 30 days prior to expiration date.

S. Security officer only carrying a baton shall be issued an armed registration card classified as baton only.

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§501. Training

- A. Required classroom training for security officers
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- C. Description of first eight hours classroom training
- D. Firearms proficiency course
- E. Baton training requirements
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- G. Qualifications of a classroom instructor
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- O. Instructor examination
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§601. Hearing Provisions

- A. Disciplinary action the board may impose for good cause shown
- B. Minimum amount of votes by board members to suspend or revoke a license, or impose costs or fines in excess of \$500
- C. Procedures for cease and desist orders and injunctions
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- E. Show cause orders
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§701. Grounds for Non-issuance, Suspension, Restrictions

A. Grounds for non-issuance, suspension, restrictions

§703. Administrative Fines

A. Outline of administrative fines that may be assessed by the Executive Secretary in lieu of, but not limited to, bringing licensees in non-compliance before the board at a hearing

§705. Licensee's Suitability and Business Relationships

A. Disciplinary action the board may take if it finds a licensee or business entity unsuitable for licensing

B. Criteria for determining the suitability of an applicant for licensing

§707. Employee Records Required to be Kept and Subject to Inspection

A. Description of items required to be kept on file and subject to inspection by authorized representative of the board

§709. Inspection of Records

A. Licensees required to make available to the board for inspection employee records and other information to insure compliance with LSA-R.S. 37:3270-3298 and the rules and regulations of the board

B. Board shall notify company in writing 15 days prior to conducting a routine inspection of employee records

C. Board shall notify company in writing three days prior to conducting an inspection of employee records brought on by a complaint

D. Company will have no more than 30 days to comply with board's written findings as a result of any inspection, in addition to paying any fine assessed

§711. Investigations

A. Board's authority to investigate actions of any licensee

B. Investigations are exempt from written and verbal notification

§713. Licensees and trainers responsibility to keep records of tests and verification of training on registrants

§715. No person shall engage in business of contract security except in accordance with LSA-R.S. 37:3270-3298 and the board's rules and regulation

§717. Violations by registrants

Chapter 8. Insignias, Markings, Restrictions

§801. Restrictions

A. The word "police" may not be used or displayed on any badge, patch, or insignia by any individual in the contract security industry

B. Board will decide on individual basis if badge, patch, insignia or other marking would lead a reasonable man to believe they are a sworn peace officer

C. A copy of badges and insignias shall be submitted to board for approval

D. No person in the contract security industry shall have or use any vehicle, equipment, sign, shield, marking or insignia displaying the words "police" or "law enforcement"

E. Security officer uniforms shall be specifically described in writing and a full length picture submitted to board for approval

F. No badge or insignia with the initials "SP" or "SO" may be worn on the uniform of a security officer

§803. Licensee shall not display any red or blue emergency lights on any vehicles

Chapter 9. Rules Making Process; Public Information

§901. Procedure for rule making in accordance with the Administrative Procedure Act

§903. Procedure for amending rules and regulations

§905. Request for copies of the board's rules and regulations

§907. Public comments on rules and regulations

Interested persons may obtain a copy of the entire rules and regulations at the offices of the Louisiana State Board of Private Security Examiners located at 5235 Florida Blvd., Suite H, Baton Rouge, LA 70896. Comments or objections should be addressed in writing to Cynthia Fonté, Executive Secretary at the above address.

Cynthia Fonté
Executive Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Title 46, Part LIX, Professional and Occupational Standards

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

There are no costs or savings estimated to implement the rules because there are no changes or additions being proposed. This is repromulgation of existing rules.

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

There are no estimated effects on revenue collections as this is a repromulgation of existing rules.

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 as this is a repromulgation of existing rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as this is a repromulgation of existing rules.

Cynthia Fonté
Executive Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Fire Marshal Act (R.S. 40:1561 et seq.) the Department of Public Safety and Corrections, Office of State Fire Marshal is hereby giving notice of its intention to adopt the following rule relative to preparation of plans and specifications to be submitted to the Office of State Fire Marshal:

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 3. Buildings

§301. Building Permits

* * *

C. Plans specification submitted in violation of R.S. 37:155 (4) will be rejected by the Office of State Fire Marshal and deemed to be "NOT IN COMPLIANCE".

Interested persons may submit written comments or inquiries until 4:30 p.m. on March 1, 1990 to Jerry Jones, Chief Architect, Office of State Fire Marshal, Box 66614, Baton Rouge, LA 70896.

Carrol L. Herring
State Fire Marshal

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Preparation of Plans and Specification**

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

The proposed rule codifies the policy presently in effect at the Office of State Fire Marshal and should not require additional funds to implement other than approximately \$50 (printing and postage) to disseminate the proposed rule.

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

The proposed rule will have no effect on revenue collection of the state or local government units.

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

The proposed rule codifies the present policy that certain plans and specifications submitted to the Office of State Fire Marshal are to be prepared by licensed architects. The proposed codification would neither increase cost nor benefit any particular group such as architects, building owners or developers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition or employment. The present policy is based upon the statutory requirements contained in R.S. 37:141 et seq., the architectural licensing law, and more specifically R.S. 37:155 (4).

Rex McDonald
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Transportation and Development
Board of Registration for Professional Engineers and
Land Surveyors**

In accordance with R.S. 49:950 et seq., notice is hereby given that the Louisiana State Board of Registration for Professional Engineers and Land Surveyors intends to revise Louisiana Administrative Code 46-LXI as follows:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Professional Engineers and Land Surveyors**

**Chapter 21. Rules of Professional Conduct
§2105. Services**

A. Registrants shall perform services only in the area of

their competence.

B. Registrants shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or land surveying involved.

C. Registrants shall undertake to perform professional engineering or land surveying services only after having been selected on the basis of competency and qualifications. Registrants shall not solicit or submit fee proposals prior to selection.

D. Registrants shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competence, nor to any such plan or document not prepared under their direction and control.

E. Registrants may accept an assignment outside of their fields of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that they are satisfied that all other phases of such project will be performed or supervised by registered, qualified associates, consultants, or employees, in which case they may then sign and seal the documents for the total project.

F. In the event a question arises as to the competence of a registrant in a specific technical field which cannot be otherwise resolved to the state board's satisfaction, the state board, either upon request of the registrant or on its own volition, shall admit the registrant to an appropriate examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:698.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 16:

Interested persons may submit written comments or offer amendments to the proposed rules to the board office at 1055 St. Charles Avenue, Suite 415, New Orleans, LA 70130-3997, at any time prior to January 10, 1990. The board proposes to consider and take action on the adoption of these rules at a meeting in its office at 11 a.m. on January 23, 1990.

By order of the Louisiana State Board of Registration for Professional Engineers and Land Surveyors.

Paul L. Landry, P.E.
Executive Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 46-LXI, Chapter 21 Section 2105.C**

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

There is no cost to implement this rule change.

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

There is no effect on revenue collections.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

COMPETITION - Current procurement in Louisiana for professional engineering and land surveying services does not prohibit competitive bidding. Some other states, however, do prohibit such practice. The United States Govern-

ment, through the Brooks Act, requires the procurement of engineering and land surveying services be on the basis of Qualification Based Selection (QBS) in which is not a factor. This is a competitive process, without price as an initial consideration.

The proposed rule will have an effect on the type of competition but will not eliminate competition. Procurement of professional engineering and land surveying services should be through a QBS competitive process not only in the public sector (where such selection currently is in practice) but also in the private sector.

EMPLOYMENT - There should be no appreciable effect on employment from the proposed rule. The number of labor-hours will continue to be based on demand for professional engineering and land surveying services, regardless of the technique by which the services are procured.

Paul L. Landry, P.E.
Executive Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to adopt the medical fee schedule as mandated by Act 429 and House Concurrent Resolution No. 168 of the 1989 Regular Legislative Session, effective January 1, 1990:

Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m. on February 8, 1990, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, Telephone (504) 925-6668. These rules may be obtained in their entirety by contacting the executive director at the above address.

James D. McElveen
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Medical Fee Schedule

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

According to our consulting actuary, the Martin E. Segal Company, implementation of this rule change will produce approximately \$2,794,000 in first year savings to the State Employees Group Benefits Program. These savings will impact the extent of future insurance premium increases which will result in future savings to other state or local governmental units.

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

The proposed fee schedule will reduce future costs and funding requirements for the State Employees Group Bene-

fits Program by at least \$2,794,000 per year. The program is funded by self-generated revenues from premiums which are paid by employee contributions (50 percent) and by state agency contributions (50 percent).

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

Payments to medical providers and/or plan members by the State Employees Group Benefits Program will be reduced by an estimated \$2,794,000 charge for medical services provided by any health care provider that accepts assignment of benefits shall not exceed the amount authorized by the fee schedule. Providers who do not accept assignment of benefits may bill plan members for the difference between charges and the amounts payable under the fee schedule. Plan members will benefit from a reduction in future premium increases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be impacted by this proposed rule change.

James D. McElveen
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of the Treasury Office of the Treasurer

The State Treasurer, Department of the Treasury, advertises its intent to amend LAC 64:V.103 as authorized by LSA-R.S. 49:327(B)(1)(d). The original rule published on September 20, 1989 established a procedure for determining the blended rate on non-competitive time certificates of deposit and a procedure for obtaining competitive bids on funds designated by the State Treasurer for investment in time certificates of deposit. The changes to the original rule are both substantive and technical/procedural in nature.

Title 64 SECURITIES - INVESTMENTS Part V. Office of the Treasurer Subpart 1. Investments

Chapter I. Permissible Investments §103. Time Certificates of Deposit

A. Non-Competitive Bid Procedures for Time Certificates of Deposit

The state treasurer shall designate the amount of state funds available for time certificates of deposit to financial institutions in the State of Louisiana.

1. Frequency of Rate Setting. Each Tuesday, or in the case of a holiday, the first business day following the holiday, the state treasurer shall set interest rates to be paid on certificates of deposit. This interest rate shall remain in effect until the next Tuesday or first business day following the holiday.

2. Procedure for Time Certificates of Deposit Maturing One Year or Less. The interest rate shall be determined by the following procedure for certificates of deposit maturing one year or less:

a. The following interest rates shall be surveyed on the

day the interest rate is set and averaged to determine the interest rate.

i. National Certificates of Deposit which is the average of the top rates paid by major New York money banks on primary new issues of negotiable certificates of deposits, usually on amounts of \$1,000,000 or more with similar length of maturity as quoted from the *Wall Street Journal* or a nationally recognized quotation system or the National Average of Jumbo Certificates of Deposit as compiled by *Money Markets* cited in the *Wall Street Journal* or a nationally recognized quotation system, less 15 basis points.

ii. U.S. Treasury Obligation with similar length of maturity at the bond equivalent rate adjusted for a 360-day basis obtained from the current auction or *Wall Street Journal*.

iii. Survey of Financial Institution Rates of Interest on a weekly rotating basis shall be conducted. Two small and two large financial institutions from those eligible to receive public funds deposits shall be polled as to the interest rate offered on published jumbo certificates of deposits of \$100,000. The highest rate from each of the small and large financial institutions polled shall then be averaged, 15 basis points shall be deducted from the averaged figure and the result shall be the interest rate for this category. To establish the ranking of a financial institution as small or large, annually in April, the state treasurer shall compile a list of financial institutions by total assets based on the latest annual financial statements available, as ranked by Sheshunoff Bank Rankings, the Louisiana Banker's Association, or other listing. The financial institution shall be ranked by size as follows:

- (a). Small: \$0-\$100 million in total assets
- (b). Large: Greater than \$100 million in total assets.

b. Minimum Interest Rate. For maturities of one year or less, the minimum interest rate shall be the discount rate on U.S. Treasury bills with a similar length of maturity.

c. Determination of Rate. The interest rate shall be an equally weighted average of those interest rates obtained in §103.A.1.a.i., ii. and iii. This interest rate shall be compared to the minimum interest rate in §103.A.2.b. Whichever rate is higher shall be the rate of interest on the time certificates of deposit.

d. Calculation and Interest Payment. All certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. The treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is determined appropriate by the treasurer to protect state funds.

3. Procedure for Time Certificates of Deposit Maturing Greater than One Year. The interest rate shall be determined by the following procedure for certificates of deposit maturing greater than one year.

a. The following interest rates shall be surveyed on the day the interest rate is set and averaged to determine the interest rate.

i. U.S. Treasury Obligation with similar length of maturity calculated on yield to maturity obtained from the current auction or *Wall Street Journal*.

ii. Agencies. Any one of the agencies listed in §101 with similar length of maturity calculated on yield to maturity obtained from the *Wall Street Journal*.

iii. Survey of Financial Institution Rates of Interest on a weekly rotating basis shall be conducted. Two small and two

large financial institutions from those eligible to receive public funds deposits shall be polled as to the interest rate offered of jumbo certificates of deposits of \$100,000. The highest rate from each of the small and large financial institutions polled shall then be averaged, 15 basis points shall be deducted from the averaged figure and the result shall be the interest rate for this category. To establish the ranking of a financial institution as small or large, annually in April, the state treasurer shall compile a list of financial institutions by total assets based on the latest annual financial statements available, as ranked by Sheshunoff Bank Rankings, the Louisiana Banker's Association, or other listing. The financial institutions shall be ranked by size as follows:

- (a). Small: \$0-\$100 million in total assets
- (b). Large: Greater than \$100 million in total assets.

b. Minimum Interest Rate. For maturities of greater than one year, the minimum interest rate shall be the yield to maturity on U.S. Treasuries with similar length maturities.

c. Determination of Rate. The interest rate shall be an equally weighted average of those interest rates obtained in §103.A.3.a.i., ii. and iii. This interest rate shall be compared to the minimum interest rate in §103.A.3.b. Whichever rate is the higher shall be the rate of interest on the time certificates of deposit.

d. Calculation and Interest Payment. All certificates of deposit maturing in greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of inception. The state treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the treasurer to protect state funds.

B. Competitive Bid Time Certificates of Deposit

Pursuant to R.S. 49:327B(1)(d), 20 percent of the amount designated by the treasurer to be available for certificates of deposit to financial institutions in the state of Louisiana may be competitively bid.

1. Frequency of Bid. On the third Tuesday of each month, or in the case of a holiday, the first business day following the third Tuesday of each month, the state treasurer may offer the amount of funds determined to be available for competitive bid to be invested effective on the second business day following the acceptance of the bids. Should additional funds become available for competitive bid, the state treasurer reserves the right to offer such funds for bid on any business day.

2. Eligibility to Bid. A financial institution shall become eligible to bid on the designated amount of state funds by annually completing a questionnaire by which the financial institution shall certify the following:

a. Each financial institution shall state the amount of state funds it will be able to accept for bid. Refer to §103.C. for the total maximum amount of certificates of deposit which shall be allowed to be maintained by each financial institution.

b. Meets Federal Deposit Insurance Corporation (FDIC), Savings Association Insurance Fund (SAIF), Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund and National Credit Union Association (NCUA) capital adequacy requirements.

c. Solvent under generally accepted accounting principles and/or regulatory accounting requirements.

d. The financial institution is profitable in one of the last three years as indicated in the audited financial statements or fiscal year end financial statements certified by the Board of Di-

rectors of the financial institution.

Should the overall financial condition of the financial institution substantially decline from the previous period, the state treasurer shall remove this financial institution from the list of eligible bid institutions until the institution's financial condition has returned to the minimum criteria stated above.

3. Required Financial Information. The financial institutions participating in the bid process for certificates of deposit shall provide the state treasurer's office with publicly disclosable quarterly call reports when filed with the appropriate regulatory authority. The complete quarterly call report shall be sent to the state treasurer in 90 days from the end of the quarter. Annual audited financial statements or financial statements certified by the Board of Directors, if annual audited statements are not available, shall be provided to the state treasurer upon completion.

4. Minimum Interest Rate. For maturities of one year or less, the minimum interest rate shall be the discount rate on U.S. Treasury bills with a similar length of maturity. For maturities of greater than one year, the minimum interest rate shall be the yield of maturity on U.S. Treasury Obligations with similar length maturities as provided for in §103.A.2.b. and §103.A.3.b.

5. Determination of Rate. The state treasurer shall determine the amount of funds available for competitive bid. Bids will be opened for the available amount of funds from 9 a.m. to 12 p.m. on the third Tuesday of each month, or in the case of a holiday, the first business day following the third Tuesday of each month. Those financial institutions eligible under §103.B.2. and who are interested in bidding for available state funds may call the state treasurer's office from 9 a.m. to 12 p.m. on the day designated and bid on the state funds indicating a dollar amount and interest rate. The highest interest rate bid shall be accepted provided that the interest rate is the same as or above the minimum rate in §103.B.4. and deemed acceptable to the state treasurer. The state treasurer reserves the right to reject all bids. The winners of the bid(s) will be notified by phone between 1 p.m. and 4:30 p.m. on the same day. The financial institutions winning the bid shall confirm in writing the amount and interest rate the financial institution bid by telephone. The certificates of deposit shall be effective on the second business day after acceptance of the bid(s). Upon receipt of acceptable collateral on the effective date, the state treasurer shall wire the appropriate amount of funds to the financial institution. Interest shall begin to accrue on the second business day after the acceptance of the bid(s).

6. Collateral for Competitive Bid Time Certificates of Deposit. Collateral for competitive bid time certificates of deposit shall be in a form acceptable to the state treasurer as indicated on the most recent list of acceptable collateral prepared by the state treasurer's office. Such a list is available upon request. Should the state treasurer deem it necessary to limit the acceptable collateral, each bidder shall be notified of such change prior to the bid.

7. Calculation and Interest Payment. All certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. All certificates of deposit maturing greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of inception. The state treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the state treasurer to pro-

tect state funds.

C. Total Amount of Certificates of Deposit with each Financial Institution

The maximum total amount of certificates of deposit with each eligible financial institution of bid and non-bid certificates shall not exceed at any one time, the total capital, surplus and undivided profits, exclusive of loan loss reserves. Should the financial institution have losses indicated, the loss shall be deducted from the total capital and surplus to determine the total amount of certificates of deposit at any one time. The total amount of certificates of deposit shall be determined based on the latest annual financial statements available which have been certified by the secretary of the board. This determination shall be set annually in April. The state treasurer reserves the right to maintain less than the maximum amount of deposits with the financial institution should the treasurer deem it in the best interest of the state. §103.C. shall be phased in over a one-year period commencing January 1, 1990.

D. Collateral Securing Certificates of Deposit

1. Each financial institution shall submit a signed collateral agreement as issued by the treasurer in order to be eligible for both bid and non-bid certificates of deposit. This requirement shall be effective upon completion of the collateral agreement by the state treasurer.

2. All collateral securing certificates of deposit shall be in a form acceptable to the treasurer and meet the collateral requirements under R.S. 49:321.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327B(1)(b).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15:751 (September 1989), amended LR 16:

Interested persons may submit written comments or oral comments with a written confirmation on the proposed amended rule until 4:30 p.m., January 4, 1990 at the following address: Mary L. Landrieu, State Treasurer, or, Shelley A. MacNary, First Assistant State Treasurer, Department of the Treasury, Box 44154, Baton Rouge, LA 70804, (504) 342-0010.

A public hearing is scheduled Thursday, January 4, 1990, at 10 a.m. in Senate Committee Room E, State Capitol.

Mary L. Landrieu
State Treasurer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Time Certificates of Deposit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
None

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

The original rules and regulations initially published by notice of intent on July 20, 1989 and discussed at the public hearing on August 4, 1989, have been amended with a substantive change and several technical changes. The substantive change is in §103.A.2.a.i in which 15 basis points are deducted from the National CD rate (one of three component rates for the blended CD rate).

Prior to September 1988 under prior legislation and different investment policies, the interest rate utilized from non-

competitive CD investments was the U. S. Treasury bill discount rate. With the change in legislation during the 1988 Secondary Extraordinary Session and investment policies by the treasurer, the current rate practice and the originally proposed rule for a blended rate would have yielded approximately \$1,225,000 per year more in interest earnings than the practice of using the U. S. Treasury bill discount rate. Under the amended rule with the deduction of 15 basis points from the National CD rate component, \$1,050,000 in annual interest income will be generated as compared to the additional \$1,225,000 in annual interest generated with the current practice. Therefore, based on the current yield curve, there is a projected potential decrease in annual interest income under the amended rule of \$175,000, or five basis points less as compared to the current method being used by the treasurer.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
None.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
None.

Mary L. Landrieu
State Treasurer

John R. Rombach
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Sanctuaries: Calcasieu Lake**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no significant cost to the state as enforcement of this rule will be handled along with current enforcement activities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no effect on revenue collections of the state or local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This rule will have no long-term cost or benefit to the affected persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The rule will reduce competition in the closed areas but should have no long-term effect on employment since adjacent areas in Calcasieu Lake will remain open.

Bettsie Baker
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishing
§333. Sanctuaries; Calcasieu Lake**

The Wildlife and Fisheries Commission does hereby give notice of its intent to establish shrimp sanctuaries and closed zones, and prohibit all netting of fish by any means or methods, including but not limited to trawls, butterfly nets, gill nets, seines, or trammel nets with the exception of hand cast nets within a one-quarter-mile radius of the Lambert, Grand Bayou, Mangrove and Peconi water control structures (otherwise identified as structures No. 5, 1, 8 and 4 respectively) within Calcasieu Lake.

Interested persons may submit written comments relative to the proposed rule until 4:30 p.m. January 20, 1990 to Jerry Clark, Assistant Secretary, Office of Fisheries, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:315

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 16:

Donald Hines
Chairman

Potpourri

POTPOURRI

**Department of Agriculture and Forestry
Horticulture Commission**

The next retail floristry examinations will be given at 10 a.m. daily at the Lafayette Regional Vo-Tech Institute in Lafayette, LA. The deadline for getting in application and fee is January 5, 1990. 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 23-26, 1990.

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

**Board of Levee Commissioners
East Jefferson Levee District**

**Drainage Requirements for
Construction Adjacent to Levee**

The Board of Commissioners for the East Jefferson Levee District has ordained that all permits for construction on or development of property contiguous to the land-side levee right-of-way, include a requirement for a means to dispose of the water from the levee that otherwise would be intercepted, blocked, or diverted by the proposed construction or development.

Such drainage may be accomplished by a drop inlet on the levee right-of-way and subsurface culvert to the fronting street, or by some other means, submitted to and approved by the board.

Gregory F. Gambel
President

POTPOURRI

**Department of Environmental Quality
Office of the Secretary**

The Louisiana Department of Environmental Quality published the notice of intent that rulemaking procedures had been initiated to adopt proposed amendments to LAC 33.I, Sections 101 through 2333 governing administrative proceedings of the department in the *Louisiana Register* on November 20, 1989. The proposed rules will provide a uniform and consistent system for governing administrative procedure within the Department of Environmental Quality. The deadline for submission of public comments on the proposed amendments was set for Monday, December 11, 1989, and a public hearing on the proposed amendments was held on December 8, 1989. Requests were received by the department to extend the deadline for comment submission.

The department hereby extends the deadline for the submission of public comments on the amendments noted above until 4:30 p.m. on Monday, January 8, 1989. Comments should be addressed to Joan Albritton, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA 70804. They also may be delivered to the sixth floor at 333 Laurel Street in Baton Rouge, LA.

Paul H. Templet, Ph.D.
Secretary

POTPOURRI

**Department of Health and Hospitals
Office of Public Health
Environmental Services Division**

In accordance with provisions of the Louisiana Administrative Code, the Department of Health and Hospitals, Office of Public Health, Environmental Services Division has approved a

petition by Delta Fiberglass and Environmental Products, Inc. to assume control of permits, marketing and etc. currently held, conducted and etc. by Delta Process Equipment, Inc. The latter corporate entity, Delta Process Equipment, Inc., is a manufacturer of "Mechanical Wastewater Treatment Plants for Individual Homes"—certain units (plants) of which have been previously determined to be acceptable, as is evidenced by prior listings of such "acceptable units" by Department of Health and Hospitals, Office of Public Health, in accordance with the laws of the State of Louisiana, R.S. 40:4, 40:5, and the provisions of Chapter XIII of the Louisiana Sanitary Code.

It is the intention of Department of Health and Hospitals, Office of Public Health to initiate necessary rulemaking whereby an appropriate amending of the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes--Acceptable Units" may be caused to facilitate certain aspects of the above discussed approval.

Interested persons who may wish to make additional inquiry concerning this matter should contact Department of Health and Hospitals, Office of Public Health, Environmental Services Division, Box 60630, Room 403, State Office Building, New Orleans, LA 70160.

David L. Ramsey
Secretary

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56.700.1, notice is given that 38 claims amounting to \$64,057.52 were received during the month of November, 1989. During the same month, no claims were paid and two were denied.

Pursuant to the provisions of Act 33 of 1988, the following claims with the Fishermen's Gear Compensation Fund have been validated by the Fund's hearing examiner and the secretary of DNR will approve payment, effective January 3, 1990.

Written comments from interested parties may be addressed to: Department of Natural Resources, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, and must be received on or before January 3, 1990.

Claim No. 88-89-518

Wilfred Nunez, Rt. 1 Box 722B, St. Bernard, LA 70085, SSN 434-76-5153, Lake Machais (Waterbody), St. Bernard (Parish) Amount \$4054.16

Claim No. 89-90-30

Harry Phillips, 2124 Pecan Avenue, St. Bernard, LA 70085, SSN 438-69-3234, Mississippi River Gulf Outlet, St. Bernard Amount \$483.57

Claim No. 89-90-29

Harry Phillips, 2124 Pecan Avenue, St. Bernard, LA 70085, SSN 438-69-3234, Chandeleur Sound, St. Bernard Amount \$965

Claim No. 89-90-110

Ronnie Campo, 10012 Claiborne St., Violet, LA 70092, SSN 438-60-8396, Breton Sound, St. Bernard Amount \$1915.88

Claim No. 88-89-18

George France, Rt. 2 Box 551B Dubuisson, Slidell, LA 70460, SSN 437-70-6840, Lake Pontchartrain, St. Tammany Amount \$2292.04

Claim No. 89-90-77

Kenneth J. Robin, Jr., Rt. 1 Box 584, St. Bernard, LA 70085, SSN 436-60-4254, Breton Sound, St. Bernard Amount \$2000

Claim No. 89-90-130

Gary J. Treuil, 215 Papworth Avenue, Metairie, LA 70005, SSN 433-66-5597, Lake Borgne, Orleans Amount \$867.64

Claim No. 89-90-104

Gary J. Treuil, 215 Papworth Avenue, Metairie, LA 70005, SSN 433-66-5597, Lake Pontchartrain, Orleans Amount \$1177.66

Claim No. 89-90-68

John A. Castelluccio, Jr., 2901 Dauterive Dr., Chalmette, LA 70043, SSN 436-76-8579, Lake Borgne, Orleans Amount \$821.39

Claim No. 89-90-80

John A. Castelluccio, Jr., 2901 Dauterive Dr., Chalmette, LA 70043, SSN 436-76-8579, Pass Rigolets, Orleans Amount \$1509.08

Claim No. 89-90-33

Larry Nettleton, Box 414, Montegut, LA 70377, SSN 438-80-4789, Bayou Barre, Terrebonne Amount \$5000

Claim No. 89-90-109

Bruce Guerra, Jr., Rt. 1 Box 493B, St. Bernard, LA 70085, SSN 435-39-6067, Newton Pass, St. Bernard Amount \$2136.78

Claim No. 89-90-143

Manton Terrebonne, Sr., Box 575H Hwy. 45, Lafitte, LA 70067, SSN 436-36-4780, Bassa Bassa Bay, Jefferson Amount \$3004.50

Claim No. 89-90-79

Wesley Perez, 2220 Pecan Ave., St. Bernard, LA 70085, SSN 438-74-9452, Black Bay, Plaquemines Amount \$2533.97

Claim No. 89-90-121

Kenneth Guidry, Box 274, Lafitte, LA 70067, SSN 433-92-6831, Gulf of Mexico, Plaquemines Amount \$2172.22

Claim No. 89-90-135

Ernest Alphonso, Rt. 1 Box 894, St. Bernard, LA 70085, SSN 433-21-3825, Black Bay, Plaquemines Amount \$2035.66

Claim No. 89-90-126

Michael Gourgues, Sr., 10801 Wales St., New Orleans, LA 70127, SSN 433-56-7280, The Rigolets, Orleans Amount \$2098

Claim No. 89-90-113

Daniel Morales, Rt. 1 Box 813, St. Bernard, LA 70085, SSN 438-64-6484, Grand Pass, St. Bernard Amount \$677.85

Claim No. 89-90-163

Herbert Schultz, Jr., Rt. 1 Box 512H, Lafitte, LA 70067, SSN 437-56-2983, Cheniere Pass, Plaquemines Amount \$1520.05

Claim No. 88-89-8

Larry Matherne, Jr., Box 157, Barataria, LA 70036, SSN 437-29-0101, Blind Bay, Jefferson Amount \$4650.77

Claim No. 89-90-78

Vernon Alfonso, Jr., Rt. 1 Box 756, St. Bernard, LA 70085, SSN 436-19-0230, Breton Sound, St. Bernard Amount \$5000

Claim No. 89-90-156

Emile Angelette III, Rt. 3 Box 1132, Cut Off, LA 70345, SSN 439-32-2771, Timbalier Bay, Lafourche Amount \$709.23

Claim No. 89-90-128

Charles Johnson, 2313 Guillot Drive, St. Bernard, LA 70085, SSN 438-39-0408, Mississippi River Gulf Outlet, St. Bernard Amount \$841.25

Claim No. 89-90-152

Alden Griffin, 126 Toups Lane, Golden Meadow, LA 70357, SSN 433-44-6085, Bayou Lafourche, Lafourche Amount \$475.07

Claim No. 88-89-511

Albert Avenel, Jr., 1301 B. Bayou Rd., St. Bernard, LA 70085, SSN 433-90-1006, Black Bay, Plaquemines Amount \$1566.61

Claim No. 89-90-56

Ben Guerra, Jr., 611A Florissant Road, St. Bernard, LA 70085, SSN 437-52-6212, Fourhorse Lake, Plaquemines Amount \$3823.94

Claim No. 89-90-71

Bret Ainsworth, Rt. 2 Box 190AA, Tickfaw, LA 70466, SSN 437-96-8269, Dixon Bay, Plaquemines Amount \$2078.72

Claim No. 89-90-82

Henry Rodriguez III, 1816 Aycock Street, Arabi, LA 70032, SSN 438-96-6767, Newton Pass, St. Bernard Amount \$1646

Claim No. 89-90-170

Summer Breeze Trawlers, Inc., Rt. 1 Box 509D, Lafitte, LA 70067, Federal I.D. No. 72-1115879, Gulf of Mexico, Cameron Amount \$1294.82

Claim No. 89-90-187

Warren Perez, Sr., Rt. 1 Box 669, St. Bernard, LA 70085, SSN 436-66-2588, Mississippi River Gulf Outlet, St. Bernard Amount \$995.96

Claim No. 89-90-173

Kenneth J. LeFebvre, Rt. 1 Box 532A, St. Bernard, LA 70085, SSN 433-74-6165, Lake Pontchartrain, Jefferson Amount \$1010

Claim No. 89-90-114

Louis M. Matherne, Box 435A, Barataria, LA 70036, SSN 434-53-1679, Gulf of Mexico, Plaquemines Amount \$1951.90

Claim No. 89-90-49

Earl J. Tauzier, 5648 Catina Street, New Orleans, LA 70124, SSN 433-70-9066, Lake Pontchartrain, Jefferson Amount \$635.36

Claim No. 89-90-134

Raymond Melerine, 1944 Russell Drive, St. Bernard, LA 70085, SSN 434-78-2429, Breton Sound, Plaquemines Amount \$1068.29

Claim No. 89-90-112

Gordon Guidry, Jr., Rt. 2 Box A693, Bayou Side Drive, Chauvin, LA 70344, SSN 435-25-1594, Bayou Little Caillou, Terrebonne Amount \$1237.23

Claim No. 89-90-137

Joseph Latapie, Jr., Rt. 1 Box 508C, St. Bernard, LA 70085, SSN 437-52-7565, Lake Borgne, St. Bernard Amount \$2670.49

Claim No. 88-89-488

Stipelcovich Marine Works, Inc., Box 272, Empire, LA 70050, Federal I.D. No. 72-0833795, Breton Sound, Plaquemines Amount \$2539.41

Claim No. 89-90-108

Warren Thibodeaux, 8922 Dinkins St., New Orleans, LA

70127, SSN 439-50-1569, Breton Sound, St. Bernard Amount \$5000

Claim No. 89-90-115

Steven Charpentier, Rt. 1 Box 226, Galliano, LA 70354, SSN 436-48-6527, Main Pass Plaquemines Amount \$3054.29

Claim No. 89-90-116

Steven Charpentier, Rt. 1 Box 226, Galliano, LA 70354, SSN 436-48-6527, Breton Sound, Plaquemines Amount \$1155.65

Claim No. 88-89-333

Joseph Trosclair, 3709 Catherine Ave., Metairie, LA 70001, SSN 435-64-3910, Lake Pontchartrain, Orleans Amount \$885.62

Claim No. 88-89-477

Joseph Trosclair, 3709 Catherine Ave., Metairie, LA 70001, SSN 435-64-3910, Grand Isle Pass, Jefferson Amount

\$1637.36

Claim No. 89-90-117

James J. George, Jr., Rt. 1 Box 357, Lockport, LA 70374, SSN 434-31-5337, Breton Sound, St. Bernard Amount \$3100.04

Claim No. 89-90-118

Richard B. Adams, Jr., Box 123, Lafitte, LA 70067, SSN 435-64-3951, Tiger Pass, Plaquemines Amount \$1639.51

Claim No. 89-90-122

Lindberg W. Santini, Jr., Rt. 1 Box 574-C, Lafitte, LA 70067, SSN 436-96-6157, Bayou St. Denis, Jefferson Amount \$1359.18

Raymond W. Stephens, Jr.
Secretary

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