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Executive Orders

EXECUTIVE ORDER BR 88 - 41

WHEREAS, there is currently pending in the United States District Court for the Middle District of Louisiana a case entitled "Janice G. Clark, et al. v. Edwin W. Edwards, et al.", bearing Civil Action No. 86-435-A; and

WHEREAS, the foregoing mentioned court in the above referenced case has entered a permanent injunction finding that the current election system for the selection of district court, family court, and court of appeal judges has produced violations of Section 2 of the Voting Rights Act of 1965, as amended, in certain district court, family court and appellate court districts; and

WHEREAS, the applicability of Section 2 of the Voting Rights Act of 1965, as amended, to the election of state judges, has been judicially recognized by the United States Courts of Appeals for the Sixth and Fifth Circuits in "Mallory v. Eyrich" and "Chisom v. Edwards", respectively; and

WHEREAS, the case of "Chisom v. Edwards" challenges the election system for the present selection of justices of the Louisiana Supreme Court for the First Supreme Court District; and

WHEREAS, the case of "Arnold v. Roemer" challenges the election system for the present selection of all city/municipal judges, traffic court judges, juvenile court judges, and parish court judges throughout the state of Louisiana; and

WHEREAS, in addition to the foregoing mentioned litigation, the United States District Court for the Southern District of Mississippi, in "Martin v. Allain" has held Section 2 of the Voting Rights Act of 1965, as amended, applicable to the elected judiciary of the state of Mississippi and has found certain judicial districts at certain levels of the state of Mississippi judicial system to be in violation of the provisions of the said Section 2; and

WHEREAS, the best interests of the state of Louisiana, her citizens and her judicial system require a uniform method for the selection of judges as within the various levels of the state's judiciary which will insure against continuing federal court supervision and/or likely future litigation with respect to the Voting Rights Act of 1965, as amended; and,

WHEREAS, the United States District Court for the Middle District of Louisiana in the currently pending civil action of "Janice Clark, et al. v. Edwin Edwards, et al." has issued an order in connection with a status conference held on August 17, 1988, therein requiring: that plaintiffs and plaintiffs-intervenors submit a proposal for remedy within 60 days; that defendants-intervenors submit a proposal for remedy 60 days after the filing of the remedy proposal by plaintiffs and plaintiffs-intervenors; and as to related matters, and moreover, defendants, the named officials of the state of Louisiana, were instructed to submit a proposal for a state-wide remedy for all district, family and appellate courts not later than January 31, 1989; and

WHEREAS, it is the position of the state of Louisiana that its current electoral system for the selection of judges and justices of the courts of this state does not violate Section 2 of the Voting Rights Act of 1965, as amended, as the current elective method for judicial selection does not have a racially discriminatory intent and an appropriate judicial review will be sought as to issues of liability and remedy to the United States Supreme Court, should amicable resolution of the issues raised in the pending matters not, otherwise, be achieved;

NOW THEREFORE I, BUDDY ROEMER, Governor of Louisiana, do hereby order and direct that:

SECTION 1: There be created a special advisory task force, to be known as the "Governor's Special Task Force on Judicial Selection."

SECTION 2: The said special task force shall be composed of persons as appointed by me. The appointments will be announced at such time as the process shall be completed.

SECTION 3: The said special task force is hereby charged to review, consider, evaluate and recommend as among the various methods for the selection of judges and justices of the city, municipal, traffic, juvenile, parish, district, family, appellate and supreme courts of this state from among such systems, or modifications thereof, as are employed in other states and as may be submitted by the plaintiffs or defendant-intervenors in "Janice G. Clark, et al. v. Edwin Edwards, et al."

SECTION 4: The said special task force is further charged to recommend to me, not later than December 16, 1988, a proposal for the selection of judges and justices of the courts, as referenced immediately above, whether elective, appointive, or a combination thereof: provided that uniformity as to the selection process be maintained within the various levels of the state judiciary.

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 7th day of October, 1988.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 88 - 42

WHEREAS, during the 1988 Regular Session the legislature passed Senate Bill No. 606 relative to correctional facilities inmate labor; and

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

WHEREAS, the Act provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by Executive Order, authorize the use of inmates of a penal or correctional facility

owned by the State of Louisiana for necessary labor in connection with a particular project;

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

SECTION 1: that inmate labor be and is hereby authorized to complete repair work on the roof of Louisiana Training Institute in Baton Rouge.

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 21st day of October, 1988.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 88-43

WHEREAS, the State of Louisiana has suffered severe economic setbacks over the past seven years; and

WHEREAS, the State of Louisiana has faced increasingly mounting budgetary emergencies over those years, resulting in a deficit in excess of \$1.2 billion; and

WHEREAS, the entire state budget and budgetary process must be continually reviewed in order to set priorities for state services and be able to meet those needs with available state revenues; and

WHEREAS, this restructuring will require extensive study and consultation between the governor's office and the legislature;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby create the Employee Group Benefits Program Task Force in order to study, monitor and make recommendations which would make the Group Benefits Program more efficient, more effective, and more fair.

SECTION 1: The task force will meet continuously throughout the year and consult continuously with the governor.

SECTION 2: The task force shall be composed of members of both the House and the Senate.

SECTION 3: The following are appointed members of the task force from the House of Representatives: Messrs. Gomez, Downer, Gaudin, Jetson, Herring.

The following are appointed members of the task force from the Senate: Messrs. Hainkel, Poston, Hollis, Hinton, Osterberger.

SECTION 4: Mr. Herring is hereby appointed chairman of the task force.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of October 1988.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 88 - 44

WHEREAS, the use of illicit drugs is a serious and intractable problem in our society; and

WHEREAS, the United States has consistently had the highest rate of teenage drug use of any industrialized nation; and

WHEREAS, the Congress of the United States has passed the Drug-Free Schools and Communities Act of 1986, providing funds to states to mobilize schools and local organizations in communities throughout the nation in a coordinated program of prevention to bring closer the goal of a drug-free generation and a drug-free society; and

WHEREAS, under Executive Order No. EWE - 87 - 15 the Governor's Advisory Council on Drug-Free Schools and Communities was created within the Department of Health and Human Resources;

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

SECTION 1: The Governor's Advisory Council on Drug-Free Schools and Communities is hereby reestablished within the Department of Health and Hospitals.

SECTION 2: The council shall continue to be composed of 10 members, each of whom shall be appointed by the governor to serve at his pleasure, with one member being designated by the governor to serve as chairman.

SECTION 3: The membership of the council shall still include representation of the Office of Prevention and Recovery from Alcohol and Drug Abuse, the Louisiana Commission on Alcohol and Drug Abuse, the state educational authorities, and at least one of the state's colleges or universities.

SECTION 4: The duties of the council shall continue to include, but shall not be limited to, the following:

- a. Assist in setting priorities of the state's Drug-Free Schools and Communities Act program.
- b. Contribute to the design of Request for Proposals.
- c. Review and make recommendations on proposals.
- d. Review monitoring reports on grantees.
- e. Recommend disposition of contracts in the case of non-complying agencies.

SECTION 5: The Department of Health and Hospitals shall provide such resources, clerical support, and management assistance as may be required to enable the council to carry out its duties.

SECTION 6: The membership of the council shall continue to perform their duties without per diem or other compensation.

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 the 25th day of October, 1988.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 88 - 45

Section 5 of Executive Order No. BR 88 - 44 issued October 25, 1988 is hereby amended to read as follows:

SECTION 5: The Department of Education shall provide such resources, clerical support, and management assistance as may be required to enable the council to carry out its duties.

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 the 4th day of November, 1988.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Economic Development Corporation

The Department of Economic Development, Economic Development Corporation, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to amend the rules of The Louisiana Minority Business Development Authority effective July 21, 1988. These amendments will amend procedures for administering the Louisiana Minority and Women Business Development Program as authorized by Act No. 888 of the 1988 legislature.

The above described action is necessary as the Louisiana Minority and Women Business Development Program is processing loan applications under the old rules.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart I. Minority and Women Business Development Program

Chapter 1. Loan Policies

§Program Procedures

A. Loan Policy Statement

This statement is an outline of lending policies for the guidance of the staff and management of the Louisiana Minority and Women's Business Development Program. The board of the Louisiana Economic Development Corporation has for this purpose defined the Minority and Women Business Development

Program as the Program - Economic Development Corporation as the Corporation - staff as the employees of the Department of Economic Development - management as the appointed nine-member board and the executive director of the Economic Development Corporation as the staff and management of the program. No part of this policy will be construed as authority for any person to act contrary to Act No. 888 of the 1988 Regular Session of the Legislature.

B. General Policy

The staff and management of the program will be guided by the following general principles in making loans:

1. The management of the program believes that sound minority and women loans are the most satisfactory means of using corporation's funds that are available for investment and will help the growth of Louisiana's minority and women business economy.

2. The program desires to make sound loans as resources permit. The board of the program recognizes that lending money carries certain risks and is willing to undertake reasonable exposure. Some losses are anticipated in any lending program, and adequate reserves will be maintained.

3. The corporation shall not knowingly approve any loan or guarantee if the applicant therefore has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness; nor shall the corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

4. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the corporation board shall not be amended or altered by any member of the Board or employee of the Department of Economic Development except by subsequent vote of approval by the board at the next meeting of the board in open session with full explanation for such action.

5. The corporation shall not subordinate its position if such subordination will result in any risk to its security position.

C. Loan Approval and Review

All loan requests will be presented to the Screening Committee of the corporation at its monthly meetings. The Screening Committee meets on second Tuesday of each month except during a moratorium and the board meets on the fourth Tuesday of each month.

2. All loans will be presented on application forms authorized by the corporation and all applications submitted will be processed within 60 days of the submission date. Completed applications containing all required information as stated in §105 of the loan policies, received on or before the thirtieth of the month will be presented six weeks after submission to the screening and board of the corporation. A loan application may be delivered to the program office in Baton Rouge or forwarded through the United States mail and/or private postal services.

3. The applicant or its representative must appear in person at the meetings at which the application will be considered in order to provide any additional information which may be requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corpora-

tion/M&WBDP LR 14: (10/28/88).

§103. Eligibility Requirements

In order to be eligible for a loan, a minority business enterprise or a women business enterprise must meet the following qualifications:

A. The applicant(s) or principal stockholder(s) must have Louisiana as his or her principal place of residence and the principal place of business must be domiciled in Louisiana.

B. It must be owned or controlled by a socially or economically disadvantaged person which is defined by the SBA as a person, regardless of sex or marital status, who are members of groups whose disadvantage may arise from cultural, racial, chronic economic circumstances or background as stated in R.S. 51:2311 et seq.

C. It must exhibit proof that the desired credit is not otherwise available on reasonable terms.

D. It must be credit worthy according to the standards prescribed by the corporation. Also see R. S. 51:2312 item 4.

E. It must present evidence acceptable to the corporation that the enterprise will succeed if the loan or loan guarantee is received.

F. It must provide reasonable security to assure repayment of the loan. Security may include, but not be limited to, a mortgage on real or personal property, monies due on contracts, assignment of warehouse receipts, guarantees and, if acceptable to the corporation, assignment of receivables or pledge of inventories.

G. The applicant(s) shall be financially and legally responsible based upon his criminal, credit and business history.

H. The business and any affiliate(s) shall have paid in full all taxes due and owing to the United States, the state of Louisiana or to any other level of government or shall present evidence noting a satisfactory arrangement to ensure payment which has been agreed to by all parties.

I. The business, if it has received prior loans from the corporation or the former Louisiana Minority Business Development Authority, (LAMBDA), shall be current with respect to all amounts due under said loans.

J. The applicant(s) must show through experience, training, education, or a combination thereof, that they are capable of performing the responsibilities in connection with the ownership, management or control of the enterprise.

K. The applicant(s) shall commit to full-time management and control of the enterprise on a daily basis and shall commit to work full time in the enterprise for which he or she is seeking a loan. If he or she is otherwise employed they shall terminate such employment prior to or at the time of the loan closing.

L. The applicant(s) must meet a cash injection requirement which will be determined by the corporation.

M. The applicant(s) must present evidence acceptable to the corporation that the enterprise can repay the debt.

N. The application must satisfy all legal requirements as evidenced by the written approval of the corporation's attorney.

O. A waiver of landlord's lien and privilege on movables is required on all loans when a lease is involved.

P. The business must be certified as a minority business enterprise or women's business enterprise as defined in R.S. 51:2317 B:1-6

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2311-2317.

HISTORICAL NOTE: Promulgated by Department of Ec-

onomic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§105. Contents of Application

A. Every business that applies for the program's direct, participation or guaranty loan shall submit the following information to the program:

1. Completed original program's application forms 1-4 and last page of loan policies, (Title 19). All of the required information must be supplied or the application will be considered incomplete.

2. Detailed resumé(s) outlining the professional management capabilities of the individual(s) with primary responsibility for the operation of the business.

3. Current personal credit report from their local credit bureau within 30 days of the filing date of the application and written authorization for the program to perform any credit check(s) which, in its discretion, may deem necessary.

4. a. Evidence of rejection, with reasons therefor, from at least two private lending institutions in the same trade area or at least two public lending institutions other than the program. The evidence of rejection must be dated within 30 days of the filing date of the application. It must also be for the same amount and type of loan as requested from the program.

b. The corporation may request written reasons of refusal from the financial institutions which reject the applicant's request for a loan or guarantee, and the corporation may consider such reasons in determining whether to grant or deny any application.

5. A minority business enterprise and or women business enterprise certification letter.

6. A detailed business plan. Start-up businesses shall include start-up cost figures.

7. A history statement for existing businesses.

8. A statement describing the expected benefits to be received from the loan.

9. Three-year earnings projection, accompanied with footnotes.

10. One-year projected cash flow statement. Statement must be prepared on a month-to-month basis, accompanied with footnotes.

11. Three years of personal federal income tax returns.

12. Three years of historical financial statements and business federal income tax returns (existing businesses only).

13. Three-year historical changes in financial position (existing businesses only).

14. Current financial statements within 90 days of the filing date of the application (existing businesses only).

15. Current changes in financial position (existing businesses only).

16. A resolution from the Board of Directors authorizing the loan (corporations only).

17. A copy of the Articles of Incorporation and bylaws (corporations only).

18. A sworn statement of the relationship, if any, of the principal officers and of stockholders who own 20 percent or more of the outstanding stock of applicant's business, with any state official and/or with any employee of the Department of Economic Development.

19. Location and legal description of all property to be offered as security.

20. A property appraisal by the corporation-approved-

appraiser of all property to be offered as security. Also see chapter 6:601-I.

21. Copy of franchise agreement if purchasing a franchise.

22. Details of bankruptcy proceedings if applicable.

23. Details of any pending lawsuits or judgments against applicant(s) and business.

24. A market assessment and/or feasibility study conducted or secured by the applicant or staff is requested to support the advisability of the loan or loan guaranty.

B. Every business that applies for a loan for new construction; the purchase, improvement to or expansion of an existing business facility; or start-up business shall provide, in addition to the information requested in the program loan policies §104.A, the following information:

1. Blueprints and construction specifications, if available at date of application. Blueprints of the existing business facility, if purchase is proposed, and, in the case of proposed improvements or expansions, blueprints of the existing and proposed business facility. In the absence of blueprints and construction specifications, the applicant shall provide a written description of the planned construction at the time of application, to be followed by blueprints and construction specifications. The applicant shall provide a detailed statement of reasons when prints cannot be provided. It is not the intent of the program to require unnecessary expenditure of the applicant's funds. However, in the event that blueprints and construction specifications cannot be provided at the time of application, any applicant receiving approval for a loan or loan guaranty shall be required to provide, within 90 days after approval, either (a) copies of blueprints and construction specifications or, (b) a written statement of the reasons for delay in providing such blueprints and construction specifications. Reasons acceptable to the corporation shall include, but not be limited to, failure of the architect to provide timely drawings and specifications.

2. A projected construction schedule with anticipated completion date, if available at date of application. If not available, submission must be made within 15 days of receipt of blueprints and construction specifications on the applicant.

3. A statement of the number and nature of jobs existing at the time of the application and the number and nature of additional jobs to be created and/or saved as a result of the proposed purchase, improvement, expansion or completion of the business facility.

4. Evidence of adequate operating funds for a period of at least one year following completion of the facilities unless all or part of the application for funds includes operating funds.

5. Copies of available construction contracts or renovation contracts, including prices and identities of the principals of the contracts, if available, at date of application. If not available, submission must be made within 15 days of contract execution.

6. Statement demonstrating the marketability of the product or process for which the funds are sought.

7. Such additional market data which will enable the corporation to determine the advisability of loan or loan guaranty approval.

8. During construction, inspection reports must be submitted and after construction is completed, a lien affidavit must be submitted insuring that no mechanics material man's liens have been filed against the property before final disbursement of funds.

C. Any business applying for a loan guaranty shall provide, in addition to the information required in Subsection A, B, and C above, a letter of commitment from a lender setting forth the terms and conditions upon which the loan sought to be guaranteed will be made to be submitted with the loan application.

D. Applications submitted to the corporation become permanent records and copies should be made prior to submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§107. Interest Rates

The board of the corporation shall determine a variable or fixed rate of interest to be charged on every direct and participation loan. The rate shall be determined by averaging the rates charged by the Small Business Administration for the current quarter and the three immediately preceding quarters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2313:F.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§109. Lending Regulations

Pursuant to the authority hereby vested in the board consistent with all other provisions of this Section and Part, and as shall be provided for by regulations of the program promulgated in accordance with law, the program may:

A. Loan to any minority or women owned business enterprise, funds to be actually expended to acquire, construct, furnish, equip, make necessary improvement to or purchase land for a retail, wholesale, manufacturing and/or service business which will be occupied by the existing and/or start-up minority or women owned business enterprise a sum not in excess of 90 percent of the value of the property offered as security subject to a first mortgage, or a sum not in excess of 50 percent of the value of the property offered as security subject to a second mortgage, but in any case, not to exceed \$250,000. Any such loans shall be made pursuant to duly promulgated regulations of the program, which, at a minimum, shall require the borrower to execute a note secured by a first or second mortgage payable to the corporation within such time and on such terms together with such endorsements and additional security as the corporation may require.

B. Participate in any loan made by any bank, financial institution or federal agency to any eligible minority business enterprise. Participation on the part of the program shall not exceed 90 percent of the total amount required by the borrower for any purpose herein authorized but in any case shall not exceed \$250,000. Participation shall be in accordance with duly promulgated regulations.

1. When the corporation funds are disbursed directly to the borrower, it shall be evidenced by a note properly executed by the borrower, payable to the program within such time and on such terms together with such security as the program may require, consistent with the requirements of the program.

2. When the corporation funds are disbursed directly to the bank, financial institution, or federal agency through which the loan was negotiated, it shall be evidenced by a participation note to the bank, financial institution, or federal agency, payable

to the corporation, which set forth the terms and conditions under which the corporation agrees to participate, the amount of the participation, the security pledged for repayment and the time within which the loan shall be liquidated. A participation certificate must be properly executed.

C. Underwrite the guaranty payment, not in excess of 90 percent of any loan made by any bank, financial institution, or federal agency, to any eligible minority business enterprise for the purposes specified. Such guaranty shall be for a loan in an amount not to exceed \$250,000. The corporation shall promulgate regulations thereon which at a minimum shall require that when any portion of any loan is underwritten and guaranteed by the corporation, an agreement shall be executed in the form of a commitment setting forth the terms and conditions under which the program is obligated and the extent to which repayment of the loan is guaranteed and secured.

D. In the event of extreme urgency, as determined by the board Chairman, affecting the continuation of existing jobs or the loss of a business opportunity to create new jobs, the board of the corporation may in open session, suspend the full requirements of the loan or loan guaranty application information and require the immediate submission of information sufficient to urgency, the advisability of the loan or loan guaranty and the adequacy of the security to be provided for the loan. In this event, however, the applicant shall provide the full information within such time as the program fixes in conjunction with the granting of the suspension. Such suspension may be granted only when the amount of the loan or loan guaranty does not exceed the sum of \$250,000 and the loan or loan guaranty is fully secured by first mortgages on immovable and personal liability of sufficiently solvent individuals. The granting of and justification for a suspension, as provided herein, shall be documented and made a matter of permanent public record.

E. In the event the land which a new business facility will be constructed upon or upon which an existing business facility will be expanded is already subject to a lien, mortgage or encumbrance which the applicant proposes to pay off with loan proceeds from the program or any other lender, such application can be approved only if the amount of the loan does not exceed 75 percent of the value of all security pledged. The amount of the loan left after satisfying the encumbrances will finance the construction or improvements proposed and the applicant does not realize any cash from the loan except for operating capital, market development or product inventories. If the amount of the lien, mortgage or encumbrance to be satisfied out of the loan proceeds is disproportionate to the amount to be used for new construction, improvement or expansion, the program may reject the application on the grounds that it is refinancing which is prohibited by the law creating the program. The program considers "disproportionate" to be an amount in excess of 75 percent of the loan amount sought in the application.

F. Take such steps it deems necessary to protect the interest of the state in property mortgaged to secure loans made by the corporation.

G. The corporation shall make no loan or participate in, or guarantee the repayment of any loan for a period of more than five years. However, the Authority may review or extend loans when it deems it necessary, in the aggregate, not to exceed a total of 15 years. All balloon notes shall be renewed at the prevailing interest rate at the time of the renewal. The minimum lending amount is \$10,000 and the maximum amount is

\$250,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2313-A-E and F.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§111. Staff's Responsibilities

A. Each loan request shall be supported by a memorandum which will be made a permanent part of the program's records. The memorandum will be sufficiently detailed so that any person acting on the loan request will be in a position to handle the loan request within the terms and conditions agreed upon by the program and the borrower.

B. The credit memorandum should include at least the following information:

1. name and address of borrower;
2. date of loan request;
3. brief summary of the business;
4. amount of loan request;
5. rate requested by the borrower and rate agreed upon;
6. terms of repayment. If the loan is to be amortized on a monthly basis, the number of monthly installments and dollar amount should be noted;
7. purpose of the loan;
8. security. Give a complete description of the collateral and state its current value.

C. If the application is denied, written reason(s) shall be provided to the applicant within 30 days of the denial as to why such action was taken.

D. If an application for a loan guaranty is approved, written notification will be given to the applicant and financial institution, outlining the conditions of the approval.

1. Each guaranty bank shall be contacted by the program staff monthly to obtain the outstanding principal balance remaining and loan status.

E. If an application for a participation loan is approved, the financial institution will be notified and the loan transaction may be completed.

F. If an application for a direct loan is approved, the applicant shall be notified and the loan transaction completed.

G. The monitoring of lines of credit. All advances must be approved by the board.

H. The overall collection of program's funds and the preparing of monthly accounts reports to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2313-2317.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§113. Board Responsibilities

A. The board shall meet monthly and take action to approve, decline or defer an application within 60 days of the date on which it was filed. Final consideration must be made within ninety days of the date on which it was filed. Also see page 1, section C, item 2.

B. The board will review all loans at its monthly board meeting during which the board will take action on each request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corpora-

tion/M&WBDP LR 14:(10/28/88).

§115. Reapplication after Denial

A. If any application is rejected and the applicant would like to reapply, he or she shall submit a new loan application with fee to the program after a 90-day period unless otherwise waived by the board. For this requirement to be waived a written request should be submitted to the board chairman who shall present it to the full board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§117. Conditions for Disbursement of Loan Proceeds

A. The chairman of the Louisiana Economic Development Corporation or his designee, as official representative of the program, shall execute all necessary legal instruments at the loan closing.

1. The application must satisfy all legal requirements as evidenced by the written approval of the corporation's attorney.

2. A waiver of landlord's lien and privilege on movables is required on all loans when a lease is involved.

B. On or before the loan closing date the following documents must be executed:

1. Title opinion by a title attorney and approved by the program. The title opinion shall provide evidence of clear title and shall include, but not be limited to, a property description identifying the property owned with pertinent recordation data, satisfactory evidence that all taxes due on the property have been paid, a full and complete list of all mortgages, liens, encumbrances and/or servitude on the property and such other information as may be necessary for a full recital of the facts surrounding such property.

2. Mortgage certificate from the Clerk of Court for the parish in which the property is located.

C. In the case of corporation funds paid directly to the borrower, the borrower must execute:

1. A note secured by a first and/or second mortgage payable to the corporation. The note shall set forth, in full, the terms and conditions under which the loan will be repaid and containing such additional endorsements or other security as required by the program. The mortgage shall contain, but not necessarily be limited to, the following:

- a. amount loaned
- b. rate of interest
- c. Repayment schedule
- d. description and listing of all property to be included as the security

- e. provision for executory process
- f. provision for repayment of all costs of foreclosure, reasonable attorney fees not to exceed 25 percent of the principal balance and interest accrued at foreclosure
- g. authorization for the addition to the principal balance

the amount of any taxes and/or insurance premiums paid by the corporation upon failure of the mortgagor to pay such amounts when due to protect the security position of the corporation.

2. A note personally endorsed by the individual borrower and/or all partners of a partnership and/or all members of the board of directors, by whatever name known, of the corporation; secured by a first and/or second mortgage or shall provide other security at the corporation's discretion.

D. Any loan disbursed directly to the borrower where a line of credit is established, the individual borrower and/or all partners of a partnership will be required to sign an authorization letter for the request of any additional funds. Such request shall state the amount and purpose of the funds and evidence of need must be supplied.

E. In the case of construction loans, the borrower must: execute a note and the mortgage and/or security instruments at the discretion of the corporation and the program staff; carry and provide evidence of public liability insurance of \$500,000, naming the corporation as additional insured; provide a certificate evidencing such insurance, which certificate must provide that the insurance cannot be cancelled without 30 days prior notice to the program; fire, extended coverage and vandalism insurance to the full extent of the amount loaned or guaranteed by the program, naming the program as loss payee, the total amount of the insurance to meet the 80 percent co-insurance requirements; and, provide a certificate evidencing such insurance, which certificate must provide that the insurance cannot be cancelled without 30-day prior notice to the program.

F. The corporation will allow a 90-day period from the date of the approval letter for borrowers to meet the conditions and requirements of the approval letter for loan closing.

G. For new construction and/or expansion loan, the program will allow a period of 30 days to 18 months on projects ranging from 100 to 100,000 square feet, for completion and compliance with the terms and conditions of the approval.

H. At the expiration of the allowed time period, one 90-day extension may be granted by the board chairman beyond this period but must be reported to the board of the program at the next meeting following said action together with an explanation of the extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§119. Compliance Requirements for all Program Loans

A. Each year, on the anniversary of the disbursement of loan proceeds, each recipient of a loan or a loan guaranty shall provide the following:

1. list of all stockholders with the number of shares held by each at any time during the previous year;

2. statement of financial condition including, but not limited to, a balance sheet, profit and loss statement for the most recently completed fiscal year;

3. current reconciliation of net worth;

4. one-year projected cash flow statement. Statement must be prepared on a month-to-month basis, accompanied with footnotes;

5. current personal financial statement of all principals who have endorsed the note or are liable for repayment of the loan or any part thereof;

6. current insurance policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§121. Bank Responsibility

A. Guaranty Loans

1. After the loan guaranty has been approved by the board, letters will be mailed to the applicant and the lender with notification of the board's decision. The lender will also receive a copy of the applicant's approval condition letter and the program's Form 7 (Lender's Application for Guarantee or Participation), with instructions to either complete the program's Form 7 and return the form to the program office, if they are participating in the guaranty loan, or send a letter outlining the bank's decision.

2. Upon receipt of the program Form 7, a condition letter outlining the terms and collateral is sent to the lender. If all parties are in agreement the lender will sign the letter, mail a copy of the signed letter to the program and proceed with the closing of the loan.

3. After all the mortgage documents have been recorded, the lender must provide for the program's records, a copy of the note, the mortgages and other data deemed necessary by the program. The staff will review all documentation for compliance and issue the Guaranty Agreement along with instructions for the lender to sign and date the agreement, obtain the applicant's signature and date. The lender will retain the original and mail a copy to the program. The Guaranty Agreement outlines the following:

- a. terms
- b. conditions
- c. collateral
- d. bank's responsibility
- e. program's responsibility in case of default and maintenance

4. The lender shall provide semi-annual financial statements and annual personal financial statements of all principals who have endorsed the note or who are liable for repayment of the loan or any part thereof.

5. The lender shall notify the program by phone and in writing of an account that becomes 30 days past due. If the delinquency continues for 15 additional days the bank shall notify the program of a proposed corrective solution.

6. a. In the event of default the lender shall notify the program in writing that the account is in default and if payment is requested along with the outstanding principal and interest amount due.

b. Upon receipt, the board at its next regularly scheduled meeting will consider honoring the guaranty. When the guaranty is honored the lender will provide the program with a notarial endorsement of all the collateral.

c. The lender's remaining balance shall be treated under their policy and procedure after receipt of the program's 90 percent payment.

7. Written notification of any unsecured default on a guaranteed loan shall be received by the program within 45 days after such default. Default as used in this Chapter means non-payment of principal or interest on the due date. Where such notification is received after 45 days from the date of default, the financial institution shall not be entitled to receive at any time accrued interest on the guaranteed portion of unpaid principal of the loan from the date of default to the date of receipt of written notice of said default. The corporation shall not purchase the guaranteed percentage unless such delay in notification did not cause any substantial harm to the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

Chapter 3. Collateral

§301. Collateral for a Program Loan

A. Collateral for a program loan shall consist of any or a combination of the following:

1. Equipment - Loans to businesses secured by chattel mortgage on equipment will be amortized over a period not to exceed five years. Excessive loans to value ratios on equipment can result in significant loss. Loans of over 75 percent of cost will be seriously discouraged.

2. Accounts receivables - As it should be recognized by the staff and board that this is a high risk loan area. Loans on receivables should not exceed 75 percent of the outstanding receivables that are not more than 60 days past due.

(A blanket pledge of receivables is acceptable collateral. The specific assignment of a particular receivable is also valid collateral.)

3. Assignment of contracts - Valid contracts are acceptable collateral.

4. Inventory - Normal lending on inventory should be limited to 75 percent of cost. Inventory lending should always be short term with repayment planned from the liquidation of the product. It should be noted that long term borrowing on short term collateral creates cash flow problems and that this is a high risk loan area.

5. Preferred marine mortgages - These types of loans are highly specialized and require a great deal of attention in terms of proper documentation, particularly in those cases where the vessel is approved by and documented with the U.S. Coast Guard. Only an attorney knowledgeable of this kind of mortgage should be allowed to close this type of loan.

6. Listed securities - New York or American Stock Exchange as listed in the Wall Street Journal - Loans should not exceed 75 percent of the stock's value.

7. Life Insurance cash surrender value.

8. Real Estate; commercial or personal property.

9. When the items listed above are pledged as collateral, applicants will be required to provide the following information:

a. list of the equipment, the fair market value, any lien, serial and model number;

b. aging of accounts receivables dated 30 days within the filing date of application;

c. list of inventory, fair market value, any lien, serial and model numbers;

d. list of securities;

e. original copy of insurance policy.

10. The program will consider minimum collateral on a dollar-for-dollar basis.

11. All loans or loan guaranty approved must be secured by credit life or a life insurance policy in the amount of the loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

Chapter 5. Lending Criteria

§501. Desirable Loans

Financial assistance can be approved to: finance construction for new building and the purchase of real estate for the purpose of building an office facility, warehouse and manufacturing plant; provide for conversion or expansion of a product line; finance purchase of new equipment, machinery, supplies or materials; working capital and cash bonds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§503. Undesirable Loans

Some types of loans are considered undesirable by the program. They are those:

A. To applicants who cannot or refuse to furnish adequate financial information.

B. Where the integrity and honesty of the principal(s) are questionable.

C. To establish bars, taverns, lounges or any project established for the principal purpose of dispensing alcoholic beverages and where the program's collateral are the fixtures of that business.

D. To provide funding for the acquisition, construction, renovation or alteration of a building or property for the principal purpose of real estate speculation.

E. To provide funding for the acquisition or start-up of any business that is considered agribusiness (i.e., seafood manufacturing, processing and extraction business, etc.)

F. To provide funding where the security is on immovable equipment, building improvements and/or additions unless the property on which it is located is secured by a first mortgage to the program or other lender.

G. The corporation shall not consider approval or funding for the principal purpose of refinancing existing debt, when the loan is to:

1. pay off a creditor or creditors who are inadequately secured and in a position to sustain a loan or,

2. provide funds to pay off debt to principals of the business, or,

3. provide funds to pay off family members.

H. The corporation shall not approve any loan or loan guaranty for any facility constructed or to be constructed on leased land except as follows:

1. the lease is for a term extending at least five years beyond the period of the loan;

2. the corporation receives an assignment of the lease and the right of re-assignment;

3. if the loan repayment schedule includes a balloon note. The corporation, at its discretion, may require a lease running for 20 years from the date of the approval of the loan.

I. Restaurants, except for regional or national franchises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

Chapter 7. Appraisers

§701. Appraisers

The corporation shall develop and maintain for public ex-

amination at any time a listing of approved appraisers for the program and a file of the credentials of such approved appraisers. In order to have his or her name included on the list of approved appraisers, an applicant shall submit the following information:

A. At least three written statements of his or her competence as an appraiser from organizations such as banks or other financial institutions, real estate boards, licensed real estate brokers, mortgage loan institutions, etc.

B. A written statement of expertise in appraising property.

C. A written statement of experience as an appraiser.

D. Evidence of inclusion on the approved appraisers' list of any state or federally chartered banks or such public agencies as the Small Business Administration, Farmers Home Administration, Federal Housing Administration or other similar institutions.

E. A written statement containing any additional information which the applicant thinks would be beneficial in the corporation's determination of qualifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§703. Fees and other Guidelines

A. A fee of \$25 is due at the time of filing for inclusion on the list, which fee shall be non-refundable to the applicant regardless of the decision of the corporation with respect to listing. Application can be made at any time throughout the calendar year, and the names of approved applicants shall be added to the listing immediately upon approval by the board.

B. Any applicant for listing on the corporation's listing of approved appraisers for the program who is denied a listing may appeal the decision of the corporation to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§705. Selecting an Appraiser

A. All applicants for a direct loan, participation loan or loan guaranty, must submit, as a part of the application package, an appraisal performed by an appraiser selected as follows from the listing of approved appraisers for the program.

1. The applicant may review the file of credentials of approved appraisers, and shall select from the listing of approved appraisers three appraisers who are acceptable to the applicant.

2. The applicant shall notify the corporation in writing of the names of the three appraisers selected by the applicant.

3. Program staff shall select one appraiser from the list of three appraisers submitted by the applicant and shall notify the applicant in writing of the appraiser selected by the corporation to perform the appraisal.

4. The applicant and program staff shall negotiate a fee satisfactory to the applicant and the appraiser.

5. The agreement for performance of the appraisal shall be in writing for the protection of all parties. The agreement will be prepared by the corporation's staff unless the applicant wishes to secure private legal counsel.

6. Failure to agree upon a fee shall result in selection of another appraiser. In such circumstance, the applicant shall be

permitted to add one additional name, selected from the listing of approved appraisers, to the list and the program staff shall again select from the list and follow procedures outlined in the loan policy of the program, Chapter 7:705:A

B. The applicant shall be responsible for payment of the agreed upon appraisal fee.

C. The corporation may, at its discretion, directly employ an appraiser listed on its listing of approved appraisers for the program to conduct any appraisal. When the corporation directly employs an appraiser, such appraisal fee shall be paid by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

Chapter 9. Loan Terms, Payments, Delinquency, Foreclosure, and Charge Off Method

§901. Repayment Terms

A. The board of the corporation can loan, participate in or guarantee the repayment of any loan for a period of five years. However, the corporation may review or extend loans when it deems it necessary, (in the aggregate, not to exceed a total of 15 years). All loans shall be renewed at the prevailing interest rate at the time of the renewal.

B. Rescheduling of Payments Terms

1. The board of the corporation may approve a note providing for a final balloon payment, but shall not approve a final balloon payment in excess of 75 percent of the total original amount of the loan.

2. If the board of the corporation votes in open session to approve rescheduling of a balloon payment, such rescheduled payments shall be financed at an interest rate determined by the corporation at the time of renewal in accordance with the program loan policies, Section 105.

3. No payment schedule shall be extended to more than a total of 15 years from date of the first loan payment to date of final payment under the loan.

4. Any request for a renewal of a balloon note shall be accompanied by:

a. a detailed explanation of the reason for the requested renewal,

b. a statement of current financial condition including balance sheet, profit and loss statement for the most recent fiscal year of operation prepared in accordance with generally accepted accounting principles,

c. names and addresses of all partners/stockholders and the number of shares held by each.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§903. Loan Payments

A. The corporation requires that all loans be repaid on a monthly basis. The standard payment period will be the first or fifteenth of each month. There will be no prepayment penalty. Any loan can be paid before maturity. Loans may be repaid by a cashier's check, company check, certified check or money order. The corporation will not accept cash or personal checks. When two company checks have been returned NSF the program will

no longer accept company checks. All payments should be made payable to the Louisiana Economic Development Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§905. Delinquency

A. Payments on direct loans will be considered late if not received within 10 calendar days of the payment due date. Beginning on the eleventh day following the scheduled due date, a late fee of 10 percent of the monthly payment will be assessed per month. No loan shall be considered paid in full if there are any outstanding unpaid delinquency fees. All moneys collected as delinquency fees shall be deposited into the State Treasury.

B. A delinquency list will be presented to the executive director who will present it at each board meeting naming the applicant, loan balance and days past due.

C. Loans that fall into the eleven to 29 days past due category will be considered delinquent. Staff will then forward a letter advising clients of delinquency and requesting payment within five days. Loans that fall into the 30-60 day past due category will be considered seriously delinquent and the corporation's legal counsel will be asked to send a letter requesting payment within five days or legal action will begin. The letter shall be sent by certified mail with return receipt requested. The account shall also be reported to the board of the program for consideration.

D. Legal counsel shall forward a second demand letter, provided that no response was received from applicant. The letter shall be sent by certified mail with return receipt requested, informing the borrower that, the remaining balance is accelerated, together with all interest accrued, and the full sum of the obligation is due and payable to the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§907. Foreclosure

A. In the absence of satisfactory arrangements for repayment of the delinquency, the corporation shall initiate foreclosure proceedings no sooner than the ninetieth day following the date the last payment was received.

B. The corporation shall secure a judgment and foreclose on the collateral securing the loan and if deemed in the best interest of the program, secure deficiency judgments against all personal endorsers or other persons liable on the loan in whole or part.

C. The program staff shall select an appraiser from the approved appraisers' list to conduct and provide any appraisal information necessary for foreclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

§911. Charge-Off Method

A. The staff shall prepare a monthly memo based upon the recommendation from the legal counsel on loans that are

considered charge-offs. These recommendations will be presented monthly to the executive director who will present it to the board for consideration by the body before the loan is charged off. At the board meeting the staff will present the original credit judgment, collection attempts, reasons for the loan's failure and whether all avenues for collection have been exhausted. Loans approved for charge-off will be categorized on the loan summary report as such and the accounts will be maintained in a charge-off file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

Chapter 11. Reserve Requirement and Fees

§1101. Reserve Requirement

A. The corporation shall maintain a reserve to be used to secure loan guarantees made by the corporation. Such reserve shall be an amount not less than the sum of 20 percent of each outstanding guarantee.

§1103. Fee charges

A \$50 non-refundable application fee must be submitted with each application. This fee is acceptable only with the application and in the form of a cashier's check or money order. When a loan application is approved a non-refundable one percent origination fee must be submitted at the loan closing in the form of a cashier's check or money order made payable to the Louisiana Economic Development Corporation (LEDEC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88).

Chapter 13. Confidentiality and Conflict of Interest

§1301. Confidentiality

Confidential information in the files of the program and its accounts acquired in the course of duty is to be used solely for the program. The program is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion No. 82-860.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development corporation/M&WBDP LR 14:(10/28/88).

§1303. Conflict of Interest

No member of the corporation, employee thereof, or employee of the Department of Economic Development, members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section the same shall be null and void and no action shall be maintained thereon against the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP LR 14:(10/28/88)

PLEASE SIGN, DETACH AND RETURN WITH APPLICATION

Statement of Understanding

The undersigned has read and fully understands all the requirements of the loan policies governing the Louisiana Minority and Women's Business Development Program and is submitting an application with supporting documentation which are in compliance with the loan policies of the Louisiana Economic Development Corporation/Minority and Women's Business Development Program. This application is accompanied by a \$50 non-refundable application fee.

Witness

Applicant/President

Date

Date

Written comments concerning the rules should be addressed to the Louisiana Economic Development Corporation/Minority and Women's Business Development Program, Box 94185, Baton Rouge, LA 70804-9185 to the attention of: Patricia A. Robinson, Director, LA M and WBDP.

All forms and exhibits may be obtained from the Louisiana Economic Development Corporation, Minority and Women's Business Development Program at the above address.

Patricia A. Robinson
Director

DECLARATION OF EMERGENCY

**Department of Economic Development
Office of Commerce and Industry
Finance Division**

LOUISIANA CAPITAL COMPANIES TAX CREDIT PROGRAM
R.S. 51:1921-1932

The Department of Economic Development, Office of Commerce and Industry, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to suspend the Louisiana Capital Companies Tax Credit Program rules in order to make revisions and to promulgate new rules and procedures in the administration of the program. Therefore, the Office of Commerce and Industry will not accept any advance notifications or applications and will suspend processing of applications previously filed. The effective date of this suspension is November 10, 1988, and until new rules are promulgated.

Questions should be directed to Robert Paul Adams, Director of the Finance Division of the Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804-9185, Telephone 504/342-5398.

Robert Paul Adams
Director

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary

In accordance with R.S.49:953(B), the Administrative Procedure Act and under the authority of R.S. 30:1061, the secretary of the Department of Environmental Quality hereby declares that failure to adopt the following rules could result in damage to the environment and human health. These amendments are necessary to clarify the department's authority in the areas of management standards for ignitable wastes stored or treated in tanks, management standards for incompatible wastes stored or treated in tanks, and closure and post-closure standards for hazardous waste storage and treatment tanks all in accordance with R.S. 30:1131 et seq.

LAC 33:V:4379.C. Complies with the closure requirements of these regulations including but not limited to LAC 33:V:1915, 4457, 4475, 4489, 4501, 4521, and 4543.

LAC 33:V:4442 Closure and Post-Closure Care - Interim Status facilities are subject to the requirements of LAC 33:V:1915.

LAC 33:V:4443 Special requirements for ignitable or reactive wastes, - interim status facilities are subject to the requirements of LAC 33:V:1917.

LAC 33:V:4444. Special requirements for incompatible wastes - interim status facilities are subject to requirements of LAC 33:V:1919.

The effective date of these rules is November 10, 1988 and will expire March 10, 1989.

Paul H. Templet, Ph.D.
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Eligibility Determinations

The Department of Health and Hospitals, Office of Eligibility Determinations, has exercised the emergency provision of the Administrative Procedure Act, LA. R.S. 49:953-B to adopt the following rule in the Food Stamp Program.

It is necessary to adopt this as an Emergency Rule as the federal regulations published in the Federal Register, Vol. 53, No. 161, Friday, August 19, 1988, pages 31641 - 31646 mandate an implementation date of October 18, 1988. The rule entitled "Food Stamp Program - Work Requirements" published in the *Louisiana Register*, Vol. 13, No. 7, July 20, 1987, pages 394-395 is hereby amended. The rule entitled "Voluntary Quit in the Food Stamp Program" published in the *Louisiana Register*, Vol. 11, No. 1, January, 1985 pages 38-39 is also hereby amended.

Emergency Rule

Effective October 18, 1988, the following revisions will be made in work requirements:

I. Ending or Avoiding Employment and Training (E&T) or Voluntary Quit Sanctions

A. New Head of Household

If a household is disqualified because the head of household failed to comply with an employment and training (LaJET) requirement or voluntarily quits a job, and a new member joins this household, the worker shall:

1. Determine whether the new member would have been the head of household at the time of the non-compliance or Voluntary Quit

2. If the new member becomes the designated head of household:

a. The voluntary quit sanction shall be terminated.

b. The LaJET sanction shall terminate for the head of household but the member who failed to comply shall remain ineligible for the entire sanction period or until he complies with LaJET.

B. Comparable Hours or Salary

A head of household can avoid a voluntary quit penalty by accepting employment of comparable hours **or** salary. Comparable employment may entail fewer hours or a lower net salary than the job which was quit. If an individual quits a job of twenty hours a week or more, secures new employment at comparable wages or hours, and is then laid off, or (through no fault of his own) loses his new job, the earlier quit will not form the basis for a disqualification.

II. Voluntary Quit Prior to Certification

If a voluntary quit which occurred prior to certification is discovered after certification, the disqualification period shall be for three months.

III. Voluntary Quit Occurring Near The End of The Certification

In the following instances the household shall be denied recertification for a period of three months:

1. When the voluntary quit occurs in the last months of the certification period; or

2. When the worker determines voluntary quit so late in the certification period that a notice of adverse action would not become effective before the end of the certification.

IV. Voluntary Quit Claims

If a household does not reapply by the end of the certification period a claim shall be established for three months for the benefits received by the household.

If there are fewer than three months from the first month after the quit occurred to the end of the certification period, a claim shall be established for the months that were left in the certification. The household shall be disqualified for any remaining months for which a claim is not established.

V. Notice of Adverse Action For Voluntary Quit

The worker shall provide a notice of adverse action which contains:

1. The specific act of non-compliance,

2. The period of ineligibility,

3. The action which the household may take to avoid or end the disqualification (Comparable Hours or Salary), and

4. That the household may reapply at the end of the disqualification period.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary

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 Title XIX Hospital Program.

Prior to passage of Section 4112, states had an option to implement a disproportionate share payment adjustment in reimbursement methodologies for inpatient hospital services but were not mandated to do so. Section 4112 mandates that all state Medicaid reimbursement methodologies for inpatient hospital services incorporate provisions for disproportionate share adjustments similar to Medicare's provisions. These changes in reimbursement for inpatient hospital services are mandated by Section 4112 of the Omnibus Reconciliation Act of 1987 (Public Law 100-203). This rule was previously declared effective July 1, 1988 and published in the *Louisiana Register*, Vol. 14, No. 7, dated July 20, 1988. Since adoption of disproportionate share payment, the Bureau of Health Services Financing in conjunction with the Health Care Financing Administration have reviewed and clarified provisions to assure compliance with federal law and regulations. This rule is necessary to comply with the mandated implementation of disproportionate payment provisions for inpatient hospital services. This rule shall become effective November 1, 1988 for final determination of disproportionate share adjustments made under Louisiana's Title XIX State Plan agreement with the federal government.

RULE

The reimbursement methodology for inpatient hospital services shall incorporate a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients (DSH). This provision shall be implemented in the following manner:

1. Qualifying criteria for a Disproportionate Share Hospital:

a. The hospital has at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligibles. In the case of a hospital located in a rural area (i.e., an area outside of a Metropolitan Statistical Area), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures; or

b. The hospital treats inpatients who are predominantly individuals under 18 years of age; or

c. The hospital did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

d. The hospital has a utilization rate in excess of either of the below-specified minimum utilization rates:

(1) Medicaid Utilization Rate - means a fraction (expressed as a percentage), the numerator of which is the hospital's number of Medicaid (Title XIX) days and the denominator of which is the total number of the hospital's inpatient days for a cost-reporting period. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean plus one standard deviation, of the Medicaid utilization rates for all hospitals in the state receiving payments; or

(2) Low-income Utilization Rate - means the sum of:

(a) The fraction (expressed as a percentage), the numera-

tor of which is the sum (for the period) of the total Medicaid (Title XIX) patient revenues plus the amount of the cash subsidies for patient services received directly from State and local governments, and the denominator of which is the total amount of patient revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period; and

(b) The fraction (expressed as a percentage), the numerator of which is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period less the portion of any cash subsidies as described in (2)(a) above in the period which are reasonably attributable to inpatient hospital services; and the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero ('0'). The above numerator shall not include contractual allowances and discounts (other than for indigent patients not eligible for Medicaid), that is reductions in charges given to other third party payers, such as HMOs, Medicare or Blue Cross; nor charges attributable to Hill-Burton obligations. Hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent.

2. Payment Adjustments for Disproportionate Share Hospitals

The higher of the below-specified payment adjustment factors shall be applied to the cost limits and then to the total allowable Medicaid inpatient costs for those hospitals qualifying as disproportionate share providers (DSH) as specified above for inpatient hospital services provided on or after July 1, 1988:

a. Medicaid Utilization Rate - for each percentage, or portion thereof, in excess of the mean plus one standard deviation, a payment adjustment factor of 1 percent shall be applied; or

b. Low-income Utilization Rate for each percentage, or portion thereof, of the low income utilization rate defined above, in excess of 25 percent, a payment adjustment factor of 2 percent shall be applied; or

c. Medicare DSH rate - that percentage determined by the Medicare fiscal intermediary as a qualifying provider's disproportionate share adjustment factor for the purposes of Medicare reimbursement in accordance with rules established under Section 1886(d)(5)(F)(iv) of the Social Security Act.

Adjustment of the cost per discharge limitation and per diem limitations for carve-out units (NICU/PICU/Burn/Transplants) shall be the product of the applicable limit and the appropriate disproportionate share adjustment factor. The disproportionate share payment adjustment shall then be the product of the appropriate factor and the hospital's Medicaid total allowable inpatient costs.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Wildlife and Fisheries Commission has adopted a rule describing

the conduct of the 1988/89 oyster season in Calcasieu and Sabine Lakes. The season shall be conducted as follows:

1. The 1988/89 oyster season in Calcasieu and Sabine Lakes will open 1/2 hour before sunrise Tuesday, November 1, 1988, and extend until 1/2 hour after sunset, Wednesday, March 29, 1989.

2. Harvest will be by tonging only.

3. The waters of Calcasieu and Sabine Lakes will be open only when the state Department of Health and Hospitals classifies these waters as safe for the harvest of oysters.

4. The department's secretary has the authority to delay the closing of this season to compensate for health closures, such delay not to extend past April 30, 1989.

Effective date of this action is October 13, 1988. This emergency declaration is necessary because determination of the opening date is based on the most recent biological and water quality data that can be obtained.

Virginia Van Sickle
Secretary

Rules

RULE

Department of Culture, Recreation and Tourism Office of State Parks

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the notice of intent published on September 20, 1988, the Office of State Parks adopted the following revisions of rules and regulations which have no economic impact or benefit. These revisions refer to rules previously published in LAC 25:IX (June 1987).

Title 25 CULTURAL RESOURCES Part IX. Office of State Parks

Chapter 3. Rules and Regulations

§305. Vehicle Use

A. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, or any other wheeled vehicles must be operated only on those roads, lanes, or byways designated for vehicular park traffic unless otherwise authorized by the park manager.

B. Vehicles, including recreational vehicles, motorcycles, and boat trailers, shall be parked only in designated parking areas unless otherwise authorized by the park manager.

C. The vehicular speed limit in parks is 15 miles per hour unless otherwise posted.

D. The operation of motorcycles, trailbikes, minibikes, motorscooters, or other two-wheel motor vehicles is prohibited from 6:30 p.m. to 6:30 a.m., except for traveling into or out of the park. The operation of any vehicle on public roads in state parks must meet all licensing requirements and be properly li-

censed for operation on public roads as specified by the Louisiana Department of Public Safety or other regulatory agencies.

E. The operation of all wheeled vehicles on state parks' property must be done in a careful and reasonable manner. The motor vehicle and traffic regulations of the Louisiana State Digest pursuant to Title 32 are applicable to and enforced on all state parks holdings.

F. The cleaning, servicing and/or repairing of any vehicle on state parks' property is prohibited except in emergency situations and in designated areas.

G. Vehicles will be considered abandoned when left unattended for more than seven consecutive days unless the proper permit or advance written approval is granted by the park manager.

H. The removal of any barrier to gain access to a restricted area is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:89, 90 (February 1986), amended LR 14: (November 1988).

§311. Overnight Use

A. Any overnight use of a park requires a written permit or cash receipt from the park. Overnight facilities are reserved for the exclusive use of persons properly permitted for the use of overnight facilities and their guests.

B. Any permit may be terminated by the assistant secretary of the Office of State Parks and may be immediately terminated by the park manager upon the violation of any established park rule, regulation, or any condition of the permit.

C. Overnight camping, except during the period November 1 through February 28, and group camp, lodge and cabin use are limited to a 14-day period within 30 days. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

D. In no case will public residency be allowed in a state park.

E. State parks' campgrounds are intended for tents and recreational vehicles only, and in no case will mobile homes be allowed.

F. Campsite occupancy is limited to one family unit per night or a non-family unit not to exceed six persons. Not applicable to areas set aside for special group camping activities, i.e. Scouts, etc. (A family unit is composed of members of an immediate family group: husband, wife, and/or children.)

G. Only one camping rig will be allowed in each campsite.

H. A camper rig is defined as the maximum combination of camping equipment that will be allowed to occupy one campsite. These allowable combinations are:

1. one passenger vehicle and two tents (family unit only);
2. one passenger vehicle and one camping trailer;
3. one van-type camping vehicle and one tent;
4. one van-type camping vehicle and one camping trailer;
5. one pickup truck camper and one tent;
6. one pickup truck camper and one camping trailer;
7. one motorized camper (or bus) and one passenger vehicle.

I. In no case may a campsite be reserved by payment or other means prior to actual physical occupancy by the permittee, except at those areas where campsite reservations are available.

J. Permittee may not transfer or assign any use permit nor sublet any facility or part thereof.

K. Upon termination of any use permit, the facility must be delivered up in good repair and in the same condition in which it was found. Where applicable, all doors and windows will be closed, all water taps shut, and all fires extinguished. Permittees will be responsible for any and all damages resulting from his use of the facility.

L. Established time schedules (check-in and check-out) are strictly enforced. Failure to comply without advance approval of the park manager may result in additional charges and denial of any future use of the facility.

M. No permittee may repair or install any park equipment or furnishings unless authorized and supervised by the park manager.

N. Permittee waives and releases all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

O. No camper may erect or display unsightly or inappropriate structures or features which, in the opinion of the park manager, may create a disturbing or otherwise unpleasant condition detrimental to the general park use.

P. Tents and/or camping vehicles must be erected or parked only on designated campsites provided for such purposes.

Q. Campers must maintain a reasonably quiet camp between the hours of 10 p.m. and 6 a.m.

R. Beds are arranged under Health Service recommendations and cannot be changed without the permission of the park manager.

S. Keys or lock combinations are issued for the personal use of the permittee, who is prohibited from allowing others to use the key or lock combination, otherwise making the facilities open so that others not covered by the permit may enter or leave the facility or area.

T. Gate keys are available at some parks for the use of overnight visitors at a refundable deposit rate of \$2 each. The key must be surrendered when the visitor completes his stay.

U. The park manager has the authority to require registration of every person occupying a campsite or overnight facility.

V. No one occupying an overnight facility, except camping during the period November 1 through February 28, will be allowed to register for the use of that facility for a period of more than 14 days within a 30-day period.

W. All overnight facilities have a check-in time of 4 p.m. and a check-out time of 2 p.m. except Sundays, when the check-out time is 4 p.m. and the check-in time is 6 p.m. No overnight facility will be available to the user before the check-in time, unless it has already been prepared for new occupancy.

X. The park manager will furnish or post in each overnight structure an inventory of movable equipment and furnishings, which are available in the unit. The user should check the inventory immediately upon occupancy and report to the manager any deviation between the actual inventory and the printed inventory. The user may be required to reimburse the Office of State Parks for the cost of any equipment or furnishings which, if not reported upon occupancy, is missing or damaged when the unit is vacated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:89, 90 (February 1986), LR 12:828, 829 (December 1986), amended LR 14: (November 1988).

§313. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks

A. The wildlife (domestic and natural) in state parks' areas is under strict protection and must not be hunted, molested, disturbed, destroyed, or removed, except for scientific or management purposes when approved by the assistant secretary.

B. Bringing or keeping any hunting dogs on park property for the purpose of hunting inside or adjacent to a park area is prohibited.

C. The display or discharge of any weapon, including but not limited to shotguns, rifles, pistols, and bow and arrows within a park area is prohibited.

D. The taking and hunting of frogs on any park property is prohibited.

E. No fireworks of any type are allowed in a park area.

F. Anyone fishing on state parks' property must adhere to all state and federal laws and criteria regarding fresh and/or salt water fishing. The taking of fish by nets, traps or any means other than hook or line is prohibited on any state park area except for management purposes authorized by special permit. Taking of flounder by gigs is permitted.

G. The use of historic weapons or reproduction historic weapons in a park is allowed only pursuant to policies and procedures established by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:89, 90 (February 1986), amended LR 14: (November 1988).

§315. Livestock, Animals and Pets

A. Horseback riding is allowed only as part of special program events approved in advance by the assistant secretary.

B. Dogs or pets are not allowed to run at liberty in the parks. Any dog or pet brought within the park area must be leashed, caged or crated, and under no circumstances be permitted within buildings or other enclosed structures of the park (the leash is not to exceed five feet in length). Only seeing-eye dogs will be permitted near designated swimming areas. Owners of pets causing any injury or damage will be fully responsible.

C. Under no circumstances will livestock be allowed to run or graze on park property.

D. No pets are allowed on state preservation areas or the Louisiana State Arboretum.

E. In the event that a park visitor or employee is attacked, bitten or scratched by an animal on a park area, a report shall be made immediately to the park manager. When applicable, the manager will take steps necessary and feasible to ensure that law enforcement and/or animal control agents are properly advised of the incident. Such animals, at the option of the park manager or other enforcement agents, may be seized or impounded for observation.

1. All costs associated with such action will be the responsibility of the animal owner. No animal shall be brought on a park

area by a visitor unless he bears a current rabies inoculation tag indicating that he has been properly and currently inoculated against the disease.

2. Release or final disposition of an impounded animal will be the responsibility of the parish health officer or a registered veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:89, 90 (February 1986), amended LR 14: (November 1988).

§317. Sanitation and Health

A. Visitors using parks must dispose of all paper, garbage, litter, and other refuse by placing such materials in receptacles provided for that purpose.

B. Draining or dumping refuse waste from any trailer or other vehicle except in places or receptacles provided for such uses is prohibited.

C. Cleaning fish or food, or washing clothing or articles of household use at hydrants or at water faucets located in restrooms is prohibited.

D. Polluting or contaminating water supplies or water used for human consumption or swimming is prohibited.

E. Depositing, except into receptacles provided for that purpose, any body waste in or on any portion of any comfort station or any public structure, or depositing any bottles, cans, cloth, rags, metal, wood, stone, or other damaging substance in any of the fixtures in such stations or structures is prohibited.

F. Using refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought to a park as such is prohibited.

G. Burial of garbage, litter, or dead animals on park property is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:89, 90 (February 1986), amended LR 14:(November 1988).

Chapter 5. Procedures and Fees

§501. Operating Schedule

Unless otherwise noted, the following schedule applies to the operation of all state park areas.

A. State Parks

1. Summer schedule (1 April - 30 September): Parks open 7 a.m. - 10 p.m. daily (exceptions: Chicot State Park, South Landing, 5 a.m. - 10 p.m.; Grand Isle State Park, North Toledo Bend State Park, and Lake Bistineau State Park, 6 a.m. - 10 p.m.).

2. Winter schedule (1 October - 31 March): Parks open 8 a.m. - 7 p.m. daily (exceptions: South Landing of Chicot State Park, Lake Bistineau State Park, and North Toledo Bend State Park, 7 a.m. to 7 p.m.; the North Landing gate of Chicot State Park is open from 3 p.m. Friday to 7 p.m. Sunday.) Note: on Fridays and Saturdays, a park attendant is on duty for camper registration until 10 p.m. Cypremort Point State Park is closed during the winter season (1 October-31 March).

3. Pools and enclosed beach areas are usually operated from Memorial Day through Labor Day, subject to an operating

schedule per individual park. All pools and enclosed beach areas are closed on Mondays, except holidays.

B. State Commemorative Areas

1. Museums: Year-round schedule - Open 9 a.m. - 5 p.m. Wednesday- Sunday; closed Christmas Day, New Year's Day, Thanksgiving Day.

2. Day-Use Facilities and Grounds

a. Summer schedule (1 April - 30 September): Open 9 a.m. - 7 p.m. Wednesday-Sunday.

b. Winter schedule (1 October - 31 March): Open 9 a.m. - 5 p.m. Wednesday-Sunday.

C. State Preservation Areas: Year-round schedule-Open 9 a.m. - 5 p.m.

Monday - Saturday: 1 p.m. - 5 p.m. Sunday: closed Christmas Day, New Year's Day, Thanksgiving Day.

D. Temporary Operating Schedule: Some areas are not fully operational pending completion of programs or facilities. Also, because of budgetary or legislative mandates, operational schedules may change. Visitors should contact the site manager or the administrative office for information regarding sites with part-time operating hours and special group tour arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:89, 90 (February 1986), amended LR 14: (November 1988).

§503. General Admission Fees

A. State Parks General Admission Day-Use Entrance Fees

1. A day-use fee is charged at all state parks (except St. Bernard State Park). Non-commercial vehicles with up to four people are charged \$2 per day and each additional person is charged 50 cents. Walk-in visitors are charged 50 cents per person for the day. Buses used as public conveyances are charged \$20 per day.

2. All prices include state and local taxes. In any cases where entrance fees are charged, there is no additional charge for the use of picnicking (except group shelters when reserved for exclusive use), boat launching, or swimming facilities. (Exception: St. Bernard State Park - swimming pool fee \$1 per person per day.)

3. During the winter season (October 1 through March 31) a self-service fee system may be used to collect user fees on areas normally served by an entrance control station. During these times all reservation guests or others requiring registration shall sign in at the office during the normal business hours or with a ranger placed in the entrance station at hours when the office is not operated.

B. State Commemorative Areas General Admission Fees

1. An admission fee of \$2 per adult is charged for all state commemorative areas (exception: Locust Grove State Commemorative Area, which has no admission charge). There is no admission charge for children age 12 and under. Admission entitles visitors to all facilities and regular programs which may be offered at the commemorative area. Special programs and events may include special admission rates.

2. Organized groups of 10 or more are requested to notify the park manager in advance of their arrival.

3. Buses used as public conveyances are charged \$40 per day, entitling riders to all facilities and programs of the commemorative area.

C. State Preservation Areas General Admission Fees

An admission fee is not currently charged at the state preservation areas in operation.

D. Boating

1. Rental boats range in length from 12 feet to 14 feet and are available in most parks. The use of motors on these boats is limited to the manufacturer's recommended horsepower capacity.

2. Boats with three life jackets and two paddles are available at a rental rate of \$8 per boat per day. Additional life jackets are available at a rental fee of \$1 each per day.

3. A refundable deposit of \$10 per boat is required at the time of rental. This deposit will be forfeited if the boat and its accessories are not returned in the same condition as rented.

4. Certain parks maintain a boat system utilizing a central fee collection and a boat lock system. The boat keys are issued upon renting a boat and must be returned when rental period expires. A refundable deposit of \$2 is required for the use of the key.

E. Fishing Piers

A fishing pier extending into the Gulf of Mexico is located at Grand Isle East State Park. This structure is leased to a concessionaire and a fee is charged for day or night fishing on the pier in addition to the regular day-use or overnight-use fees.

F. Group Rental Shelters

1. Group rental shelters are available at Chemin-A-Haut, Chicot, Cypremort Point, Fairview-Riverside, Fontainebleau, Lake Bistineau, North Toledo Bend, Bayou Segnette, and Lake Fausse Pointe State Parks for a daily rental fee of \$30. The large picnic pavilion at Lake Fausse Pointe State Park rents for \$50 per day. Such shelters, when rented, are reserved exclusively for the use of the group or individual who is permitted for such use.

2. Reserved shelters will be posted, indicating the name of the party and date of use. When such shelters are not so posted or reserved, they are available to the park user on a first come, first served basis as any other non-reserved park shelter. Group rental shelters are not available for reservation on Memorial Day, July 4, or Labor Day.

3. Exclusive use of such a shelter can only be made by a rental permit and payment of a rental fee. These group shelters can be reserved in advance with a deposit to confirm the reservation.

4. In addition to the rental fee, users of the reserved group shelters will also be charged the normal day-use entrance fee to the park.

G. Conference Rooms

1. Any meeting room or enclosed facility of a park used to accommodate meetings and functions of private groups, clubs and other organizations is available at a rate of \$10 per hour for day use during the period between 9:30 a.m. and 3:30 p.m. All use after 3:30 p.m. until normal closing hours of the park is charged at a rate of \$15 per hour. Kitchen facilities may be used if available.

2. All use after regular closing hours requires prior approval from the park manager and is available at a flat rate of \$50 plus \$25 per hour.

3. Conference rooms are available at North Toledo Bend State Park and Chemin-A-Haut State Park.

4. Groups reserving 50 percent or more of the cabins at North Toledo Bend State Park and Chemin-A-Haut State Park may use the conference room at those parks free of charge,

subject to availability.

H. Exemptions

1. Senior Citizens

All persons age 62 or older are admitted free upon proof of age. All persons accompanying a visitor 62 or older in a private, non-commercial vehicle are exempt from the entrance fees only at those sites which collect such fees through a vehicle permit. Where individual fees are charged only those persons 62 or older are exempt.

2. Disabled Veterans

A special Veteran Entrance Permit allows any disabled U.S. veteran and any person(s) accompanying him in a single, private, non-commercial vehicle exemption from the entrance fees only at those sites which collect such fees through a vehicle permit. Where individual fees are charged only those properly recognized disabled U.S. veterans are exempt. Applications for a veteran permit may be made to the Louisiana Department of Veterans' Affairs Service Office serving the parish in which the applicant resides. After certification of eligibility has been established by the Department of Veterans' Affairs, the assistant secretary of the Office of State Parks will issue a permit directly to the applicant.

3. School Groups

Any school child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any state park, museum or related state facility in Louisiana. This exemption shall be valid from Monday through Friday during the school year.

I. Annual Permits

1. Annual day-use permits allow a single, private non-commercial vehicle and its occupants entry to all state parks and state commemorative areas at a cost of \$30 per year. The permit, to be permanently affixed to the vehicle, may be obtained by application and payment to the Office of State Parks, Box 44426, Baton Rouge, LA 70804. Permit applications are available at all state parks and state commemorative areas. The permit is valid for a period of one year beginning January 1 and ending December 31.

2. The annual day-use permits are valid for exemption of the general admission day-use charge only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1695.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 11:250 (March 1985), LR 12:89, 90 (February 1986), LR 12:828, 829 (December 1986), amended LR 14: (November 1988).

§505. Overnight and Day Use

A. Camping Fee

1. Improved campsites rent for \$12 per night. Unimproved campsites rent for \$10 per night. Reservations for campsites are accepted only at Fontainebleau State Park and Lake Bistineau State Park. For further information regarding campsite reservations, see Reservation Policy §505.G.

2. Each campsite is restricted to use by one camping unit. Improved sites are equipped with picnic table, grill, electricity and water hookups.

3. Specific primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are located at the follow-

ing state park areas: Chicot State Park, Fontainebleau State Park, Lake Bistineau State Park, Lake Claiborne State Park, and Sam Houston Jones State Park. Reservations for these areas are made directly with the park manager. The group charge is \$10 per night. Capacity level will be set by the park manager.

4. To stimulate visitor use during the off season the two-week restriction on stays at campsites is waived from November 1 through February 28. During this period overnight camping is allowed on consecutive days on an unlimited basis.

B. Rally Camping Areas are those areas of a Louisiana state park designated and reserved for use by organized groups of overnight campers. These areas differ from the normal state park campgrounds since they are available for group use and may be reserved in advance.

1. A \$30 advance deposit is required to confirm a reservation, which will be applied to the first night or day's use.

2. Fees

a. A fee of \$30 per night is assessed to the group for the exclusive use of the area and each individual camper rig is also charged the improved campsite rate.

b. The day-use fee for a rally campground is \$30 per day for the group, and in addition the standard day-use entrance fee is charged per vehicle.

3. Carrying Capacity - A maximum carrying capacity for improved and unimproved sites is established by individual parks and information concerning these capacities is available through the individual park offices.

C. Exemptions

All persons 62 years of age or older and anyone accompanying such person in the same vehicle are entitled to a \$2 per night discount on the use of camping facilities. Proof of age is required.

D. Backpacking

1. Backpacking is available only at Chicot State Park at the present time. A permit is required for all overnight backpacking use and may be obtained at the park entrance station. For group outings this permit must be obtained two weeks in advance and may be obtained by writing to Chicot State Park.

2. Each person will be assessed a fee of 25 cents per night. A copy of the backpacking regulations can be obtained at the park entrance station.

3. Backcountry camping or backpacking is defined as camping in undeveloped areas of the park where there are no designated campsites and no facilities provided. These areas are reached by backpacking or by non-motorized boats.

4. The following regulations for backcountry use have been developed to protect users and park resources:

a. A written backcountry permit issued at the individual park office is required for all overnight backcountry use. This permit may be obtained at the park entrance station. For group outings this permit must be obtained two weeks in advance and may be obtained by writing to the individual state park.

b. A trip plan, including expected area of camping, route of travel, and expected departure and return times, must be filed with designated personnel.

c. All garbage and litter must be brought back to the main park for proper disposal in trash containers. The camping area should be left as clean or cleaner than it was before you used it.

d. Human waste is to be buried well away from camp areas and streams.

e. Fires are permitted but only dead wood collected from

the ground is to be used for fuel. Fires should be modest in size and fully extinguished when camp is left.

f. Digging, ditching, or leveling of ground for tent sites is prohibited. Installation of permanent camp facilities is prohibited.

g. No horses, dogs, cats, mechanized or wheeled vehicles, or motor boats are allowed in backcountry areas.

h. Possession of firearms, traps, seines, etc., is prohibited. Fishing is permitted with a valid Louisiana fishing license.

i. Campers should be self-sufficient and carry enough water, food, and first aid equipment for emergency situations.

j. Vehicles used to get to the trail head will be left in areas designated by appropriate park personnel.

k. Because of the delicate nature of the backcountry environment at Chicot State Park, no more than 20 people per campsite will be allowed at any given time. Since there are five campsites, permits will be issued to a maximum of 100 people.

4. Backcountry Camping Permit Procedure

a. Provide user with copy of regulations and have trip leader fill out permit in duplicate.

b. Collect use fee for park at rate of 25 cents per night of use per person.

c. Review trip plan with party leader and impress upon him the importance of following plan to greatest extent possible.

d. Sign permit and give one copy to party leader. Keep second copy in park office.

e. Tell users where you want them to leave their vehicles.

f. Plastic trash bags will be issued to those users unable to carry out their garbage in any other manner.

E. Cabins and Lodges

1. Cabins

Cabin Classification and Park Location	Overnight Rate And Required Deposit	Bedding Accommodations	Maximum Capacity
Type I Lake Bistineau SP Bayou Segnette SP Lake Fausse Pointe SP North Toledo Bend SP	\$50	6 persons-Deluxe	8
Type II Lake Bistineau SP Chicot SP Sam Houston Jones SP	\$45	6 persons-Standard	8
Type III Chemin-A-Haut SP	\$40	4 persons-Deluxe	6
Type IV Chemin-A-Haut SP Chicot SP	\$35	4 persons-Standard	6

In each case where the bedding accommodations are specified, the maximum overnight occupancy of the cabin cannot be more than two people over the lodging accommodation number. Bedding accommodations will vary and may include a combination of double beds, single beds, bunk beds or sofa sleepers. Visitors must contact the park for information regarding specific bedding arrangements and accommodations.

2. Park Lodges - These are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups.

a. The Chicot State Park Lodge contains sleeping facilities for 12 persons with a maximum of 16 persons. The Fontainebleau State Park Lodge contains sleeping facilities for nine persons with a maximum of 13 persons.

b. Both lodges are available at a rate of \$75 per night and a one night advance deposit is required for each.

F. Group Camps

These are available at certain parks for organized group use. The capacity, type of facility, rate and location are as follows:

Park Location	Type of Facility	Capacity (No. Persons)	Overnight Use/ Minimum Rate and Deposit	Day-Use Rate
Bayou Segnette	3 Dormitories	120	\$180	\$150
Chemin-A-Haut	1 Dormitory	40	\$ 75	\$ 50
Chicot Area No. 1	1 Dormitory, 5 Cabins	160	\$250	\$150
Chicot Area No. 2	1 Dormitory, 6 Cabins	48	\$ 75	\$ 50
Fontainebleau No. 1 (west end - large)	1 Dormitory	150	\$225	\$150
Fontainebleau No. 2 (west end - small)	1 Dormitory	30	\$ 50	\$ 50
Fontainebleau No. 3 (east end)	2 Dormitories	65	\$100	\$ 50
Lake Bistineau Area No. 1	20 Cabins	160	\$250	\$150
Lake Bistineau Area No. 2	6 Cabins	48	\$ 75	\$ 50
Longfellow-Evangeline	1 Dormitory	60	\$100	\$ 50
North Toledo Bend	5 Dormitories	150	\$225	\$150

1. Minimum overnight rate is based on 50 percent capacity of the facility. Rate is \$3 per person per night for each person over the 50 percent capacity.

2. Group camps may be reserved for day-use only at a basic rate. In addition, the normal day-use entrance fee will be assessed each vehicle entering the group camp area.

3. Beds, kitchen and necessary cooking ware are furnished. User must furnish his own tableware (silver, dishes, glasses, etc.), bed linens, pillows, towels, and toilet necessities.

G. Reservation Policy

1. A primary function of the business office at each state park is to take reservations which must be made at the park where the facilities are to be used. Business offices, operate 8 a.m. to 5 p.m., Monday through Friday, and are closed New Year's Day, Thanksgiving Day, and Christmas Day.

2. Reservations are accepted only from persons 18 years of age or older and adults must accompany all minors at reserved facilities.

3. An advance deposit is required to reserve any facility. The appropriate deposit must be received at the park site within 10 days of the request (except regular campsite reservations) or the reservation will be cancelled. A person may also make a deposit by giving his VISA or Mastercard number and date of expiration. If the desired date of use is within 10 days of the date the request is made, then the deposit must be made by VISA or Mastercard, or paid in cash in person at the park site.

4. Reservation Cancellations or Changes

a. A reservation may be cancelled with full refund if requested at least 14 days prior to the reservation date (except for regular campsite reservations). If a person is not in compliance with this procedure, nor follows the refund guidelines (see Refunds), his/her advance deposit will be forfeited.

b. A change in the date of a reservation may be made without forfeiting an advance deposit, if the change is requested at least 14 days prior to the original reservation date. Date changes are dependent upon facility availability.

5. Overnight Reservations

a. Overnight reservations may be made for cabins, lodges, group camps, rally campgrounds and camping (where available).

b. Reservations for overnight use between October 1 and March 31 are accepted beginning July 1 annually. Reservations placed for this period between July 1 and July 10 are accepted by telephone *only* and are on a first come, first served basis. Reservations for this period are accepted after July 10 annually by either phoning or writing the individual park at which accommodations are desired.

c. Reservations for overnight use between April 1 and September 30 are accepted beginning January 2 annually. Reservations placed for this period between January 2 and January 10 are accepted by telephone *only* and are on a first come, first served basis. Reservations for this period are accepted after January 10 annually by either phoning or writing the individual park at which accommodations are desired.

d. For cabins, lodges, group camps, rally campgrounds and camping (where available) the minimum reservation period for a weekend is from 4 p.m. Friday through 4 p.m. Sunday. Minimum camping reservations for a holiday weekend during the summer season must be made for a minimum three-day period.

e. An advance deposit equal to the appropriate one night fee is required to reserve any overnight facility (except regular campsites). This deposit will be applied to the first night's use.

f. Special Discount: Overnight facilities including cabins, lodges, group camps and rally campgrounds have reduced rates for the entire week during the period November 1 through February 28. The discount during this period is one night's free use of the facility for each overnight rate paid in full (two overnight uses for one overnight fee). The paid night(s) and free night(s) use of a facility must be taken consecutively.

g. Reservations for Regular Campsites

i. An advance deposit equal to one night's regular campsite rental fee plus a surcharge of \$3 is required to make an advance reservation for a regular campsite. Normal camping fees apply after the first night. Senior citizen discounts do not apply to the surcharge.

ii. Advance reservations for regular campsites are non-refundable and non-transferrable.

iii. If a user wishes to change his campsite location after confirmation of the advance reservation, the advance reservation fee (one night's deposit plus \$3) shall be forfeited. A user may select a new site outside the campsite reservation area; however, such use will be considered a new permit and all applicable fees will be charged at the regular rate.

iv. Advance reservations may be made by VISA or Mastercard, personal check, or paid by cash in person. If made by personal check, the reservation can only be confirmed if the check is received at least 14 days prior to the desired reservation date. If a check is returned for non-sufficient funds within the 14-day period, the reservation is automatically cancelled.

v. A camper may reserve up to five campsites for a particular date. However, a camper may reserve campsites for only one date in any 24-hour period.

6. Day-Use Reservations

a. Day-use reservations may be made for group camps, rally campgrounds, conference rooms and group shelters (where available).

b. Reservations of conference rooms and group shelters for day use from April 1 through September 30 are accepted by phone or in writing beginning January 2 annually at the individual park where the reservation is desired. Reservations of conference rooms and group shelters for day use from October 1 through March 31 are accepted beginning July 1.

c. Reservations of group camps and rally campgrounds for day use only from April 1 through September 30 are accepted by phone or in writing beginning February 1 annually at the individual park where the reservation is desired. Reservations of group camps and rally campgrounds for day use only from October 1 through March 31 are accepted beginning August 1. Such reservations can be made for a single day period.

d. An advance deposit equal to the appropriate day-use rate is required to reserve conference rooms, group camps, group shelters or rally campgrounds. This deposit will be applied to the first day's use.

H. Special Facilities (Overnight) - Poverty Point SCA Dormitory

1. Purpose of Facility - The primary purpose of the dormitory is to provide living space and sleeping accommodations for professional archaeologists who are actively conducting on-site research. The dormitory can be used on a first come, first served reservation basis by other individuals who meet the requirements as set forth in this policy statement.

2. Eligible Users - The dormitory is available to college students, professional archaeologists and other scientists who are studying the Poverty Point culture and/or actively conducting research which relates to or directly involves the Poverty Point SCA.

Request for use of the dormitory by individuals or groups not meeting the above criteria will be reviewed by the Office of State Parks, assistant secretary, or his designee, to determine merit and appropriateness. The primary determining factor for accepting such individuals or groups will be the benefit to the commemorative area and its visitors. Their presence and activities should add to the on-site interpretive and educational programs in an authentic and historically accurate manner or benefit our programs through the contribution of archaeological/historical research, reports, or artifacts.

3. Application Process - Requests for use of the dormitory must be made by letter addressed to the Assistant Secretary, Louisiana Office of State Parks, Box 44426, Baton Rouge, LA 70804-4426.

a. Review of request and evaluation by assistant secretary or his designee.

b. Response to request by assistant secretary (in writing). If request approved, enclose Facility Use Agreement and copy of state parks' pamphlet entitled, "Fees, Facilities and Regulations."

c. Phone calls are not acceptable in this first come, first served application process.

4. Facility Use Agreement

a. All parties granted permission to use the dormitory must execute a Facility Use Agreement. This agreement is between the Office of State Parks and those parties using the dormitory. It stipulates the terms and pertinent regulations by which the dormitory occupants agree to abide.

b. The user must execute the agreement and return it to the assistant secretary before occupying the dormitory.

c. Each original Facility Use Agreement will be kept on file by the Office of State Parks central office and copies will be sent

to the user and the historic site manager of Poverty Point State Commemorative Area.

5. Fees

a. All user groups, unless otherwise authorized by the assistant secretary of the Office of State Parks, will be required to pay a fee for overnight use.

b. The user must deposit \$50 with the historic site manager within 10 days after receiving written approval to use the dormitory. The deposit will be retained by the historic site manager and deducted from the total rental fee.

c. After arriving at Poverty Point SCA, the user is required to pay all rental fees to the historic site manager before occupying the dormitory.

d. A minimum overnight rate of \$50 is based on 50 percent capacity of the facility (28 people). An additional fee of \$2 per person per night will be charged for each person over the 50 percent capacity.

6. Occupancy Requirements

a. Registration with the historic site manager is required of all boarders before occupying the dormitory. This information will include name, organization, address, and home or business phone numbers.

b. Keys to the dormitory can be obtained from the historic site manager. One group leader will assume responsibility for the keys and return them to the manager before leaving.

c. Sexes will remain segregated in their specific sleeping areas, and no exceptions will be made to this regulation. The dormitory is designed to sleep a maximum of 28 men and 28 women. Two wings off the dining-kitchen area separate male and female sleeping areas.

7. Articles and facilities furnished by the Office of State Parks are as follows:

a. laundry room, including washers and dryers;

b. kitchen facilities, including eating utensils, pots and pans, refrigerator, stove, freezer and dishwasher;

c. all necessary cleaning supplies;

d. men's and women's restrooms with showers;

e. sleeping facilities, including beds and mattresses.

8. Articles not furnished by the Office of State Parks are as follows:

a. linens, blankets, and pillows;

b. towels and all personal articles;

c. food.

9. Housekeeping Procedures

a. General cleanup of this facility will be the responsibility of the user. The user will follow established cleanup and housekeeping procedures distributed by the manager.

b. No modifications or repairs of any type will be done by the boarders to the dormitory building and equipment.

c. Any problems with the building or equipment should be reported to the historic site manager immediately.

10. Check-out Procedure

a. contact manager and return keys;

b. report of damage or equipment failure by user;

c. inspection of dormitory by manager;

d. inventory of furnishings by manager;

11. Special Conditions

a. All programs and activities conducted at Poverty Point SCA by groups using the dormitory must be approved in writing by the assistant secretary or his designee.

b. The selling of any crafts or art work by groups using the dormitory must be approved in writing by the assistant secretary or his designee.

c. No trailer or tent camping is permitted on any property at Poverty Point SCA.

12. All boarders will adhere to all rules and regulations of the Office of State Parks.

13. The Office of State Parks reserves the right to revoke boarding privileges at any time from any individual or group not conforming to the policies of this facility.

14. The historic site manager has the administrative responsibility for all matters relating to the daily operation of the dormitory building and site facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1695.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 11:250 (March 1985), LR 12:89, 90 (February 1986), LR 12:828, 829 (December 1986), amended LR 14: (November 1988).

§507. Special Uses and Restrictions

A. Special Use

Any function requiring special or restricted use of any facility or area within a state park holding must be approved by the assistant secretary and the fee for such will be computed on the same basis as the use for conference rooms. Written request for special use of a facility must be received at the Office of State Parks, Box 44426, Baton Rouge, LA 70804-4426 at least 30 days prior to the scheduled event. No telephone requests are accepted.

B. Political Activities

Political events involving the use of state park areas are discouraged; however, each event is considered on an individual request basis and, if approved, will be authorized by the assistant secretary. Such activities will be considered only when, in the judgment of the assistant secretary, the function will not adversely affect the normal programmed use of the area by the general public. Requests for such events must be submitted in writing to the assistant secretary at least 30 days in advance of the proposed use. Such events will be considered "Special Use Events" and fees and permits will be regulated by the special use provisions herein. No political candidates or organizations will be granted, or shall expect to receive, special consideration for use or fee waivers.

C. Use Restrictions

1. A State Commemorative Area is an area which possesses a historical, cultural, or memorial significance when judged on a statewide basis. The state commemorative area is established to allow the visiting public an opportunity to experience man's past through the resources preserved at the area, and is restricted to this use.

2. It is necessary that development on a state commemorative area be limited to that which is essential for visitor accommodation and enjoyment of the area's theme or feature. Day-use facilities will be limited to these activities which are not in conflict with the historical theme of the site, and confined to areas of the grounds set aside for usage of this nature.

3. As important as the artifactual evidence existing on the areas is the atmosphere created around these objects which make their study by the public more conducive. In order that the

greater interest and primary function of the area be served, it is necessary to restrict certain incompatible activities from the sites. Organized sports such as baseball, football, field hockey, soccer, and the like cannot contribute to a greater understanding of the historical, cultural, or memorial theme of the area and is, therefore, prohibited on any state commemorative areas.

4. It has also been determined that the use of state commemorative areas for such activities and events as fairs, circuses, carnivals, amusement rides, and other promoter sponsored, commercial activities and events is not deemed in the best interest of the state commemorative areas. Such use fails to achieve the intent outlined in the preservation purpose and may increase the potential for serious damage to the quality and character of the area, adversely affecting the experience of the visitor.

5. Organizations offering support to commemorative areas, either one in particular or on a general basis, through such things as historical societies or service groups, may be permitted special functions at a commemorative area if a written request is made and written permission is obtained from the assistant secretary of the Office of State Parks. Such functions may not be specifically for the benefit of an individual, but must be held to benefit the commemorative area, either directly or indirectly, through greater public awareness in the site or history of the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:90 (February 1986), amended LR 14: (November 1988).

Chapter 7. Facilities

§701. Office of State Parks' Operating Units

A. Audubon State Commemorative (Box 546, St. Francisville, LA 70775, 504-635-3739) is located in West Feliciana Parish, near St. Francisville on LA 965. The 100-acre woodland setting is the site of Oakley Plantation House, built in 1799, where artist-naturalist John James Audubon created many of his famous bird paintings. Oakley has been restored as a museum containing Audubon memorabilia. Formal gardens accent the exterior of the house. The house is included on the National Register of Historic Places.

B. Bayou Segnette State Park (7777 Westbank Expressway, Westwego, LA 70094, 504-436-1107) is located in Westwego off U. S. 90 near its intersection with Drake Avenue, across the Mississippi River from New Orleans. The 580-acre park includes a large boat launch, 20 vacation cabins, a camping area, group camp, and picnic area.

C. Centenary State Commemorative Area (Box 546, St. Francisville, LA 70775, 504-635-3739) is located at East College and Pine Streets in the town of Jackson in East Feliciana Parish. The site includes the West Wing Dormitory and Professor's Residence of the state's original Centenary College, as well as the history of education in Louisiana.

D. Chemin-A-Haut State Park (Route 5, Box 617, Bastrop, LA 71220, 318-283-0812) is located east of LA 139, 10 miles north of Bastrop. The 405-acre park, lying at the intersection of Bayous Chemin-A-Haut and Bartholomew is a portion of the high road to the south used by Indians in their seasonal migrations. A beautiful lake in the park is stocked with freshwater fishes. Cabins and a camping area offer overnight accommodations. A swimming pool and a playground are also available.

E. Chicot State Park (Route 3, Box 494, Ville Platte, LA 70586, 318-363-2503) is located in North Evangeline Parish, six miles north of Ville Platte on LA 3042. This 6500-acre park features large rolling hills, surrounding a 2000-acre artificial lake, well stocked with fishes such as bream, bass and crappie. Two camping areas, fully equipped cabins and two group camps are available to overnight visitors. Day-use facilities include picnic sites, a hiking trail and a swimming pool.

F. Cypremort Point State Park (Star Route B, Box 428AA, Franklin, LA 70538, 318-867-4510) is located 24 miles south of Jeanerette off LA 319 in Iberia and St. Mary Parishes. The 185-acre site offers access to the Gulf of Mexico. Its man-made beach, located in the heart of a natural marsh, offers fresh and salt water fishing and most seashore recreation opportunities. Picnic sites are also available. The park is a favorite for sailboaters and it hosts several annual regattas.

G. Earl K. Long State Commemorative Area is located in the city of Winnfield. It was established as a memorial to the man who served three terms as governor. The symmetrical design of the park, from its eight-foot bronze statue at the apex of a partially hedged, circular walk to its pavilion is enhanced by effective landscaping throughout. Transferred to the City of Winnfield through a Cooperative Endeavor agreement.

H. Edward Douglas White State Commemorative Area (2311 Highway 1, Thibodaux, LA 70301, 504-447-3473) is located five miles north of Thibodaux in Lafourche Parish on LA 1. This park includes the 130-year-old homestead of the former statesman and Chief Justice of the Supreme Court. The white frame, raised cottage of Creole origin has been restored and sits amidst six acres of land. The facility is a National Historic Landmark.

I. Fairview-Riverside State Park (Box 97, Madisonville, LA 70447, 504-845-3318) is located two miles east of Madisonville in St. Tammany Parish on LA 22. The park consists of 98 acres of picturesque, moss-draped oaks and woodlands near the banks of the Tchefuncte River. Boat dock, fishing pier and canoe trail offer many opportunities for fishermen and other water sportsmen. Campsites and picnic facilities are available.

J. Fontainebleau State Park (Box 152, Mandeville, LA 70448, 504-624-4443) is located southeast of Mandeville in St. Tammany Parish on U.S. 190. The park embraces over 2800 acres on the north shore of Lake Pontchartrain. The ruins of a plantation brickyard and sugar mill and an alley of live oaks lining the entrance road are popular assets of the park. The park offers swimming, fishing, camping and picnicking. A nature trail is very popular.

K. Fort Jesup State Commemorative Area is located just off LA 6, formerly the original El Camino Real. This site features an original kitchen/mess building and a museum. The site was selected by Zachary Taylor in 1822 and the fort existed for 26 years as one of the strongest garrisons in Louisiana. Fort Jesup is a National Historic Landmark. Transferred to the Sabine River Authority, Many, Louisiana, through a Cooperative Endeavor Agreement.

L. Fort Pike State Commemorative Area (Route 6, Box 194, New Orleans, LA 70129, 504-662-5703) is located adjacent to the Old Spanish Trail (U.S. 90) in eastern New Orleans. The fort, set on a 125-acre site, was constructed shortly after the War of 1812 to defend navigational channels leading into the city of New Orleans. Visitors can stroll through authentic brick archways and stand overlooking the Rigolets, as sentries once

did. A museum exhibits numerous artifacts related to the fort. The facility is included on the National Register of Historic Places.

M. Fort St. Jean Baptiste State Commemorative Area (Box 1127, Natchitoches, LA 71458, 318-357-3101) is located in downtown Natchitoches, oldest town in the Louisiana Purchase. The reconstructed facility is an exact replica of the fort as it existed in 1732. It includes a long barracks building, small warehouse, chapel, mess hall and several Indian huts. The fort was a strategic outpost for the French to prevent the Spanish from advancing further into Louisiana. Park personnel wear period dress as part of the interpretive program.

N. Grand Isle East State Park (Box 741, Grand Isle, LA 70358, 504-787-2559) is located on the east end of Grand Isle on LA 1 in Jefferson Parish. This 140-acre site offers access to the Gulf of Mexico and its beach and fishing jetties afford seashore recreation opportunities. A 400-foot fishing pier built over the water offers day/night fishing. Picnicking and camping are also available.

O. Jackson Confederate State Commemorative Area (Box 546, St. Francisville, LA 70775, 504-635-3739) is located adjacent to Centenary State Commemorative Area in the town of Jackson in East Feliciana Parish. The cemetery was established in 1815 and during the Civil War a section was set aside in honor of the soldiers killed in action at the battle of Thompson's Creek.

P. Lake Bistineau State Park (Box 7, Doyline, LA 71023, 318-745-3503) is located east of LA 163 in Webster Parish, near Doyline. This beautiful 750-acre park is set in the heart of a pine forest and takes its name from the large lake which borders the site. Cabins, two group camps, 67 campsites, 150 picnic sites and two swimming pools are available for visitors.

Q. Lake Bruin State Park (Route 1, Box 183, St. Joseph, LA 71366, 318-766-3530) is located east of U.S. 65 near St. Joseph in Tensas Parish. The park takes its name from the adjacent natural oxbow lake and features a magnificent cypress growth along the shore, waterskiing and boating are prime pleasures of the park. A special area for swimmers, picnic sites and campsites is also available.

R. Lake Claiborne State Park (Box 246, Homer, LA 71040, 318-927-2976) is located in Claiborne Parish on LA 146, just seven miles southeast of Homer. The park consists of some 620 acres of woodland touching the shores around a 6400-acre lake. Rental boats and several boat landings are available to fishermen and water sportsmen. Designated swimming area in the lake, picnic sites and campsites facilitate the park.

S. Locust Grove State Commemorative Area (Box 546, St. Francisville, LA 70775, 504-635-3739) is located northeast of St. Francisville in West Feliciana Parish off U.S. 61. In this one-acre cemetery are buried Sarah Knox Taylor, wife of Jefferson Davis, and General Eleanor W. Ripley, who was noted for his distinction at the Battle of Lundy's Lane during the war of 1812.

T. Longfellow-Evangeline State Commemorative Area (1200 N. Main St., St. Martinville, LA 70582, 318-394-3754) is located in St. Martinville along the banks of Bayou Teche. Developments center around an Acadian house of mid-19th century and its kitchen-garden. Also of note is the Acadian craft shop. The 157-acre park and its structures interpret the history of the early French settlers of Louisiana. The house is a National Historic Landmark.

U. Los Adaes State Commemorative Area is located on LA 6, east of Robeline in Natchitoches Parish. Originally built in 1721, the fort protected Spanish territory from the French. Despite official friction, the Spanish of Los Adaes and the French of Fort St. Jean Baptiste maintained friendly relations. Important archaeological site. Included on the National Register of Historic Places. Transferred to the Sabine River Authority, Many, Louisiana, through a Cooperative Endeavor Agreement.

V. Louisiana State Arboretum State Preservation Area (Route 3, Box 494, Ville Platte, LA 70586, 318-363-2503) is located on LA 3042, approximately eight miles north of Ville Platte and a mile and a half from the main entrance to Chicot State Park in Evangeline Parish. The 600-acre facility features several miles of nature trails which lead beside more than 100 species of plant life native to Louisiana. The plants are labeled. Herbarium on site contains preserved specimens of the native plant life. Tours are offered.

W. Mansfield State Commemorative Area is located four miles south of the town of Mansfield. This park is the site of the most important battle of the Civil War fought west of the Mississippi. The 44-acre site includes a museum noted for its variety of military artifacts. The interpretive program explains how the badly outnumbered Rebels defeated the Union, ending the Red River Campaign. The facility is included on the National Register of Historic Places. Transferred to the Sabine River Authority, Many, Louisiana, through a Cooperative Endeavor Agreement.

X. Marksville State Commemorative Area (700 Allen Street, Marksville, LA 71351, 318-253-9546) is located adjacent to the town of Marksville, east of LA 1 and LA 452. The park area is of great archaeological significance due to the discovery of buried evidence of an Indian culture which flourished some 2000 years ago. Visitors can enjoy prehistoric Indian mounds located on a bluff overlooking Old River. Interpretive program and museum adds to visitor enjoyment. The facility is a National Historic Landmark.

Y. Plaquemine Locks State Commemorative Area is located in downtown Plaquemine about 15 miles south of Baton Rouge. This five-acre site interprets the history of the Mississippi River and its traffic. Included on the site are the original lock structure, lockhouse, huge viewing tower and a pavilion. The Plaquemine Locks, built in 1909, provided the only link to waterways west of the Mississippi River. The facility is included on the National Register of Historic Places. Transferred to the Iberville Parks and Recreation District, Plaquemine, Louisiana, through a Cooperative Endeavor Agreement.

Z. Port Hudson State Commemorative Area (756 West Plains-Port Hudson Road, Zachary, LA 70791, 504-654-3775) is located on U.S. Highway 61, 14 miles north of Baton Rouge. The 640-acre site includes original Civil War earthworks which were the site of the 1863 siege of Port Hudson, a struggle for control of the Mississippi River. The commemorative area features a museum, outdoor displays, viewing towers, a picnic area, and over six miles of walking trails. Port Hudson is a National Historic Landmark.

AA. Poverty Point State Commemorative Area (HC 60, Box 208A, Epps, LA 71237, 318-926-5492) is located on LA 577, north of Epps. Poverty Point is the site of the earliest culture yet discovered in the Mississippi Valley. Dated between 1700 and 700 B.C., this 400-acre site is said to be among the most significant archaeological finds in the country. Interpretive museum and guided tours are park's highlights. The facility is a National

Historic Landmark.

AB. Rebel State Commemorative Area (Box 127, Marthaville, LA 71450, 318-472-6255) is located in Natchitoches Parish, three miles north of Marthaville off LA 1221. The site features the Louisiana Country Music Museum, which explores the development of country music in Louisiana. Also on site is an amphitheatre where performances are held periodically, and a picnic area.

AC. St. Bernard State Park (Box 534, Violet, LA 70092, 504-682-2101) is located 18 miles southeast of New Orleans on LA 39 in St. Bernard Parish. This 350-acre park on the Mississippi River affords the visitor viewing points of the river. Man-made lagoons feature canoeing and fishing. The park is also a convenient stop-off point for Chalmette National Historic Park and the city of New Orleans. Camping and picnic facilities are available.

AD. Sam Houston Jones State Park (Route 4, Box 294, Lake Charles, LA 70601, 318-855-2665) is located 12 miles north of Lake Charles on LA 378 in Calcasieu Parish. The 1068-acre tract features camping areas, vacation cabins, boating, fishing, picnic areas and nature trails. Originally named for the Texas folk hero who traveled extensively in the western reaches of Louisiana, Sam Houston Jones was given its current name in honor of the state's 37th governor, who was instrumental in setting this tract of land aside for public use. Nature interpretive program during the summer.

AE. Winter Quarters State Commemorative Area (Route 1, Box 91, Newellton, LA 71357, 318-467-5439) is located three miles southeast of Newellton on LA 608 in Tensas Parish. This 19-room plantation mansion situated on a seven-acre site was, for a time, used as headquarters by General Grant during the siege of Vicksburg. Built in three stages during three generations, the house demonstrates three different types of architecture. The facility is included on the National Register of Historic Places.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:89, 90 (February 1986), LR 12:828, 829 (December 1986), amended LR 14: (November 1988).

Linton Ardoin
Assistant Secretary

RULE

Department of Economic Development Auctioneers Licensing Board

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part III. Auctioneers

Chapter 1. Description of Organization

§101. Organization of the Board

The Louisiana Auctioneer Licensing Board (hereafter referred to as board) is created by virtue of R.S. 37:3111; and is created as an agency of the state government in the Department

of Economic Development. No member of the board shall be held liable as an individual in any suit against the board. Statutes relating thereto are found in R.S. 37:3111, et seq., of the Louisiana Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§103. Number, Qualifications of Members

The board shall be composed of seven persons, consisting of the chairman and vice-chairman, and five of whom shall be auctioneers, one selected from each Public Service Commission district, and two of whom shall be consumers from the public-at-large, all appointed by the governor. Each appointee shall be a citizen of the United States of America and a resident of Louisiana and at least 30 years of age. The initial auctioneer members shall not be required to be licensed but shall obtain a license within a reasonable time after appointment; each subsequent member shall be a licensed auctioneer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§105. Election and Term of Office

The chairman and vice-chairman shall hold office as board members so long as they hold their respective positions as elective officers of the board. Each appointed member shall serve at the pleasure of the governor for a term concurrent to the term of office of the governor appointing him except that each member shall serve until his successor has been appointed and begins serving. Each appointment by the governor shall be submitted to the Senate for confirmation. No appointee shall serve more than two consecutive terms. In the event of the death, resignation, or disability of a member of the board, the governor shall fill the vacancy by appointing a qualified person for the remainder of the unexpired term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§107. Oath

Each member of the board shall receive a certificate of appointment from the governor, and before beginning his term of office, shall file with the secretary of state his written oath or affirmation for faithful discharge of his official duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§109. Salaries

Members of the board may receive a per diem or compensation when actually attending a meeting of the board or any of its committees and for time spent on behalf of the board on

official business. Additionally, members may be reimbursed for actual and necessary travel, incidental, and clerical expenses incurred in carrying out the provisions of this Chapter when and if funds are available from the board's funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

Chapter 3. General Course and Method of Operations

§301. Domicile

The board shall be domiciled in Baton Rouge, Louisiana, but shall be authorized to meet elsewhere in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 (C).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§303. Chairman and Vice-Chairman of the Board

The chairman, or in his absence, the vice-chairman, or in the absence of both of them, the chairman chosen by the members present, shall preside at all meetings of the board. The chairman shall be the chief executive officer of the board, and subject to the direction and under the supervision of the board, shall have general charge of the business affairs and property of the board and control of its officers. The chairman shall preside at all meetings of the members, shall appoint the members of all committees created by the bylaws or by resolution of the board. He shall be an ex-officio member of all standing committees and other committees created by the bylaws or by resolution of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§305. Meetings of the Board

The board shall conduct regular meetings at least four times a year. A special meeting may be held at such time and place as specified by the executive secretary on call of the chairman or four members. The executive secretary shall give written notice of all meetings to the members of the board and the interested public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§307. Special Meetings

A. Special meetings of the board may be called by the chairman or at the request of any four members. The persons authorized to call such a special meeting may fix any place within the State of Louisiana.

B. Notice of any special meeting shall be given by mail, posted at least five days prior to such a meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing (Board, LR 11:335 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§309. Quorum of the Board

Four members of the board constitute a quorum for all purposes including the granting or issuance of licenses and the rulemaking and adjudicative functions of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board LR 11:335 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§311. Manner of Acting

The act of the majority of the board members present at a meeting at which a quorum is present shall be the act of the board, except as specified by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§313. Repealed

Chapter 5. Order of Business; Rules of Order

§501. Board Meeting; Order of Business

A. The order of business at all meetings of board members shall be:

1. Call to order
2. Reading of the minutes of the previous meeting
3. Reports of members
4. Consideration of financial statements and reports
5. Consideration of unfinished business
6. Consideration of new and miscellaneous business
7. Adjournment

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§503. Rules of Order

Except as otherwise provided in the statute or the Administrative Procedure Act, the latest edition of "Robert's Rules of Order" as revised from time to time, shall determine procedure in all meetings of the members and the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board LR 11:335 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

Chapter 7. General Scope of Responsibilities

§701. Duties

A. The business and affairs of the board shall be managed by its board members.

B. The board shall perform the following duties:

1. Examine each applicant desiring to be licensed as an

auctioneer in the state of Louisiana.

2. Administer a written examination for licensing at least four times each year in the city of Baton Rouge.

3. Adopt rules and regulations to govern auctioneers in the state of Louisiana.

4. Issue, suspend, modify or revoke licenses to do business in the state of Louisiana.

5. Report to the attorney general of the state of Louisiana all persons violating the provisions of the statute and rules.

6. Report annually, no later than March 1, to the governor, the secretary of the department and the legislature on its activities.

7. Adopt its official seal.

8. Furnish, upon request, a copy of Louisiana auction laws, and also an accurate list of those states having reciprocity with Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§703. Authorities

A. The board is authorized and shall do the following:

1. Adopt and enforce rules and regulations, bylaws and rules of professional conduct as the board may deem necessary and proper to regulate auctions under its jurisdiction in the State of Louisiana, to provide for the efficient operation of the board, and otherwise to discharge its duties and powers under the statute and rules.

2. Prescribe and adopt regulations, standards, procedures and policies governing the manner and conditions under which credit shall be given by the board for participation in a program of continuing education, as the board may consider necessary and appropriate to maintain the highest standards of proficiency as an auctioneer in the state of Louisiana.

3. Authorize any member of the board to make any affidavit necessary to the issuance of any injunction or other legal process authorized under the statute or rules of the board.

4. Authorize and issue subpoenas to require attendance and testimony and the production of documents for the purpose of enforcing the laws relative to auctions and securing evidence of violations thereof.

5. Maintain a current list of licensed auctioneers.

6. Select its officers annually.

B. The board is authorized and may do the following:

1. appoint a qualified executive secretary;

2. employ clerical assistance necessary to carry out the administrative work of the board;

3. employ legal counsel to carry out the provisions of the statute and rules, provided that the fees of such counsel and the costs of all proceedings, except criminal prosecutions, are paid by the board from its own funds;

4. incur all necessary and proper expenses;

C. The chairman and executive secretary of the board, or in their absence, any other member of the board, may administer oaths in the taking of testimony upon any matter appertaining to the duties and powers of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

Chapter 9. Official Seal

§901. Official Seal

The official seal of the Louisiana Auctioneer Licensing Board shall be as follows:

The board shall have a seal which shall be in the form of a circle with the words "State of Louisiana" together with the words "Louisiana Auctioneers Licensing Board" inscribed thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

Chapter 11. License of Auctioneer

§1101. Qualifications for Applicant

A. The board shall base determination of satisfactory minimum qualifications for licensing as follows:

1. be of good moral character.
2. be a citizen of the United States and a resident of the State of Louisiana.
3. be at least 18 years of age.
4. has completed one of the following:
 - a. completed a series of studies at a school of auctioneering licensed or approved by the board;
 - b. completed an apprenticeship of one year working with and under an auctioneer duly licensed in the State of Louisiana.

B. An applicant for licensing shall fill out and file with the board an application form provided by the board. The form shall require relevant information about the applicant's character, knowledge and experience in application of that knowledge. Among the data required on the application form, the applicant shall submit the following information:

1. education background;
2. previous occupational experience in the auction business;
3. three references, including their business addresses, who attest to the applicant's reputation and adherence to ethical standards.

C. If, in the opinion of the board, the applicant provides inadequate information to allow the board to ascertain whether the applicant satisfies the qualifications for licensing, the applicant shall be required to provide additional information for purposes of the application or may be required to present himself for an interview for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1103. Licensing Procedure

A. Applications for the license to be obtained under provision of the boards' enabling Act shall be verified by the oath or affirmation of the applicant and shall be on the forms prescribed by the board and furnished to such applicants. The applications shall contain such information as the board deems necessary to

enable it to fully determine the qualifications and eligibility of the applicant for the license applied for.

B. The board shall require the following in an application:

1. applicant's residential address,
2. applicant's business address,
3. applicant's telephone number,

4. state and parish in which applicant is a qualified voter, with a notarized copy of the applicant's voter registration attached.

5. the sum of \$10,000 in cash or a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000,

6. cashier's check, money order or cash - no checks will be accepted - in the sum of \$300 for all fees covered in the initial licensing procedure,

7. oath of office as a Louisiana auctioneer,
8. irrevocable consent (if applicable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3113 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1105. Availability of Applications and Apprentice License

Applications and all other pertinent forms are available at the Department of Economic Development, Louisiana Auctioneers Licensing Board, 8017 Jefferson Highway, Suite B-3, Baton Rouge, Louisiana 70809, or will be mailed upon request of the person seeking to be licensed as an auctioneer or as an apprentice auctioneer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3113 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1107. Change of Address

All licensees shall notify the board in writing of each change of address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3113 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1109. Examination Procedure

A. The board shall determine the scope, form, and content of the examinations for licensure which shall be written and shall include questions on Louisiana auction law and sound business practices.

B. The board shall issue a numbered license to an applicant who meets the requirements of this statute and rules, passes satisfactorily the examination administered by the board and pays the fee to be a licensed auctioneer.

C. The board shall give examinations for licensure on the following dates: fourth Thursday in January, April, July, and October of each year. Individual examinations are not permitted.

D. An applicant failing in an examination may be examined again upon filing a new application and the payment of the

re-examination fee of \$50 fixed by the statute.

E. The board within 10 days and in writing shall notify any applicant who is denied licensing of the reason therefor. Within 15 days after receipt of notice, such applicant may make written request to the board that his or her examination be re-graded and reviewed by the board. Upon regrading and review of the examinee's examination, the examinee will be advised in writing of the decision of the board. If it is determined by the board that the examination remains in the failure status, the examinee may, at his or her discretion, request a formal hearing with regard to the failing status of his or her examination grade. A formal hearing shall then be conducted under the Administrative Procedure Act.

F. An individual who fails to pass two successive examinations is not eligible to take another examination until the expiration of one year from the date of his most recent failure, at which time he shall complete and file a new application, bond and fee with the board.

G. All auctioneer license examinations are confidential tests. They are designed and administered under conditions established to protect the security of the tests. Neither the current forms nor the previous forms of the tests are available for purchase or inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3113 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1111. License Renewal and Penalty

A. A license shall expire annually on December 31. Each renewal license shall be valid throughout this state from January 1 of each year to December 31, of each year. All applications for renewal of auctioneers' licenses shall be submitted to the board by November 1 of each year, and licenses shall be issued by January 10 of each year. If application of renewal of the license has not been made, the license shall expire on December 31 and it shall be illegal for any person to represent himself and act as an auctioneer thereafter. Any auctioneer who submits a renewal application after January 1 shall be subject to a late penalty of \$75, which shall be paid to the Louisiana Auctioneers Licensing Board. Any auctioneer having a previous annual license shall be presumed to be a renewal applicant unless the auctioneer has allowed the license to lapse for more than one year from the date of renewal. If such license has lapsed for one year or more, then the auctioneer shall be charged a license restoration fee of \$100, in addition to all other applicable fees, and the auctioneer must appear before the Louisiana Auctioneers Licensing Board to apply for such restoration at one of the board's regularly scheduled meetings.

B. The board shall notify the auctioneer of the need for renewal at the last known address at least sixty days in advance of the expiration and send such forms for renewal as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3115.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1113. Fee

A. The board shall assess the following schedule of fees, which shall not be refundable:

1. Application fee - \$75
2. Examination fee - \$75
3. Reexamination fee - \$50
4. Initial license fee - \$150
5. Annual renewal license fee - \$150
6. Restoration fee of a license - \$100
7. Replacement fee of a lost, destroyed, or mutilated license - \$25
8. Delinquency for renewal - \$75
9. Apprentice fee - \$100
10. Annual certification of a licensed auctioneer school or a school offering auctioneering courses - \$150

B. All fees shall be paid by certified check or money order made payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3116.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1115. Reciprocity and Licensure Without Examination

A. A person holding a license to engage in auctions issued to him by a proper authority of a state, territory or possession of the United States of America or the District of Columbia having licensing requirements comparable to Louisiana and who in the opinion of the board otherwise meets the requirements of the statute and rules may upon application be licensed without further examination. The nonresident auctioneer must comply with all other provisions of the statute and rules.

B. A nonresident who does not hold a license in a reciprocal state must pass the examination and must comply with all other requirements of the statute and rules to be licensed in this state.

C. Notwithstanding any other provision of law to the contrary, no person duly licensed as an auctioneer in any other state and temporarily present in this state shall conduct an auction in this state unless he acts in association with an auctioneer duly licensed in this state if the state in which the nonresident auctioneer is licensed requires such an association with an auctioneer licensed in this state before an auctioneer duly licensed in Louisiana may conduct an auction in that state.

D. Every nonresident applicant for a license under the statute and rules shall file with the board as part of the application for a license a written irrevocable consent that any cause of action growing out of any transaction subject to the statute and rules may be commenced against the licensee in the proper court of any parish of this state in which the cause of action may arise or in which the plaintiff may reside by a service of process upon the board as the licensee's agent and stipulating and agreeing that such service has been made upon the person according to the laws of this or any other state. Such instrument shall be in such form and supported by such additional information as the board may by rule require.

E. All individuals making application for an auctioneer license per reciprocal agreement shall submit with their application a letter of certification from the state board or commission of their state of domicile, certifying that they are duly licensed in

said state, stating their residency, date of issuance, expiration date and license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3117.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1117. Qualifications for Licensing as an Apprentice Auctioneer

- A. Must be at least 18 years of age.
- B. Must submit the following:
 1. application for licensing.
 2. oath of office.
 3. cash in the sum of \$10,000 as surety or a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000, which shall be delivered to the board at the time of the initial license application.
 4. irrevocable consent form (out of state applicants only).
 5. copy of voter registration.
 6. a certified check, money order or cash in the sum of \$100.
 7. a form signed by the supervising Louisiana licensed auctioneer stating that the apprentice will be serving under him for the term of one year.
 8. a copy of the rules and regulations signed by both the apprentice and the supervising Louisiana licensed auctioneer. (See Subsection D).

C. In-state and out-of-state persons can be considered for licensing as apprentices. However, the apprentice must work under a Louisiana licensed auctioneer during his one-year training period.

D. All apprentice applicants must be approved by the Louisiana Auctioneers Licensing Board prior to licensing. Apprentice licenses will only be issued at those meetings held in January, April, July and October.

E. The prospective apprentice and his supervising Louisiana licensed auctioneer must appear together before the board at a regularly scheduled meeting and must both sign three copies of the rules and regulations governing issuance of apprentice licenses, which will be witnessed by two board members. This must be done before an apprentice license can be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3118.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1119. Apprentice Auctioneer Licensing

A. The licensed Louisiana auctioneer acting as the supervisor for the apprentice auctioneer must hold the apprentice auctioneer's license. Under no circumstances is the apprentice auctioneer to have, display, or carry his license at any time.

B. When an apprentice auctioneer's employment with the supervising auctioneer is terminated for any reason, the supervising auctioneer shall immediately deliver or send by registered mail the apprentice auctioneer's license to the board. He must sign the back and indicate the termination date. Such apprentice auctioneer shall not engage in any auctioneer activity until he

receives a new license (for the expired term) bearing the name, address, and current license number of his new employer. No more than one license shall be issued to any apprentice auctioneer for the same period of time.

C. There will be just one license auctioneer supervisor at a time for an apprentice auctioneer. Should the apprentice auctioneer practice under another licensed auctioneer without a release from the first, his license shall be suspended.

D. There will be an additional charge of \$25 for the new license.

E. Any person acting as an apprentice auctioneer within the meaning of these rules and regulations without a license and any person who violates these rules and regulations shall be subject to revocation of his license. The Louisiana auctioneer serving as sponsoring supervisor is also subject to revocation of his license should his apprentice auctioneer violate these rules and regulations.

F. The license of an apprentice auctioneer shall be automatically suspended upon the revocation or suspension of the license of the Louisiana auctioneer who is his sponsoring supervisor; however, the apprentice auctioneer may retain his license by transferring to the employment of another Louisiana licensed auctioneer within 21 days of the effective date of such revocation or suspension. If the apprentice auctioneer does not transfer to another Louisiana licensed auctioneer within the 21 days, he must start his one-year apprentice program over.

G. This Subsection of the rules and regulations specifically prohibits the apprentice auctioneer from calling an auction unless the licensed auctioneer serving as his supervisor is on the premises at all times. If he does call an auction, his license will be suspended.

H. Upon completion of the one-year apprentice program, the apprentice auctioneer may apply to take the Louisiana auctioneer's examination and become licensed in the state of Louisiana. He must submit the following in order to be considered for administration of the test:

1. application for license as an auctioneer.
2. oath of office.
3. posting of a \$10,000 bond, made payable to the Louisiana Auctioneers Licensing Board.
4. irrevocable consent form (out-of-state applicants only).
5. certified copy of voter registration showing present residence.
6. certified check, money order, or cash in the amount of \$300. (This includes the \$150 license fee, the \$75 application fee, and \$75 fee.)
7. A form signed by the supervising Louisiana licensed auctioneer stating that the apprentice did serve under him for the term of one year.

I. Upon successful completion of the auctioneer's licensing examination and the submission of all required materials, a Louisiana auctioneer's license will be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1121. Causes for Non-issuance, Suspension, Revocation or Restriction; Fine, Reinstatement

A. The board may refuse to issue or may suspend, revoke

or impose probationary or other restrictions of any license issued under this statute and rules for any of the following causes:

1. conviction of a felony or entry of a plea of guilty or nolo contendere to a felony charge under the laws of the United States of America or of any state.

2. deceit or perjury in obtaining any certificate or license issued under this statute and rules.

3. providing false testimony before the board.

4. efforts to deceive or defraud the public.

5. incompetency or gross negligence.

6. rendering, submitting, subscribing, or verifying false, deceptive, misleading or unfounded opinions or reports.

7. the refusal of the licensing authority of another state to issue or renew a license, permit or certificate in that state or the revocation or suspension of or other restriction imposed on a license, permit or certificate issued by such licensing authority.

8. aiding or abetting a person to evade the provisions of this statute and rules or knowingly combining or conspiring with an unlicensed person or acting as an agent, partner, associate or otherwise, of an unlicensed person with intent to evade the provisions of this statute and rules.

9. violation of any provision of this statute and rules or any rules or regulations of the board or rules of conduct promulgated by the board.

10. indebtedness to the state or to any municipal corporation for any tax as an auctioneer or for any license or commission that he has neglected to pay after final judgment has been rendered against him for it.

B. The board may, as a probationary condition or as a condition of the reinstatement of any license suspended or revoked hereunder, require the holder to pay all costs of the board proceedings, including investigators', stenographers' and attorneys' fees.

C. Four concurring votes of the board shall be required for revocation of any license. Four concurring votes shall be required for suspension of any license or the imposition of costs or fines in excess of \$500.

D. Any certificate or license suspended, revoked or otherwise restricted by the board may be reinstated by majority vote of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3121.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

Chapter 13. Cease and Desist; Injunctions

§1301. Cease and Desist; Injunctions

A. In addition to or in lieu of the criminal penalties and administrative sanctions provided in the statute and rules, the board is empowered to issue an order to any person or firm engaged in any activity, conduct or practice constituting a violation of any provision of the statute or rules directing such person or firm to cease and desist from such activity, conduct or practice. Such order shall be issued in the name of the State of Louisiana under the official seal of the board.

B. Upon a proper showing by the board that such person or firm has engaged in any activity, conduct or practice prescribed by the statute and rules, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct or practices pending the hearing on a

preliminary injunction, and in due course a permanent injunction shall issue after hearing commanding the cessation of the unlawful activity, conduct or practices complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary restraining order, preliminary injunction or permanent injunction issued hereunder shall not be subject to being released upon bond.

C. If the person or firm to whom the board directs a cease and desist order does not cease and desist the prescribed activity, conduct or practice within 10 days from service of such cease and desist order by certified mail, the board may cause to issue in any court of competent jurisdiction and proper venue a writ of injunction enjoining such person or firm from engaging in any activity, conduct or practice by the statute and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3122.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

Chapter 15. Violations and Penalties

§1501. Violations and Penalties

A. Any person who engages in auctions without a valid license violates this statute and rules.

B. Any person who willfully violates any provision of this statute and rules or any rules and regulations adopted under its authority shall be fined for each offense not more than \$500 or imprisoned not more than six months, or both. Each individual sale or act in connection with the conduct of an auction in violation of any provision of this statute and rules shall constitute a separate offense and violation of this statute and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3123.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

Chapter 17. Responsibilities of Licensed Auctioneer

§1701. Advertising and Management of Sale

A. The auctioneer shall be responsible for the advertising and management of the sale and account for all proceeds therefor and shall, over his signature, issue a closing statement to the sellers.

B. All advertising of an auction sale must be made in the name of the licensee who shall bear responsibility of the sale to the seller, general public and auctioneer board. The current license number must be published.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§1703. Conduct in Professional Manner

A. A licensee shall conduct his professional activities in a professional manner that will reflect credit upon himself, the auction profession and auctioneers.

B. Unprofessional conduct includes but is not limited to the following:

1. failure of a licensee to deposit in one or more identifiable bank accounts maintained in the state in which the auctioneer is situated all funds derived from an auction sale paid to the

licensee or to a person, corporation, firm or combination thereof which conducted the sale. NO funds belonging to the auctioneer shall be deposited therein except as follows:

a. funds reasonably sufficient to pay bank charges may be deposited therein.

b. funds belonging in part to the person who employs the auctioneer and in part to the auctioneer must be deposited therein, but the portion belonging to the auctioneer to receive it is disputed by the person who employs the auctioneer, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved;

2. failure of a licensee to account to and pay over all monies and tangible personal property coming into his possession which belong to others including buyers at auction as well as consignors no later than 30 days from the date that the obligation arises to remit or deliver the said monies or tangible personal property.

3. A licensee's payment of compensation in money or other valuable things to any person other than a licensee for the rendering of any service or the doing of any of the acts by this Act forbidden to be rendered or performed by other than licensees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

Chapter 19. Fund of the Board

§1901. Auctioneers Licensing Board Fund

There is hereby created a special fund designated as the Louisiana Auctioneers Licensing Board Fund. The fund shall be audited by a firm of certified public accountants and maintained and controlled by the board. All fees paid to the board and any other revenues shall be deposited in said fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:339 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§2101. Adoption of Rules

A. The adoption of any rule or regulation, guideline, substantive procedure or code of conduct shall be subject to the provisions of the Administrative Procedure Act.

B. Fiscal Year

The fiscal year of the board shall end on June 30 of each year hereafter.

C. Bylaws

Bylaws of the board may be adopted, amended or repealed by the members of the board at a regular meeting or a special meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3120.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:339 (April 1985) amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988).

§2103. Licensing of Auction Business

A. The board shall issue an auction business license to those business entities, whether sole proprietorship, partnership or corporation, if the applicant meets the requirements listed be-

low.

B. An applicant for licensing shall submit a completed application on a form provided by the board. The form shall require relevant information about the business, including but not limited to the following:

1. owners and length of time of ownership,
2. all business addresses of applicant,
3. occupational license number, if available,
4. all auctioneers licensed by this state employed on a regular basis,
5. length of time the business has been in existence,
6. previous auction businesses owned by applicant's owners.

C. An applicant must submit a bond identical to that required of individual auctioneers by the statute and rules. A business entity shall be exempt from this requirement if one of the following conditions exist: license, certificate and penalties for failure to renew the license timely shall also apply to auction business licenses.

D. All fees provided for in the statutes shall apply to auction businesses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneer Licensing Board, LR 14: (November 1988).

§2105. Fines for Advertising Violations

Violations of Chapter 17 requiring that the licensee place his name and license number in all advertising will result in a money fine to be levied against him. The amount of the fine will be \$50 for the first offense and \$100 for the second offense. A third or subsequent offense may result in a fine or other disciplinary action within the discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneer Licensing Board, LR 14: (November 1988).

Mary Norton
Executive Assistant

RULE

**Department of Economic Development
Racing Commission**

Effective November 20, 1988

**Title 35
HORSE RACING**

Part III: Personnel, Registration and Licensing

Chapter 21. Stewards

§2105. Duration of Term

REPEALED.

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

HISTORICAL NOTE: Promulgated by the Racing Commission LR 2:424 (December, 1976), repromulgated LR 3:20 (January, 1977), LR 4:271 (August, 1978), repealed LR 14: (November, 1988).

Alan J. LeVasseur
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 August 20, 1988 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 5.00.21.c

The board adopted the revision of Board Policy 5.00.21.c as follows:

5.00.21.c - Budget Adjustments All changes to any budget submitted under policy number 5.00.20 General Policy on Budgets, must first be submitted for review and approval by the board prior to incorporation of any such change within a budget. Excluded from review of such changes shall be the state Department of Education in its day-to-day operations and staffing excepting budget changes which implement a budget reduction, which shall be approved by the board prior to submission to the Division of Administration.

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 August 20, 1988 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 4.01.40.c

The board adopted as an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, pages 77 and 78, the Montessori training course offered by the Southwestern Montessori Training Center as recommended by the Louisiana Montessori Association.

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 August 20, 1988 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)b

The board adopted an addition to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, the following NTE score required for initial certification as principal since August 16, 1986:

A score of 620 on the Educational Administration and Supervision Area Exam of the NTE is required. (Mandatory for individuals seeking initial certification as a principal on or after August 16, 1986.)

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 August 20, 1988 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 4.00.73.f

Amend Bulletin 1213, *Minimum Standards for School Buses in Louisiana*, for a new type school bus as follows:

SECTION VIII

MOTOR AND CHASSIS SPECIFICATIONS

TYPE "D" MID-RANGE BUSES

FRONT ENGINE: The chassis shall be equipped with a diesel engine that meets the specifications established by the State Department of Education. (Table of specifications may be seen in the Office of School Transportation in the State Department of Education, the Office of the State Board of Elementary and Secondary Education or the Office of the Louisiana Register.) The engine must be a truck-type engine. Diesel powered vehicles with hydraulically assisted hydraulic brakes shall have a chassis air or vacuum for stop arm operation. The vehicle shall also be equipped with power steering, dual electric horns, batteries with 860 CCA, and front and rear shock absorbers. Dual belts or equivalent single poly V drive belts shall be used with the alternator or generator.

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 August 20, 1988 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:

5.00.20.b

Delete Board Policy 5.00.20.b relative to certification of budgetary allocations, grants, etc.

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 August 20, 1988 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 5.01.41.a(1)

The board adopted the following procedure for allocating the \$15,000,000 equalization grant contained in the MFP formula as recommended by the Parish Superintendents' Advisory Council. (See page 516 of the August, 1988 issue of the *Louisiana Register* for distribution by parish and or city school system.)

1. Determine local and state revenue collected by each parish and city school system for Fiscal Year 1986-87.

2. Divide \$10,000,000 by the state aggregate of state and local revenues of parish and city school systems for Fiscal Year 1986-87 to determine a uniform percentage factor of \$10,000,000 to the total local and state revenues collected.

3. Multiply the percentage factor determined in (2) above by each system's state and local revenue for the amount of \$10,000,000 to be distributed to each parish and city school system.

4. Determine student membership for each parish and city school system on October 1, 1987.

5. Determine net assessed property values for each parish and city schools system on October 1, 1987.

6. Estimate each school system's ability to generate an equivalent amount of property and sales tax revenue.

7. Compute a per pupil tax base ability by dividing the combined local tax base by the October 1, 1987 membership count.

8. Compute the state average per pupil tax base ability.

9. Compare each school system to the state average per pupil tax base ability.

10. Calculate a tax base ability amount necessary to bring the school systems below the average up to the state average.

11. Distribute \$5,000,000 to the school system whose tax base ability is below average on a percentage basis of their needs as compared to the state aggregate.

12. Add the amount provided to each system by (11) above to the amount provided to each system in (3) above for each school system's total allocation from the \$15,000,000 equalizing grant.

Each parish and city school system shall receive the allocation of the \$15,000,000 equalizing grant in twelve payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

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 August 20, 1988 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 4.03.48.d

The board adopted the fee schedule for maritime instruction currently conducted at Louisiana Marine and Petroleum Branch of South Louisiana Vocational-Technical Institute. (See page 555 of August, 1988 issue of the *Louisiana Register* for fee schedule.)

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 August 20, 1988 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 5.00.80

The board adopted the revised Tuition Exemption Continuing Education Program for Teachers. (See pages 517-519 of the August, 1988 issue of the *Louisiana Register* for complete text of guidelines.)

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. 30:1051 et seq., and in accordance with the provisions in the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Environmental Quality adopted revisions to the Louisiana Hazardous Waste Rules and Regulations (LHWRR). The effective date of these regulations will be November 21, 1988.

The amendments to the Louisiana Hazardous Regulations sole purpose is to correct existing citations only.

Copies of these amendments can be obtained by written request to the Louisiana Department of Environmental Quality, Hazardous Waste Division, Box 44307, Baton Rouge, LA, 70804-4306, or by contacting Vince Sagnibene at (504) 342-4677.

Paul H. Templet, Ph.D.
Secretary

RULE

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq. and in accordance with the provisions in the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Environmental Quality adopted revisions to the Louisiana Hazardous Waste rules and regulations (LHWRR). The effective date of these regulations will be November 21, 1988.

The amendments to the Louisiana Hazardous Waste Regulations, Chapters 1, 35, 37, 43 and 49 are to conform to federal regulations.

Copies of these amendments can be obtained by written request to the Louisiana Department of Environmental Quality, Hazardous Waste Division, Box 44307, Baton Rouge, LA 70804-4306, or by contacting Vince Sagnibene at (504) 342-4677.

Paul H. Templet, Ph.D.
Secretary

RULE

**Office of the Governor
Elderly Affairs**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) has revised §1111 of the GOEA Policy Manual to ensure the confidentiality of information obtained by the Governor's Office of Elderly Affairs in the process of monitoring and assessing Area Agencies on Aging and Service Providers. Effective immediately, LAC 4:VII.1111(C) shall read as follows:

**Title 4
ADMINISTRATION
Part VII. Governor's Office**

Chapter 11. Elderly Affairs

Subchapter A. Authority, Organization, Functions

§1111. Governor's Office of Elderly Affairs Administration

C. Confidentiality and Disclosure of State Agency Information

1. ..

2. All information related to problems identified in the process of monitoring and evaluating area agencies on aging and/or service providers shall be considered confidential information until such time as problems are resolved or final action is taken in accordance with GOEA policy. Such information may be disclosed to persons or organizations outside the Governor's Office of Elderly Affairs only if authorized by the director.

3. In the conduct of monitoring the ombudsman program, access to files, minus the identity of any complainant or resident of a long term care facility, shall be available only to the director of the Office of Elderly Affairs and one other senior manager of the Office of Elderly Affairs designated by the direc-

tor for this purpose. The confidentiality protections concerning any complainant or resident of a long term care facility as prescribed in Section 307(a)(12) of the Older Americans Act shall be strictly adhered to.

4. Subject to the confidentiality requirements of this Subsection, the director of the Governor's Office of Elderly Affairs will make available at reasonable times and places to all interested parties information and documents developed or received by the Governor's Office of Elderly Affairs in carrying out its responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931, R.S. 49:432, OAA Section 203(b), OAA Section 307, 45 CFR 1321.11, 45 CFR 1321.17, 45 CFR 1321.19, and 45 CFR 1321.21.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 14: (November 1988).

Vicky Hunt
Director

RULE

**Department of Health and Hospitals
Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the Dental Practice Act, R.S. 37:760 (8), notice is hereby given that the Louisiana State Board of Dentistry intends to adopt the following rules:

Chapter 7. Dental Hygienists

§705. Prohibition Against Illegal Conduct by Dental Hygienists

Dental hygienists are prohibited from engaging in any conduct, in connection with their practice of dental hygiene, which is prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

David Simmons
President

RULE

**Department of Health and Hospitals
Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and the Dental Practice Act, R.S. 37:760(8), notice is hereby given that the Louisiana State Board of Dentistry adopted the following rules:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 4. Fees and Costs

Subchapter A. General Provisions

§401. Scope of Chapter

The rules of this Chapter prescribe the fees and costs payable to and recoverable by the board with respect to the various services and functions performed by the board for or on behalf of the applicants for licensure, certification or registration, the holders of licenses and certificates issued by the board and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

§403. Form of Payment Required

Payment to the board of any fees or costs in excess of \$200 shall be made in the form of a certified check, cashier's check or money order. Other payments to the board of fees or costs shall be made in the form of a check drawn on an account located in Louisiana, a certified check, a cashiers check or a money order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

§405. Payments Nonrefundable

Except as may be expressly provided by these rules, all fees and costs paid to the board shall be nonrefundable in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

§407. Dishonored Checks

In addition to the amount of fees and costs elsewhere prescribed in this Chapter, a handling fee of \$50 shall be payable to the board by any person who, in payment of fees or costs, tenders to the board any check or other instrument which is dishonored or marked as an NSF check by the financial institution against which it is written or drawn. The handling fee shall be paid to the board within the notified period of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

§409. Term of License; Renewal

All licenses shall be renewed annually and will expire on December 31 of each year. All renewal license applications are to be mailed by the board to licensed dentists and dental hygienists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

Subchapter B. General Fees and Costs

§411. Miscellaneous Fees and Costs

For providing the services indicated, the following fees shall be payable in advance to the board:

- A. Photocopies of documents, per page \$.50
- B. Certification of document as true copy \$ 5.00
- C. Certification of document as official record . . \$ 5.00
- D. Certification of good standing for licensee . . \$ 25.00
- E. Official list of all licensed dentists \$500.00
- F. Official list of all licensed dental hygienists . . \$500.00
- G. Handling and mailing costs, per page \$ 1.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

Subchapter C. Fees for Dentists

§413. Scope of Subchapter

The rules of this Subchapter prescribe the fees and costs applicable to the licensing, certification and registration of dentists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

§415. Licenses, Permits and Examination

For processing applications for licensure, permits and examination, the following fees shall be payable in advance to the board:

- A. Examination and licensing of dental applicant . \$400
- B. Temporary dental license \$100
- C. Issuance of a restricted dental license \$200
- D. Annual renewal fee for dental license \$150
- E. Annual renewal fee for restricted dental license \$150
- F. Replacement or duplicate dental license, certificate, temporary permit \$ 50
- G. Delinquency fee in addition to renewal fee for any dental license \$250
- H. Reinstatement of a license which has been suspended, revoked or which has lapsed by non-renewal \$500

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

Subchapter D. Fees for Dental Hygienists

§417. Scope of Subchapter

The rules of this Subchapter prescribe the fees and costs applicable to the licensing, certification and registration of dental hygienists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

§419. Licenses, Permits and Examination

For processing applications for licensure, permits and examination, the following fees shall be payable in advance to the board:

- A. Examination and licensing of dental hygienist appli-

cant	\$200
B. Temporary dental hygienist permit	\$100
C. Annual renewal fee for dental hygienist license ..	\$ 50
D. Replacement or duplicate dental hygienist license, certificate, temporary permit	\$ 50
E. Delinquency fee in addition to renewal fee for any dental hygienist license	\$100
F. Reinstatement of a dental hygienist license which has been suspended, revoked or which has lapsed by non-renewal	\$250

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

Subchapter E. Adjudication Proceedings Costs

§421. Subpoenas

For issuance and service of a subpoena or subpoena duces tecum with respect to an administrative hearing, a fee of \$15 shall be payable to the board in addition to the witness fees prescribed by law (see R.S. 49:956(5)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, State Board of Dentistry, LR 14: (November 1988).

David Simmons
President

RULE

**Department of Health and Hospitals
Office of Community Services
Division of Rehabilitation Services**

Effective November 20, 1988, the Department of Health and Hospitals, Office of Community Services, Division of Rehabilitation Services will change their Policy Manual regarding the merger with the Division of Blind Services. The original Notice of Intent was published in the September 20, 1988, issue of the *Louisiana Register*.

The Department of Health and Hospitals has conducted Public Hearings on this change in October, 1988, in four major metropolitan areas of the State.

Copies of the Policy Manual are available at the Division of Rehabilitation Services' Offices statewide.

David L. Ramsey
Secretary

RULE

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

The Bureau of Medical Services Financing is adopting the following rule which was published as a Notice of Intent in the

Louisiana Register Vol. 14, No. 9, dated September 20, 1988. The Standards for Participation for Adult Day Health Care shall include the following requirements:

1. Enrolled Title XIX Adult Day Health Care Centers shall be licensed by DHH, Division of Licensing and Certification.

2. A Provider Agreement must be executed wherein the applicant agrees to comply with the Standards for Payment for Adult Day Health Care Centers.

3. An applicant for enrollment shall have completed two years as a Louisiana licensed health care provider. Copies of applicable licenses must be provided to the Division of Medical Assistance.

David L. Ramsey
Secretary

RULE

**Department of Justice
Corrections, Criminal Justice
and Law Enforcement Division**

These are the revised permanent rules for Electronic Video Bingo as adopted by the Electronic Video Bingo Panel.

Title 7

**CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT**

Part VII: Department of Justice

Chapter 1. Electronic Video Bingo Rules

The Department of Justice, Office of the Attorney General, adopts the following rules to implement the Electronic Video Bingo Machine Law, R S. 33:4861.17, pursuant to Act 671 of 1985.

§101. Statement of Department Policy

The public health, safety and welfare, is the primary consideration in promulgating electronic video bingo machine rules and shall continue to be the primary consideration in their application and enforcement.

§103. Definitions and Terms

A. As used throughout this Chapter, the following definitions apply:

Accounting ticket means an electronic readout which will give the following information on a printed ticket: (a) the serial number of the machine; (b) the time of day that ticket was printed in hours and minutes in a 24-hour format; (c) the date on which the ticket was printed; (d) coins in; (e) credits played; (f) credits won; (g) credits paid.

Act means the Charitable Bingo, Keno and Raffle Law enacted as Louisiana Revised Statutes 33:4861.1 et seq. including all amendments thereto that may hereafter be enacted including Acts 671, 823, 373 and 989 of 1985.

Applicant means any person who has applied for or is about to apply for registration as a manufacturer, distributor or supplier or for a permit stamp for an electronic video bingo machine.

Audit copies means an exact copy of each printed ticket voucher, said copy to be printed and retained until submitted in conjunction with reporting requirements.

Bingo means the game of chance commonly known as

bingo played for prizes with cards bearing numbers or other designations, five or more in one line, the holder covering numbers, as objects, similarly numbered are drawn from a receptacle and the game being won by a person who first covers a previously designated arrangement of numbers on such a card.

Charitable organization means a nonprofit veterans, eleemosynary, benevolent, education, religious, fraternal or civil and service association or corporation domiciled in this state. Any such organization or corporation shall have qualified with the United States Revenue Service for an exemption from federal income tax under Section 501(c)(3), (4), (7), (8), (10), or (19) of the Internal Revenue Code.

Commercial lessor means any person or other entity, except a non-profit organization who holds a bingo license, who leases any building, structure or premises to holders of bingo licenses.

Commercial lessor's location means a building, structure or premises leased to non-profit organizations who hold bingo licenses at said location.

Cost of each game means the amount charged for each game played on the machine; said amount shall not be less than one quarter nor more than four quarters.

Department means the Louisiana Department of Justice, Office of the Attorney General, and shall include the Electronic Video Panel of the Department of Justice.

Distributor means a person or business entity who owns and leases electronic video bingo machines to a charitable organization in this state.

Electronic video bingo means a machine designed for the specific purpose of playing the game of bingo as described above except that an electronic random number generator may be utilized to select numbers in lieu of the drawing of numbers from a receptacle and that one or more video images containing numbers or other designations five or more in one line may be utilized instead of a card.

Gross revenues means total coins played into a permitted machine without regard for expenses or payouts.

Law means the Electronic Video Bingo Machine Law, Louisiana Revised Statute 33:4861.17 including all amendments thereto that may hereafter be enacted.

Lease agreement means that agreement entered into between the holder of a bingo license and the Electronic Video Bingo permittee; said agreement shall indicate that at least 45 percent of the net win from a machine must be paid to the licensee.

Manufacturer means a person or business entity who manufactures for sale electronic video bingo machines in this state.

Maximum prize means not more than one thousand dollars cash.

Net win means the sum obtained by subtracting total coins in minus total amount paid out on ticket vouchers tendered for cash money.

Net Revenue means the sum obtained by subtracting total coins in minus total amount paid out as ticket vouchers tendered for cash money.

Non-commercial lessor means any non-profit organization who holds a bingo license and who leases any building, structure or premises to other holders of bingo licenses.

Non-commercial location means a building, structure or premises owned or occupied by a non-profit organization who

holds a bingo license; the principal activities at the location shall be the meeting of members and the conducting of affairs of the non-profit organization.

Payout means the number of credits won by the players, whether used to play additional games or collected on a ticket voucher in proportion to the amount of cash and credit wagered; said payout shall not be less than 80 percent nor more than 90 percent of the amount of cash and credits wagered.

Permit stamp means an exterior decal issued by the department which authorizes a specific machine to be operated as an electronic video bingo machine.

Permit Stamp Fee means the amount paid by the permittee to the department for each machine permitted.

Permittee means a manufacturer, distributor or charitable organization who owns electronic video bingo machine(s) and operates those permitted machines in accord with these rules and regulations.

Person means an individual, partnership, joint venture, or corporation doing business in this state.

Rules means these regulations.

Seal A means the seal placed on PROMs of the logic board of all Electronic Video Bingo Machines.

Seal B means the seal placed on hard meter counter of all Electronic Video Bingo Machines.

Ticket voucher means a printed ticket which is tendered to the player at the completion of game play if there are any remaining credits on the game. These ticket vouchers are redeemable for cash money.

§105. Registration of Manufacturers, Distributors or Owners of Electronic Video Bingo Machines

A. Any person desiring to own, sell or distribute electronic video bingo machines in this state shall:

1. be issued and maintain all required federal, state, parish, and municipal licenses;

2. apply to the department on forms prescribed by the department for registration and pay to the department a non-refundable \$2,000 registration fee. Said fee is payable on initial application and will be used by the department to cover the cost of processing the application, and any other costs associated with the administration of these rules. If the cost of a background check of the applicant and his business exceeds \$2,000, the applicant will be given notice of these anticipated additional costs prior to the expenditure by the department.

3. apply to the department on forms prescribed 90 days prior to the end of the registration year (June 30) for a renewal of registration. Said application for renewal shall be accompanied by a \$500 nonrefundable fee; which shall be used by the department to cover the cost of the renewal application, including background checks and other costs associated with the administration of these rules.

4. furnish to the department monthly reports identifying the quantities, models, manufacturers, owners, and distributors of machines, and such other information the department may determine necessary to regulate and control electronic video bingo machines in accordance with the Act and these rules; and

5. meet the suitability and business relationship criteria of Section 117.

B. No manufacturer or distributor except one who is a licensed charity shall be registered who holds a permit or who is directly involved with the operating or the assisting in the operation of any other game of chance permitted under the Act or

who is involved directly or indirectly in leasing or renting any premises or equipment for such game or in the providing of any other incidental goods or service in connection with such game or games.

C. No manufacturer or distributor shall ship electronic video machines into this state until his application for registration is granted by the department.

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

§107. Permitting Process

A. Eligibility

Permit stamps for electronic video bingo shall only be issued to:

1. A charitable organization doing business in those parishes or incorporated municipalities where an ordinance has been adopted allowing gaming by means of electronic video bingo; or

2. A manufacturer or distributor of electronic video bingo machines who is registered under these rules and who leases or rents such machines only to charitable organizations in parishes or incorporated municipalities where an ordinance has been adopted allowing gaming by means of electronic video bingo.

B. Application for Permit Stamp

1. An application to permit an electronic video bingo machine must be submitted to the Electronic Video Bingo Panel of the department upon forms prescribed by the department. The application is not complete unless it is dated and signed by the applicant, and contains all information and statements required by the department.

2. A separate application must be completed for each machine.

3. The first installment \$150 of the \$600 permit fee must accompany each application.

4. A machine permitted under these rules must comply with all requirements and specifications of the Act and these rules.

C. Issuance of Permit Stamp

1. Upon approval of an application, the department shall issue a permit, stamp, a logic board seal, (Seal A) and a hard meter seal, (Seal B).

2. The permit stamp and seals will be affixed to the machine by the department's representatives. The permit stamp must be affixed to the exterior machine cabinet so that the stamp is visible and easily read. The machine may not abut another machine, wall or other obstruction which would obscure a person's ability to see and read the permit stamp.

3. The permit stamp and seals must be affixed to a machine before the machine is placed in service.

4. The permit stamp and seals must be affixed to the machine for which they were applied and are not transferrable to any other machine.

5. A violation of the aforementioned provisions may result in a civil violation and fee and possible revocation of license in accordance with these regulations.

D. Permit Stamp Not Transferrable

1. A permit stamp for an electronic video bingo machine is only valid for the applicant and the premises identified on the permit application.

2. A permit stamp is further restricted to the particular

machine approved by the department and identified on the permit application.

3. A permit stamp issued pursuant to the Act and these rules is a privilege and not personal property.

4. A machine may not be moved from the location named in the permit application and placed in service at another location unless application is made for transfer, the video bingo machine is permitted at the new location, the machine is inspected, the permit fee is current and a new permit stamp is issued.

A new permit stamp is required even if a machine has a current unexpired permit stamp for the former location.

E. Expiration or Renewal of Permit

1. All permits expire at midnight June 30, each year.

2. An application for permit renewal and the nonrefundable permit fee must be submitted to the Electronic Video Bingo Panel of the department on forms prescribed by the department 90 days prior to June 30, the expiration date of all permits. All fees must be paid, a new permit issued, and seals issued and affixed to the machine before a previously permitted machine may be operated after midnight of June 30.

3. The department will consider the same criteria for renewal of permits as for the original issuance of permits. Failure to satisfy permit criteria contained in the Act and these rules may result in denial of renewal of a permit, except for permits requested in fiscal year 1988-89; for said year the panel will develop a particular timeline for permit renewal and publish this timeline to all interested persons.

§109. Machine, Hardware and Software Specifications

A. General Specifications

Detailed specifications for electronic video bingo machines are required by the department. Such specifications are required to ensure the legal operation and integrity of each machine and provide the department with methods to monitor machines.

B. Hardware Specifications

1. An electronic video bingo machine must include the following hardware specifications:

a. All electrical and mechanical parts and design principles shall follow acceptable codes and standards in both design and manufacture.

b. An electronic video bingo machine shall be designed to ensure that the player will not be subjected to any unreasonable physical, electrical, or mechanical hazards.

c. A machine shall be equipped with a surge protector that will feed all AC, electrical current to the machine and a battery backup power supply to maintain the accuracy of all electronic meters displaying information required by the Act and these rules during power fluctuations and loss. The battery must be in a state of charge during normal operation of the machine.

d. The design of a machine shall ensure there are no readily accessible game function-related points which would allow any input and that there is no access to input or output circuits unless it is necessary for the proper operation of the machine.

e. The non-resettable mechanical meters required must meet the following specifications:

1. either the meters must be located so they can be viewed and read externally from the front of the machine or the keys to the cash area must be immediately available at the permitted premises;

2. the meters shall be situated in a left to right or top to bottom configuration according to function and visibly labeled as follows:

- (i) coins in;
- (ii) credits played;
- (iii) credits won;
- (iv) credits paid, and

3. the mechanical meters shall be manufactured in such a way as to prevent access to the internal parts of the meter.

f. The department may require and provide a valid identification sticker to be attached to the mechanical meters to verify the meters are assigned to a specific permitted machine.

g. A machine must have a separate and locked area for the logic board and software. The department must be allowed immediate access to this locked area upon request. Permittee must notify the department if access to this area becomes necessary and make application for authorization to access area on forms prescribed by the department. Seals may be broken only in the presence of department personnel after having made application for and receiving authorization.

h. The ticket printing mechanism must be located in the locked logic area to ensure the safekeeping of the audit copy. The printing mechanism must produce a printed original and duplicate that will remain legible throughout the retention period required by these rules.

i. The logic and printer interface boards shall be mounted within the logic area so they are not visible upon operating the logic area door.

j. A machine must have a non-removable identification device attached externally to the machine which shall include the following information about the machine:

1. manufacturer;
2. serial number;
3. model or make; and
4. any other information required by the department

k. The logic board must have a unique serial number that may be used to identify the board for approval and inspection purposes. The serial number shall be in ten symbol configuration. The first four symbols shall identify the manufacturer and the last six symbols shall identify the board.

l. The electronic meters shall be able to maintain totals no less than eight digits in length.

m. Printing of all totals from the electronic meters shall occur automatically, by means of a switch attached to either the door or the lock for the door, each time access to either the logic compartment or the cash area occurs.

n. Any necessary resetting of electronic meters shall be done only after requesting authorization by the department. Seals may be broken only in the presence of department personnel after having made application for and receiving authorization.

o. The face of each machine shall be clearly labeled so as to inform the public that no one under age 18 years is allowed to play.

p. The printer mechanism shall have a paper sensing device that will prevent play if there is insufficient paper to print a ticket for a customer or an audit ticket. Upon setting a "paper low" or "paper out" condition the machine must display a message to that effect on the monitor.

q. The machine printer shall print a ticket voucher to the player at the completion of game play if there are any remaining

credits on the game. The information printed on the ticket shall consist of the following:

1. the serial number of the machine;
2. the time of day that the ticket was printed in hours and minutes in a 24-hour format; and
3. the date on which the ticket was printed;
4. all of the electronic meter readings as described in this rule at Section (e).

C. Software Specifications

1. A machine is required to possess software specifications that enable it to play the game of electronic video bingo with operation set forth by the Act. The software logic must have the following characteristics:

a. The logic of the program must not interfere in any way with expected random play.

b. The random number selection process shall conform to an acceptable random order of occurrence and uniformity of distribution.

D. Modifications

1. All hardware and software modifications made to a permitted electronic video bingo machine must be submitted to the department for approval prior to installation.

E. Restrictions on Optional Game Format or Features

1. A machine shall only offer the game of electronic video bingo as provided by the Act and these rules and shall not offer any other game or variant which will award free games or credits which deviate from the award of games or credits for games of bingo.

2. The department shall determine what optional features may be allowed and such features must be approved by the department prior to inclusion in a machine's game format.

F. Prohibited Machines

1. Any machine including amusement machines which, in substance simulates the game of bingo without conforming to the requirements of the Act and is placed in service for play by the public is prohibited. The machine is subject to immediate seizure and destruction in accordance with the provisions of LSA 15:31.

2. Any person who owns or operates or possesses a machine described in Subsection (1) is in violation of the Act, and these rules.

G. Possession of Electronic Video Bingo Machines

A manufacturer, distributor, owner, or repair service may possess or own electronic video bingo machines, logic boards, meters, and machine components which conform to the statutory requirements and rules relating to electronic video machines. Such machines possessed or owned may not be operated except when inspected, permitted, and placed on a permittee's premises.

§111. Operation of Machines

A. Time Location and Duration of Play

1. Electronic video bingo machines may be available in any location licensed for charitable bingo and played in the following manner:

a. At commercial locations the machines may be played only during the times when call bingo is played.

b. At non-commercial locations the machines may be played by the general public when call bingo is played.

c. At non-commercial locations the machines may also be played by the membership of the organization and the general public at times other than called bingo, not to exceed the total

number of sessions for bingo authorized by the local jurisdiction.

2. A violation of the aforementioned provisions result in a civil violation and fine and possible revocation of license in accordance with these rules.

§113. Fees

A. Registration and Associated Fees

1. A nonrefundable fee of two thousand dollars shall be paid by a manufacturer, distributor or owner of electronic video bingo machines to the department to cover the cost of processing the application and any other costs associated with the administration of these rules.

2. Upon notice an applicant shall pay to the department any additional costs incurred by the department in doing background checks necessary for registration processing.

3. An applicant shall pay to the department a nonrefundable fee of \$500 to cover the costs of the renewal application, continuing background checks and other associated costs.

B. Independent Testing

1. The permittee shall be required to furnish a logic board of the model machine to be permitted.

2. The permittee shall agree to pay to the department all costs associated with testing in order for the department to have the machine tested by an independent testing laboratory. Said laboratory will use established uniform testing criteria on each machine tested.

3. Testing laboratory fees must be paid by the permittee prior to the issuance of permit fee and seals.

C. Permit Stamp Fee

1. A nonrefundable fee of \$600 shall be paid by the permittee to the department to cover the cost of the permit stamp and the cost of the application for each machine, as well as the regulation of the machine throughout the permitted years.

2. This nonrefundable fee must be submitted in the following manner:

a. the initial \$150 paid at the time of application for permit.

b. the balance of the annual \$600 fee paid in equal installments on July 1, October 1, January 1, and April 1 in each fiscal year.

§115. Reporting and Record Requirements

A. Reporting Requirements

1. For each machine the permittee must file with the department a monthly video bingo machine report signed by the permittee. The forms for said reporting will be prescribed by the department. The report will be used to verify the winning percentage of the machine. The following requirements apply:

a. the report must be delivered to the Electronic Video Bingo Panel at the Office of the Attorney General, Box 94005, Capitol Station, Baton Rouge, LA 70804-9005 or postmarked no later than midnight of the tenth day of the month following the reporting month. A reporting month for these purposes shall be considered the first day of the month through the last day of the month.

b. permittee shall include with the report the audit tape covering the weeks reported.

c. the report is due on each machine after it has been permitted regardless of whether the machine was in use during a subsequent month of the permit year.

3. If a permittee leases, rents, or shares machine ownership or a machine's revenues with another person or business entity, the permittee must provide upon the same form pre-

scribed by the department, in Subsection (1) above, monthly information for each machine as follows:

a. Full identification including name, address and social security number (or federal identification number) of all persons or business entities involved in the above-mentioned business relationship;

b. Percentage of participation in machine income by each person or business entity involved in the above-mentioned business relationship;

c. Specific machine income paid to or received by each person or business entity involved in the above-mentioned business relationship.

4. A violation of the aforementioned provisions may result in a civil violation and fee and possible revocation of license in accord with these rules.

B. Records Retention Requirements

1. Records requirements are as follows:

a. Machine operation records must be maintained and made available for inspection by the department upon request. The records must provide all necessary information the department may require to insure operation of machines in compliance with the law.

b. The records must include, but are not limited to, the accounting ticket and corresponding permittee records containing the performance synopsis of the machine.

c. The permittee records required by this rule must be maintained in the state of Louisiana by the permittee for a minimum of three years.

C. Dissemination of Information

1. Certain information collected by the department is known to contain confidential information. The information in Subsection (2) is confidential and may not be revealed by the department except under order of a court of competent jurisdiction.

2. Information designated as confidential includes, but is not limited to, the following:

a. technical manuals, instructions, wiring, or logic diagrams for the machine;

b. listings of source codes and flow charts;

c. results of simulations and related information explaining simulation methodology;

d. model PROMs or logic boards contained compiled programs.

3. Information relating to the results of actual operations as shown on a machine's meter is not confidential and may be used to compile studies or reports.

4. Persons with access to confidential information as described in Subsection (2) may not use or reveal anything of a confidential nature outside the scope of its intended purpose.

5. The department shall secure confidential information and restrict all persons from access, except designated employees whose duties include testing and interpretation of the information. Such information is not public record and may not be released to any member of the public.

D. Software Information

1. A permittee may be required to provide information to the department necessary to ensure the machine's software and logic are in compliance with the Act and these rules. The information may be provided directly by the permittee, the distributor or the manufacturer of the machine. The information shall include, but not be limited to:

- a. all technical manuals, instructions, wiring and logic diagrams for the machine;
- b. all microprocessor manuals;
- c. all source listings, including programmer's comments, and flow charts for the electronic video bingo programs, character sets, including those that may reside on the printer interface board;
- d. a hexadecimal dump of all compiled programs;
- e. model PROMs containing compiled electronic video bingo character sets, including those that may reside on the printer interface board;
- f. access to a compiler for the programming language used if the department is unable to compile the program with the equipment it has available;
- g. the algorithm for the random number generator along with a written description;
- h. a photo or drawing of the display which shows all set-ups, test modes with detailed written descriptions and instructions;
- i. a listing of the paycheck values and the probabilities of the outcome of cards for the program logic used;
- j. the schedule of proposed payout odds and overall pay-back percentage;
- k. tabulated results of five separate simulations of not less than 200,000 games using the bingo program;
- 1. instructions on the means, including assumptions made, by which the simulations in Subsection (k) were created so the department can verify the simulation results; and
- m. a description of the methods of all testing criteria if performed and the results of the tests for the following:
 - 1. random number generator;
 - 2. electromechanical interference;
 - 3. radio frequency interference;
 - 4. FCC standards;
 - 5. A.C. line noise;
 - 6. static electricity; and
 - 7. extreme temperature conditions.

§117. Enforcement and Regulation

A. Applicant Suitability and Business Relationships

- 1. The department may deny an application or revoke, suspend, restrict, or limit a permit or approval of a machine when it finds that the applicant or a business relationship between an applicant and another person or business entity is unsuitable or endangers the health, safety, or welfare of the citizens of this state. In determining the suitability of an applicant or other persons or business entities in a business relationship, the department may consider the person or business entity's:
 - a. General character, including honesty and integrity;
 - b. financial security and stability, competency, and business experience in the capacity of the relationship;
 - c. records, if any, of violations which may affect the legal and proper operation of a machine including a violation affecting another permittee or applicant and any violation of the laws of this state, other states, and countries without limitations as to the nature of the violation;
 - d. refusal to provide access to records, information, equipment, or premises to the department or peace officers when such access is reasonably necessary to ensure or protect public health, safety or welfare.
- ### B. Approval of Machines
- 1. The department may conditionally approve and main-

tain a list of specific models of machines based on its finding that the machines conform to the Act and these rules.

- a. Final approval of each machine is required even if a machine has been conditionally approved.

- b. Conditional or final approval may be withdrawn by the department subsequent to finding that a machine does not conform to specifications, and testing standards established by the department, including new or revised requirements of the Act and these rules.

- 2. The department may allow shipment of a machine for the purpose of providing conditional approval of that particular make or model provided the following conditions are met:

- a. the department will not be responsible for any purchase, shipping, or handling charges;

- b. all the information required by these rules must accompany the machine; and

- c. Prior to shipment, the department has approved such shipment of a machine for scheduled testing and approval.

- 3. New rules may be adopted which redefine or set forth new specifications that previously approved machines do not comply with. In such cases, and only in such cases, the department will allow a specified time for a permittee to bring a machine into compliance with a new or modified specifications.

C. Machine Repair

- 1. When the department approves the software and logic board of a machine, it will use the prescribed security seal process to guard against any unauthorized tampering or changes to the method by which the game of bingo is played on the machine.

- 2. Any repair made to a machine's logic board which requires the breaking of a departmental seal must be reported to the department before the seal is removed or broken as described in these rules. At that time, readings of the machine's electronic meters and mechanical meters must be approved by the department and initial electronic and mechanical meter readings provided to the department before the machine is again placed in operation on the permittee's premises.

- 3. Any repair or replacement made to a machine's meters must be reported to the department before a seal is removed or broken as described in these rules. At that time, readings of the machine's electronic and mechanical meters must be approved by the department and the initial readings of the electronic and mechanical meters must be provided to the department before the machine is again placed in operation on the permittee's premises.

- 4. The department must subsequently be given access to the machine to reseal the meters and verify their proper operation before the machine can be placed in operation.

- 5. To assure the integrity, security, and monitoring of machines in service, a permitted machine or any portion thereof may not be substituted or replaced until the replacement machine have been permitted by the department.

D. Inspection and Seizure of Machines

- 1. The department or its duly authorized representative has the right at all times to make an examination of any machine being used to play electronic video bingo. Such right of inspection includes immediate access to all machines and unlimited inspection of all machine parts. The department or its authorized representative may immediately seize and remove any machine or device which violates the Act, these rules or the statutes of Louisiana. Such emergency seizure is subject to a hearing as

described in these rules.

2. Given reasonable cause, the department may remove a machine or parts from a machine for laboratory testing and analysis. When parts are removed, the department may seal any machine left on the permittee's premises pending the department's investigation. The breaking or removal of the department's seal without approval, may subject the permittee to seizure of the entire machine and suspension or revocation of the permit.

E. Investigation of Permittee

The department may, upon its own motion, and shall upon receipt of a written verified complaint of any person, investigate the actions of any permittee and the operations of any machine. The investigation shall be undertaken for the purpose of gathering evidence and determining whether a violation of the Act, rules or other statutes of the state of Louisiana has occurred.

F. Civil Violations

1. When the department determines a permittee has violated the Act or these rules, the department may issue a civil violation to the permittee in an amount not less than \$250 nor more than \$1,000. Violations may be issued for each act not in accord with these regulations. Each day of operation in violation constitutes a separate violation.

2. A violation may be issued for, but is not limited to the following acts:

- a. The operation of an unpermitted machine;
- b. The use of more than 35 electronic video bingo machines on a premises.
- c. The unauthorized breaking of Seal A or Seal B in a machine;
- d. The failure to report and pay timely the fees assessed.
- e. The failure to prohibit minors from playing the machine;
- f. The falsification of application or reporting documents;
- g. The refusal to allow inspection of the machine;
- h. The unauthorized destruction of printed ticket vouchers and accounting ticket copies.

G. Suspension and Revocation

1. The department may suspend any and all permits held by an alleged violator after opportunity for hearing when:

- a. The department receives:
 1. a certified copy (or other credible evidence) of a judgment or conviction of any permittee or his agent, servant, or employee for any violation of any criminal law or ordinance of the United States, the state of Louisiana or any Louisiana parish and-or town relating to charitable gaming; or

2. a certified copy of the record (or other credible evidence) of the forfeiture by any permittee or his agent or employee of bond to appear to answer charges of violating any law or ordinance relating to charitable gaming; or

- b. the department, after investigation, has reasonable cause to believe that any permittee, his agent or employee has violated the provisions of the Act or these rules and has been issued a violation or citation.

2. The department may suspend a permit or permits prior to the opportunity for hearing when the department, after investigation, has reasonable cause to believe continued operation of the permitted machine endangers public health, safety, and welfare. During the period of suspension, the permittee shall not operate such machine.

§119. Administrative Proceedings and Adjudication

A. Denial of Application for Registration or Permit or Renewal of Registration or Permit

1. In accordance with the Louisiana Administrative Procedure Act no application for registration, permit or renewal of registration or permit shall be denied without prior notice to the applicant. Said notice shall include facts and-or conduct which warrant the intended action. The applicant shall be given an opportunity to show compliance. If the applicant fails to comply, the department may proceed to deny the registration or permit or the renewal of such. Absent the need for emergency action, the existing license shall not expire until the last day for seeking review of a department order.

2. When the department denies an application for registration or permit or renewal of a registration or permit the applicant may request a hearing within 30 days of denial. Upon the department's receipt of written request, a hearing shall be conducted in accordance with the provisions of the Louisiana Administrative Procedure Act.

B. Administrative Proceedings and Judicial Review

1. The department shall conduct a hearing:

- a. following the emergency revocation, restriction, limitation, or seizure of a machine suspension of a permit, and
- b. Prior to the revocation of a permit.
- c. Prior to the denial of renewal of a permit.

2. All hearings must be held in accordance with the Louisiana Administrative Procedure Act.

3. Administrative procedures conducted by the department are subjected to judicial review in accordance with the provisions of the Louisiana Administrative Procedure Act.

§121. Repeal of Previously Adopted Rules

These permanent rules will remain effective until repealed or amended. The authority for the department to adopt these rules is found in Act 671 of the 1985 Louisiana Legislature and in the Louisiana Administrative Procedure Act (R.S 49:950 et seq.)

William J. Guste, Jr.

Attorney General

RULE

Department of Natural Resources Office of the Secretary

The Department of Natural Resources, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. amended the Regulations for Return of the Bohemia Spillway Lands.

The Louisiana Department of Natural Resources
Rules and Regulations for the Return
of Bohemia Spillway Lands
(Published in the *Louisiana Register*,
Volume 13, No. 10, October 20, 1987.)

PARTS B., D. and G of SECTION III. APPLICATION PROCESSING AND CERTIFICATION are amended to read as follows:

B.1. Upon completion of the preliminary review, the department shall notify all applicants of the results of the review, and the requirement for an advance costs deposit. The written notification, with postmark date of mailing affixed by the department's postage meter, shall either state that the claim is being retained for further processing, or that it failed to satisfy one or more of the three criteria listed above. Applicants shall retain the envelope in which the notification is delivered by the U.S. Postal Service, and the notification shall include instructions on this point. The outside of the envelope shall bear instructions in bold face, "RETAIN THIS ENVELOPE." In the event of failure to satisfy one or more of the three criteria, the claim shall be returned to the applicant. Applicants filing rejected claims shall have 70 days from the postmark date affixed by the department's postage meter to file an amended claim and necessary supporting documents with the department. Amended claims filed later than the 70 days specified herein shall be invalid and no further processing by the department will be done. Documents attached to applications will be returned to applicant upon payment of photocopy and postage costs.

B.2. Prior to consideration of any claim beyond the preliminary review set forth above, an advance costs deposit in the amount of \$175 per claim shall be collected by the secretary. Failure by any applicant to deposit the full advance costs within 70 days of notification shall invalidate the claim upon which the deposit was due. The advance costs deposit shall be held by the secretary and be used to pay the costs of administering the claim. The actual costs shall be assessed by the secretary as hereinafter set forth. Additional advance costs may be required on a case-by-case basis, and no claim shall be processed without sufficient funds on deposit.

D. The secretary of the Department of Natural Resources shall designate a special master, who shall undertake the substantive evaluation of valid applications. The substantive evaluation of each application shall be based upon such information as is contained in the application, and generated pursuant to Subsections III B. and C., and any additional evidence the special master might require the applicant, the board or the department to furnish. Any request for additional evidence shall be satisfied in writing, within 70 days of written demand by the special master, as established by the postmarked date of mailing affixed by the department's postage meter. Applicants shall retain the envelope in which the notification is delivered by the U.S. Postal Service, and the notification shall include instructions on this point. The outside of the envelope shall bear instructions in bold face, "RETAIN THIS ENVELOPE." Applicants failing to timely and adequately respond either to any request of the special master or the department, or pay the advance costs deposit shall have their applications invalidated, unless good cause is shown why the request was not timely or adequately responded to.

G. Preceding transmittal of the documents described in Subsection F. above, the special master shall assess each application for the actual cost of administering the claim, pursuant to Act 644 of the 1987 Regular Session of the Louisiana Legislature. In those instances where the amount paid to the secretary as an advance costs deposit exceeds the actual cost of reviewing and administering the claim, the balance of the deposit shall be returned to the applicant who paid it. In all other instances, the full cost of reviewing and administering the claim shall be paid and received by the secretary prior to document transmittal. The costs shall be paid by one or more of the parties to the claim, or

may be apportioned by the secretary among all the applicants for an individual tract of property located within the Bohemia Spillway.

Raymond W. Stephens, Jr.
Secretary

RULE

Department of Natural Resources Office of the Secretary

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Natural Resources hereby amended Phase II State Plan - Institutional Conservation Program. Schools, hospitals, units of local government and public care institutions are eligible for grants of federal funds to be used to aid in the conduct of technical assistance programs in public and non-profit schools and hospitals, or of local government and public care buildings. Schools and hospitals are also eligible for grants to aid in the acquisition and installation of conservation measures. The Phase II State Plan contains all documents and instructions for institutions seeking to apply for either a Technical Assistance or Energy Conservation Measure grant under the Institutional Conservation Program.

Persons wishing to review the Phase II State Plan may do so during normal business hours in Room 329 of the Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

Raymond W. Stephens, Jr.
Secretary

RULE

Department of Public Safety and Corrections Office of State Police Transportation and Environmental Safety Section

The Department of Public Safety and Corrections adopted revisions of current rules to enforce the requirements of R.S. 30:1150.61 et seq., relating to the Hazardous Material Information Development, Preparedness and Response Act. This Act was passed in 1985 as the enabling legislation for the state's first "Right-to-Know" law. The passage by Congress in 1986 of the Superfund Amendments and Reauthorization Act (SARA) necessitated substantially amending Louisiana's "Right-to-Know" law, and existing rules in 1987. The purpose of these changes in 1988 is to further fine tune the state rules and to make the state and federal requirements even more compatible.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Materials and Hazardous Waste

Subpart 2. Department of Public Safety and Corrections - Hazardous Materials

Chapter 101. Hazardous Material Information Development, Preparedness and Response Act.

§10101. Declaration of Authority, Background, Policy and Purpose.

A. The following rules are hereby promulgated pursuant to the authority provided in R.S. 30:1150.61-1150.79 regarding the Hazardous Materials Information Development, Preparedness and Response Act.

B. This Act was originally passed as Act 435 of the 1985 Legislative Session to implement the state's first "Right-to-Know" law. In 1986 the United States Congress passed the Superfund Amendments and Reauthorization Act (SARA). Title III of SARA required, among other things, that the governor of each state appoint an Emergency Response Commission to implement a hazardous materials information system regarding community Right-to-Know.

C. SARA had certain mandates which were in conflict with Louisiana's existing Right-to-Know law and vice-versa. Therefore, the existing Right-to-Know law was amended by Act 347 of the 1987 Legislative Session in an attempt to, where possible, parallel the state and federal laws.

D. In some cases, compliance with SARA will automatically attain compliance with Louisiana's Right-to-Know law and, accordingly, compliance with Louisiana's Right-to-Know law will often attain compliance with SARA. It is recommended that both laws be read to best determine how to attain compliance.

E. It should be noted that the Louisiana Emergency Response Commission, operating within the Department of Public Safety and Corrections, is the primary entity to which both SARA and state Right-to-Know responses are made. For facilities reporting under federal law, copies of annual inventory forms must also be submitted to the Local Emergency Planning Committee in the parish where a facility is located and to the local fire department having jurisdiction over the facility.

F. Since the chemical lists and threshold (inventory) quantities (TQ) in the federal legislation are subject to change, facility owners/operators should refer to the *Federal Register* to determine current reporting requirements before submitting their annual inventory forms and emergency release notifications.

G. It is the purpose of these rules to implement the informational system conceived of in the state's original Right-to-Know law by providing the citizens of this state, as well as emergency response personnel, with data on hazardous material storage necessary to make educated and responsible decisions.

§10103. Scope

A. Any facility which manufactures, uses, or stores any of the substances subject to these rules, in excess of the threshold (inventory) quantity (TQ) established for each substance, or any facility or transportation vehicle (including pipelines and maritime vessels) which releases any of these substances in a reportable quantity (RQ) as detailed hereafter, is subject to these rules.

§10105. Definitions

A. The following terms as used in this Chapter shall have the following meanings:

1. *Commission* means the Louisiana Emergency Response Commission appointed by the governor to implement

the mandates of the Superfund Amendments and Reauthorization Act passed by the U.S. Congress in 1986. This commission is created within the Department of Public Safety and Corrections, Public Safety Services.

2. *Department* means the Department of Public Safety and Corrections.

3. *Deputy secretary* means the deputy secretary for Public Safety Services in the Department of Public Safety and Corrections.

4. *Environment* includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

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

6. *Hazardous material* means any substance deemed a hazardous material and included on the most recent list developed as a result of the Comprehensive Environmental Response Compensation Liability Act or certain substances included on the most recent United States Department of Transportation Hazardous Material List. *Hazardous material* also means any substance designated by the deputy secretary in these rules or, on recommendation by the commission, which meets criteria established for adding other materials to the list or any material deemed a physical or health hazard in the Occupational Safety and Health Act (OSHA) as found in 29 CFR Part 1910.1200.

7. *Inventory form* means the reporting form adopted by the department and completed by owners and operators which contains certain requested information on hazardous materials and which is used in developing the information system mandated by this Chapter. This could also include electronic transmission of this data in the same format.

8. *Local governing authority* means the police jury, parish council, the mayor's office of the city of New Orleans or the city-parish of East Baton Rouge or other primary governmental body of a parish.

9. *Local Emergency Planning Committee* means the committee in each parish designated by the Emergency Response Commission to coordinate Right-to-Know activities.

10. *Owner or operator* means any person, partnership, or corporation in the state including, unless otherwise stated, the state and local government, or any of its agencies, authorities, departments, bureaus, or instrumentalities engaged in business or research operations which use, manufacture, release or store a hazardous material at a facility.

11. *Release* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous substance where such release escapes beyond the site of the facility. (This would not include any federal or state permitted releases.)

12. *Small business* means a single business establishment employing a maximum of nine employees and showing a maximum of \$2 million in average annual gross receipts. (If a business employs more than nine persons, it is not considered a small business regardless of the amount of average annual gross receipts. Also, if a business employs nine or less persons, but grosses over \$2 million in average annual gross receipts, it is not considered a small business.)

13. *Trade secret* means any confidential formula, pattern,

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

§10107. Alternate Means of Compliance

A. The following non-exclusive list of facilities qualifies for alternate means of compliance under state law due to the nature of their respective operations as well as the fact that emergency response personnel can predict that hazardous materials should be present at these facilities. These alternate means of compliance may not exist under federal law and facilities subject to the federal law must determine their respective applicability.

1. oil and gas exploration and production facilities;
2. pipelines carrying any of the materials regulated by these rules;

3. certain facilities reporting to other state agencies;
4. gasoline service stations;
5. electrical transmission and distribution facilities;
6. hydrocarbon storage facilities other than at petroleum refineries;

7. transportation-related facilities.

B. The rules that follow in Subsection C are applicable to the state law. The reporting procedures outlined are the result of detailed consultation with the various regulated entities. These alternate compliance procedures will satisfy the mandates of the state's Right-to-Know law, but if any federal regulations require a more stringent reporting procedure, the federal procedure should be followed.

C. Reporting Procedures (Alternate Means of Compliance)

1. Oil and Gas Production (wells already drilled)

- a. These sites must be reported by field name, indicating the total number of wells in each field. This will be done on a separate inventory form for each field. The location of each field must be as detailed as possible with at least the parish given for each field.

- b. The inventory form can be filled out showing a generic list of materials commonly associated with an oil/gas production facility.

- c. Well heads not located in a reported field (wildcats) are each to be listed on a separate inventory form.

- d. All releases must be reported immediately to the Local Emergency Planning Committee and the Emergency Response Commission.

2. Oil and Gas Exploration

- a. If the exploration site is in an already reported field, a list of materials used in exploration will be shown on the inventory form for that field. This could be in the form of a generic list.

- b. Wildcat drilling operations (not in previously reported fields) anticipated to exceed 30 days will require written notification to the Emergency Response Commission via the Office of State Police-Transportation and Environmental Safety Section, as well as written notification to the Local Emergency Planning Committee in the respective parish, detailing the location and anticipated duration of the drilling operation. This notification will contain the names and telephone numbers of facility personnel to contact in case of an emergency. A generic list of materials associated with exploration will be furnished to the Local Emergency Planning Committee in the parish in which the drilling occurs.

- c. All releases must be reported immediately to the Local Emergency Planning Committee and the Emergency Response Commission.

3. Pipelines (not within the fenceline of a facility)

- a. One inventory form will be submitted for each parish. The form must list all pipelines operated by a facility in that parish, and must show the name of the material carried, the diameter, and the maximum operating pressure for each listed pipeline.

- b. A map for each parish indicating the location of each pipeline and transmission and control station must be provided by each company to the Emergency Response Commission and the Local Emergency Planning Committee. If the pipeline is shown on the most current Dewitt map, no map submission is required. Facilities are responsible for updating any changes in location of pipelines and/or product by submitting new map(s). If a facility has already submitted a map to the Emergency Response Commission and the Local Emergency Planning Committee, and there are no changes, the annual map submission is not necessary.

- c. All releases must be reported immediately to the Local Emergency Planning Committee and the Emergency Response Commission.

- d. Natural gas distribution lines are exempt from this reporting. Distribution lines are those pipes that carry the gas to individual buildings, residences, etc.

- e. Crude oil and natural gas gathering lines are exempt from reporting under these rules. Gathering lines are those pipelines eight inches or less in nominal diameter that transport petroleum and natural gas from production facility to the main pipeline.

4. Facilities Reporting to Other State Agencies

- a. Facilities licensed by the Liquefied Petroleum Gas Commission must complete an inventory form and comply with all other applicable parts of these rules with the exception that if liquefied petroleum gas is the only material being reported, no reporting fee is required.

5. Electrical Transmission and Distribution Facilities

- a. All oil-filled electrical equipment (transformers, capacitors, etc.) which has been identified as containing Polychlorinated Biphenyls (PCB's) in concentrations exceeding 500 parts per million (ppm) shall be reported on the inventory form, by the reporting deadline, as applicable in these rules if the weight of the solution containing the PCB's meets or exceeds 500 pounds.

- b. Any release from, or accident involving, oil-filled electrical equipment which has been identified as containing PCB's in concentrations exceeding 500 ppm will be reported immediately as applicable in the release reporting procedures detailed in these rules.

- c. All fixed-site facilities where transformers are stored, cleaned or processed, or where other materials regulated in the rules are used or stored, will be reported on individual inventory forms for each separate site.

- d. Fixed-site oil-filled electrical equipment that is associated with a facility must meet all area marking requirements under EPA and OSHA regulations.

6. Transportation-Related Industries

- a. Regulated materials which are under active shipping papers (i.e., have not reached their final destination) are exempt from inventory reporting requirements contained in these rules.

- b. Transportation related industries, including but not lim-

ited to trucking companies, railroads, maritime wharves and warehouses (including Foreign Trade Zones), that store, incidental to transportation and still under active shipping papers, any of the materials regulated by these rules will, on an annual basis (by March 1 of each year), send to the Emergency Response Commission, the Local Emergency Planning Committee, and the local fire department in their respective areas a letter detailing the emergency contact personnel and emergency telephone numbers. The letter will also indicate where shipping papers can be found by emergency response personnel.

c. Any hazardous materials regulated under these rules and stored on site but not under active shipping papers must be reported on an inventory form as applicable.

d. Shipping documents must be readily accessible to emergency response personnel and proximate to the regulated material.

e. All regulated materials must be properly marked and placarded according to applicable U.S. Department of Transportation regulations as listed in 49 CFR Part 172 Subparts B, C, D, E, and F.

f. All releases must be reported immediately to the Local Emergency Planning Committee and the Emergency Response Commission.

§10109. Reportable Materials

A. All substances listed on the list of "Extremely Hazardous Substances" as found in 40 CFR Part 355 Appendix A, now in effect or amended hereafter, must be reported for the prior calendar year beginning January 1 and ending December 31, on an inventory or by March 1, 1988, and annually thereafter, if the material is present on site on any single day in amounts of 500 pounds or more or the listed threshold quantity if lower than 500 pounds. The list of extremely hazardous substances in effect at the time of this writing will be published as an addendum to these rules. The threshold (inventory) quantity (TQ) for each of these materials is indicated (in pounds) in the column to the right of the material marked "Threshold Inventory Quantity (TQ)." Where a material shows a threshold (inventory) quantity (TQ) listed as 10/500 or 100/500 etc., it is reportable as follows: The lower number is the reportable amount if the material is a solid existing in powdered form and has a particle size less than 100 microns; or is handled in solution or in molten form; or meets the criteria for a National Fire Protection Association (NFPA) rating of 2, 3, or 4 for reactivity. If the solid does not meet any of these criteria, it is subject to the higher inventory reporting threshold.

1. Any release of an extremely hazardous substance must be reported if the release meets or exceeds the (release) reportable quantity (RQ) shown for that substance and impacts off-site. However, facilities must report immediately any on-site incidents involving injury (requiring hospitalization) or any death resulting from an accident involving any of the materials regulated under these rules. This must be reported to the Louisiana State Police Transportation and Environmental Safety Section using the Hazardous Materials Hotline 504/925-6595 and to the Local Emergency Planning Committee in the parish where the release occurs.

B. Any material for which a facility must prepare or maintain a Material Safety Data Sheet (MSDS) under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (as listed in 29 CFR 1910.1200) must be reported, for the prior calendar year beginning January 1 and

ending December 31, on an inventory form annually beginning March 1, 1988, if the material is present at a facility in threshold (inventory) quantities (TQ) of 500 pounds or more on any single day.

C. All releases of materials regulated by Subsection A of this Section will be reported immediately if said release exceeds the reportable quantity and escapes beyond the site of the facility. All releases of materials regulated under Subsection B of this Section must be reported if they escape beyond the site of the facility. In other words, a release of any of these materials must have off-site impact to be reportable. However, facilities must report immediately any on-site incidents involving injury (requiring hospitalization) or any death resulting from an accident involving any of the materials regulated under these rules. This must be reported to the Louisiana State Police Transportation and Environmental Safety Section using the Hazardous Materials Hotline 504/925-6595 and to the Local Emergency Planning Committee in the parish where the release occurs.

D. NOTE: The materials regulated by Part B above of these rules are also regulated under the inventory reporting provision of Section 312 of Title III of the Superfund Amendments and Reauthorization Act. Incorporated in the federal reporting provisions, as of this writing, is a declining threshold for reporting quantities of these materials such that, for the first and second year inventory quantities which meet or exceed 10,000 pounds are reportable, with the tentative reportable threshold for the third and subsequent years being 500 pounds. In this area, the Louisiana law and federal law differ. The state law requires reporting of all regulated materials at the 500 pound level unless the threshold quantity for an extremely hazardous substance is lower.

E. Mixtures will be reported as follows: If a chemical is part of a mixture, you have the option of reporting either the weight of the entire mixture or only the portion of the mixture that is a particular hazardous chemical (e.g., if a hazardous solution weighs 100 pounds but is composed of only five percent of a particular hazardous chemical, you can indicate either 100 pounds of the mixture or five pounds of the chemical).

§10111. Release Reporting

A. All releases as defined in these rules must be reported immediately. They must be reported to:

1. Emergency Response Commission via Office of State Police, Transportation and Environmental Safety Section using the Hazardous Materials Hotline phone number 504/925-6595 (collect calls accepted 24 hours a day).

2. Local Emergency Planning Committee with jurisdiction over a facility.

3. Depending on the nature of the material and medium into which the release occurs, other agencies such as the state Department of Environmental Quality (DEQ), National Response Center (NRC), Environmental Protection Agency (EPA), Coast Guard, etc., may need to be notified. Facilities and transporters are responsible for determining the appropriate parties to be contacted.

B. Facilities must also make follow-up written reports for all releases within five days after the release occurs. This report must be made to the Local Emergency Planning Committee with jurisdiction over a facility and to the Emergency Response Commission via the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Box 66614, Baton Rouge, LA 70896. The format for

this report should as outlined in Title III of the Superfund Amendments and Reauthorization Act (SARA).

C. As per the authority granted in R.S. 30:1150.76, the Office of State Police - Transportation and Environmental Safety Section will coordinate emergency response activities arising as a result of releases of material regulated by these rules.

§10113. Exemptions

A. Certain persons and substances have been exempted from the inventory reporting requirements contained in these rules. There are no exemptions granted for release reporting of regulated substances.

B. Persons exempted from reporting certain substances under state law as outlined in Subsection C below are cautioned to examine Title III of the Superfund Amendments and Reauthorization Act (SARA) because not all of these exemptions are applicable to federal law. If a substance is not exempt under federal law, in most cases it is reportable to the Emergency Response Commission (via Department of Public Safety and Corrections), the Local Emergency Planning Committee (one in each parish), and the local fire department having jurisdiction over a facility.

C. The following persons are exempt from the inventory reporting requirements of these rules:

1. residential users;
2. owners or operators of hotels, motels, restaurants, apartment buildings or office buildings which use only small quantities of air conditioning and cleaning supplies;
3. owners or operators of retail sales establishments which sell consumer products or food stuffs packaged for distribution to, and intended for use by, the general public and who have storage areas or storerooms in such establishments which are separated from shelf or display areas, but maintained within the physical confines of such retail establishments;
4. owners or operators of cosmetology salons, and barber salons.

D. The following materials are exempt from the inventory reporting requirements of these rules:

1. any hazardous waste as such term is defined by the Solid Waste Disposal Act as amended (42 U.S.C. 691 et seq.) when subject to regulations issued under that Act;
2. tobacco or tobacco products;
3. wood or wood products;
4. "articles"
 - a. which are formed to a specific shape or design during manufacture;
 - b. which have end use function(s) dependent in whole or in part upon the shape or design during end use; and
 - c. which do not release, or otherwise result in exposure to a hazardous chemical under normal conditions of use;
5. food, drugs, cosmetics or alcoholic beverages in a retail establishment which are packaged for sale to consumers;
6. foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace;
7. any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 1251 et seq.) respectively, where the employer can demonstrate it is used in the workplace in the same manner as normal consumer use, and which use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers;
8. any drug, as that term is defined in the Federal Food,

Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) when it is in solid, final form for direct administration to the patient (i.e., tablets or pills);

9. any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration;

10. any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions or use;

11. any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public;

12. any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual;

13. any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

§10115. Hazard Communication

A. The Department of Public Safety and Corrections adopts the Hazard Communication Standard as detailed in Title 29 CFR Parts 1910.1200 et seq., as part of these rules. All facilities subject to these state rules (other than any federal, state, or political subdivisions of a state) must also comply with the Hazard Communication Standard as specified in the Occupational Safety and Health Administration (OSHA) rules listed in Title 29 CFR Parts 1910.1200 et seq. These standards refer to marking of the workplace, communicating to employees of any known hazardous properties of various substances, etc.

§10117. Failure to Report; Penalties

A. Failure to report any regulated material, as provided in these rules and under the authority of R.S. 30:1150.61 et seq., may result in the levying of Civil Penalties up to \$25,000 for each regulated hazardous material not reported and/or for each non-reported release of a regulated hazardous material.

B. The burden of proof shall be on the owner or operator of a facility to show that the failure to report a hazardous material or release was inadvertent.

C. Small businesses, as defined by these rules, which have any omission from the inventory reporting forms will receive, on first offense, a warning rather than a Civil Penalty.

§10119. Inventory Form

The "Tier Two - Emergency and Hazardous Chemical Inventory" form is the official inventory form for compliance with R.S. 32:1150.61 et seq.-Louisiana's Right-to-Know law, and is the form selected by the Louisiana Emergency Response Commission for inventory reporting as required under Section 312 of SARA. When filling out the Tier Two inventory form follow all applicable instructions printed on the form. The form has been slightly modified in Louisiana to accommodate certain materials regulated in this state that may not be regulated under federal law. See the supplemental instructions included with the Tier Two form for details. The inventory form can be obtained upon request to the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Box 66614, Baton Rouge, LA 70896.

§10121. Fees

A. One of the major objectives of this law is to determine the specific locations of certain hazardous substances. Therefore, it is necessary that a separate inventory form be submitted for each reporting facility. An example would be that XYZ Dry-

cleaners would submit a separate inventory form for each of its 10 stores located throughout Baton Rouge. Another example is that a very large facility would submit only one inventory form covering the entire facility if the material is stored on contiguous property.

B. For **each** inventory form submitted (**a form may be any number of pages**) except as otherwise exempted, a fee of \$50 must accompany it. If a facility must file more than one inventory form, there is a ceiling of \$300 per parish and \$1,000 statewide i.e., if a facility has eight sites in one parish it would submit only \$300. If these eight sites were in two parishes, with five in one and three in another, then a \$400 fee would be due, up to the maximum of \$1,000.

C. Small businesses, as defined in these rules, would submit a reduced fee of \$15 for each facility. The same ceilings on fees as detailed above would apply.

D. State, parish, and municipal governmental entities who must report under these rules are exempt from paying any fee.

E. All checks must be made payable to the Department of Public Safety and Corrections and submitted as applicable with the inventory form(s). If an inventory form is received without proper payment it cannot be processed, and compliance with the law is not attained.

§10123. Trade Secret Claims; procedures; resolution

The Department of Public Safety and Corrections adopts as its own the Trade Secrets provisions as found in Title III, Section 322 of the "Superfund Amendments and Reauthorization Act of 1986" as passed by the United States Congress.

Kendall J. Fellon
Lieutenant

RULE

**Department of Transportation and Development
Office of Highways**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development adopted the following schedule of tolls that will apply to vehicles and pedestrians using ferry crossing owned, operated and maintained by the Louisiana Department of Transportation and Development, all in accordance with provisions of R.S. 48:25.

Title 70

**DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT**

Part I. Office of the General Counsel

Chapter 5. Tolls

§501. Marine Operations

The following toll schedule applies to:

- | | |
|--------------------------------|----------------------------------|
| 1. White Castle/Carville Ferry | Mississippi River
District 61 |
| 2. Edgard/Reserve Ferry | Mississippi River
District 02 |
| 3. Plaquemine/Sunshine Ferry | Mississippi River
District 61 |

- | | |
|-------------------------------------|--|
| 4. New Roads/St. Francisville Ferry | Mississippi River
District 61 |
| 5. Duty/Enterprise Ferry | Ouachita River
District 58 |
| 6. Melville Ferry | Atchafalaya River
District 03 |
| 7. Cameron/Ship Channel Ferry | Calcasieu River and
Intercoastal
District 07 |
| 8. Cameron/Monkey Island Ferry | Calcasieu River
District 07 |
| 9. Angola Ferry | Mississippi River
District 61 |

B. Each vehicle, its owner or operator, and all occupants of such vehicle shall be jointly and solidarily liable for payment of the prescribed toll. Each ferry passenger not crossing in a vehicle shall be liable for payment of the prescribed toll.

C. The funds thus generated will be applied to the construction, improvements, repairs, maintenance, and operations of those ferry facilities and properties.

**FERRY TOLL CLASSIFICATION
RATE SCHEDULE**

	TOLL
A. Per Crossing Per Pedestrian Each Way	\$0.25
B. Per Crossing Per Every Vehicle Each Way	\$0.50

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:25 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 12:690 (October 1986), amended LR 14: (November 1988).

Joseph L. Wax
Deputy Undersecretary

RULE

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

The alligator industry of Louisiana represents a renewable resource, valuable to the economy providing income to in excess of 1,000 participants for the 30-day harvesting season. The annual harvest of surplus and nuisance animals is in keeping with wise wildlife management techniques based upon scientific research and resulting management.

The department secretary shall be authorized to close or extend the alligator season as biologically justifiable.

Virginia Van Sickle
Secretary

RULE

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

The fur industry of Louisiana is the result of a major wildlife resource and provides supplemental income for many of the citizens of our state; and as this resource is a renewable natural

one, which has proven under wise management to increase in importance; annual harvest of the surplus animals is in keeping with sound wildlife management principles.

The creation of a north and south trapping zone continues to allow for the most efficient harvest of prime furbearers in these two diverse habitat types within the state. Therefore, the Department of Wildlife and Fisheries does hereby establish the 1988-89 furbearer trapping season for the south zone as being December 1, 1988, through February 28, 1989. After carefully considering the market situation for some upland species, especially the raccoon, the department, in an attempt to provide more opportunity for trapping of bobcat and fox after deer hunting seasons are closed, does hereby establish the 1988-89 furbearer trapping season for the north zone as November 20, 1988, through February 16, 1989, through March 15, 1989, with trapping techniques restricted to the use of soft-catch traps (padded jaw traps) or their equivalent. The department secretary shall be authorized to close or extend the trapping season in any portion of the state as biologically justifiable.

Virginia Van Sickle
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission does hereby ratify regulations governing the hunting of migratory birds. Regulations include season dates, bag limits and shooting hours and are within the framework established by the U.S. Fish and Wildlife Service.

The regulations shall be as follows:

Dove:

September 3-11
October 15-November 13
December 10-January 9
The daily bag limit is 12 with a possession limit after opening day of 24.

Snipe:

November 12-February 26
The daily bag limit is 8 with a possession limit after opening day of 16.

Woodcock:

December 10-February 12
The daily bag limit is 5 with a possession limit after opening day of 10.

Rail:

November 19-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 aggregate and possession limit is the daily bag limit.

Gallinule:

November 19-January 20
The daily bag limit is 15 with a possession limit of 30 after opening day.

Ducks and Coots:

West Zone:	East Zone:
Nov. 19-Dec. 4	Nov. 19-Nov. 27
Dec 26-Jan. 8	Dec. 19-Jan. 8

Duck Limits:

The daily bag limit of ducks is three, and may include no more than two mallards (no more than one of which may be a female). One black duck, two wood ducks, one redhead, and one pintail. Canvasback may not be taken at any time.

Merganser Limits:

The daily bag limit of mergansers is five, only one of which may be a hooded merganser.

Coot Limits:

The daily bag and possession limits of coots are 15 and 30, respectively.

Species	Season Dates	Daily Bag Limit
Geese	Nov. 19-Dec. 7	*
(West Zone)	Dec. 26-Feb. 14	*
Geese	Nov. 19-Jan. 27	*
(East Zone)		*

*The daily bag limit is five 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. 3-4, Oct. 15-16, and Dec. 10-11) when shooting hours will be 12 Noon until sunset.

Woodcock and Snipe: One-half hour before sunrise to sunset.

All other migratory birds: Sunrise to sunset.

Virginia Van Sickle
Secretary

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Forestry
And
Department of Revenue and Taxation
Tax Commission**

**Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Forestry**

**Chapter 1. Timber Stumpage
§101. Stumpage Values**

The Louisiana Forestry Commission and Tax Commission, as required by R.S. 3:4343 intends to adopt the following timber stumpage values based on current average stumpage

market values to be used for severance tax computations for 1989:

- A. Pine Sawtimber \$160 per M bd. ft.
- B. All Hardwood \$ 72 per M bd. ft.
- C. Pine Pulpwood \$ 15 per Cord
- D. Hardwood Pulpwood \$ 5 per Cord

Interested persons may submit written comments on these proposed stumpage values through December 7, 1988, to Carlton S. Hurst, State Forester, Office of Forestry, Department of Agriculture and Forestry, Box 1628, Baton Rouge, LA 70821.

Forestry Office Stumpage Values / Tax Computations

1987 timber production/value/tax					
	Volume	Value /unit	Value	% tax	Tax
Pine Sawtimber	1,222,575,488 bd ft	\$120 /M bd ft	\$146,709,059	2.25	\$3,300,954
Hardwood Sawtimber	203,990,607 bd ft	\$67 /M bd ft	\$13,667,371	2.25	\$307,516
Pine Pulpwood	3,647,027 cords	\$17 /cord	\$61,999,459	5	\$3,099,973
Hardwood Pulpwood	1,401,024 cords	\$4 /cord	\$5,604,096	5	\$280,205
Total Tax Revenue					\$6,988,647

1988 timber production/value/tax					
	Volume/proj	Value /unit	Value	% tax	Tax
Pine Sawtimber	1,257,000,000 bd ft	\$145 /M bd ft	\$182,265,000	2.25	\$4,100,963
Hardwood Sawtimber	196,845,000 bd ft	\$72 /M bd ft	\$14,172,840	2.25	\$318,889
Pine Pulpwood	3,710,866 cords	\$13 /cord	\$48,241,258	5	\$2,412,063
Hardwood Pulpwood	1,328,000 cords	\$5 /cord	\$6,640,000	5	\$332,000
Total Tax Revenue					\$7,163,914

1989 timber production/value/tax					
	Volume/est	Value /unit	Value	% tax	Tax
Pine Sawtimber	1,300,000,000 bd ft	\$160 /M bd ft	\$208,000,000	2.25	\$4,680,000
Hardwood Sawtimber	205,000,000 bd ft	\$72 /M bd ft	\$14,760,000	2.25	\$332,100
Pine Pulpwood	3,700,000 cords	\$15 /cord	\$55,500,000	5	\$2,775,000
Hardwood Pulpwood	1,400,000 cords	\$5 /cord	\$7,000,000	5	\$350,000
Total Tax Revenue					\$8,137,100

Carlton S. Hurst, State Forester
Office of Forestry

Mary K. Zervigon, Chairman
Louisiana Tax Commission

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Timber Stumpage Values for 1989**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no additional implementation costs or savings to state or local governmental units as a result of this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated revenue for calendar year 1988 from timber severance taxes should approximate \$7.16 million. Hardwood Sawtimber will still be assessed a value of \$72/M bd.ft., and Hardwood Pulpwood will still be assessed a value of \$5/cord. Pine Sawtimber will be assessed at \$160/M bd.ft. rather than \$145/M bd.ft., and Pine Pulpwood will be assessed at \$15/cord rather than \$13/cord. Assuming production levels during 1989 increase at roughly 3 percent or less, expected tax revenue from timber severance should increase to approximately \$8.1 million. The State Treasury receives 25 percent of this tax, and the parish from which the timber is severed receives 75 percent.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The altered market value of these forest products reflects

a decrease in current supply relative to the supply available in the past few years. Wood-using industries who purchase timber remit the tax and will not be affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The requirement that this office assess market values of severed forest products and timber, with the approval of the parish governing authorities and the Louisiana Tax Commission, has been in effect for many years. The prevailing rate at which these values will be taxed has not changed. There should be a negligible, if any, effect on competition and employment.

Richard Allen
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Civil Service

The State Civil Service Commission will hold a public hearing on Wednesday, December 7, 1988 to consider amending Civil Service Rules and adopting certain new Rules. The public hearing will begin at 8 a.m. in the Pink Perfection Room, First Floor, Holiday Inn Central, 2032 N.E. Evangeline Thruway, Lafayette, Louisiana.

The following are proposed rules and amendments to be considered at that meeting:

PROPOSAL - NEW RULE 1.20.3

1.20.3 'Official holiday' means either the employee's actual or designated holiday, whichever is selected by the appointing authority for overtime compensation purposes.

EXPLANATION

This new Rule definition is being proposed in order to allow an appointing authority to determine whether the actual holiday or designated holiday will be used as the day on which an employee will receive holiday overtime compensation.

PROPOSAL - AMEND RULE 1.21.1(b)

1.21.1 'Organizational Unit' for purposes of layoff means the area subject to a layoff as approved by the Director. It shall normally be one of the following:

- (a) . . .
- (b) An office headed by a secretary, assistant secretary, or undersecretary, or an office established by law and headed by a comparable official having appointing authority over that office.
- (c) . . .
- (d) . . .

EXPLANATION

This amendment to Rule 1.21.1 is being proposed to recognize the office of undersecretary and an office headed by an official comparable to the secretary, undersecretary, or assistant secretary as a normal organizational unit for layoff purposes. This change in definition will permit such units to conduct layoffs without the need for an exception.

PROPOSAL - AMEND AND RE-ENACT RULE 6.18(a)

6.18 Definition of Overtime Hour.

An overtime hour is an hour worked by an employee at the direction of his appointing authority

- (a) On the employee's official holiday.

jobs GS-12 or above. Such authorizations, when approved, shall be published as part of the Personnel Manual.

- (b) . . .
- (c) Repeal in its entirety.
- (d) . . .

EXPLANATION

This amendment is being proposed to simplify this Rule. Certain information required for requested exceptions can be maintained in the State Personnel Manual.

PROPOSAL - NEW RULE 6.28

6.28 On-Call Pay

(a) The Commission may authorize on-call pay upon request from an appointing authority which includes sufficient justification, and which provides the policy under which it will be administered.

(b) Such on-call pay is compensation for hours in excess of his regularly scheduled hours of duty, when he is available for call back to his duty station, work-ready, within a specified period of time, at the direction of his appointing authority. On-call pay is in addition to the employee's regular pay and is not to be included in computations of overtime payments or terminal leave payments allowed under the provisions of other Sections of the Rules. On-call pay shall not be granted to an employee for his regularly scheduled hours of duty. Further, when an employee is called back to duty he shall be considered in duty status and eligible for the applicable overtime compensation.

EXPLANATION

A number of agencies, mainly in the medical fields, presently pay employees for on-call service based on the current industry practice. Our rules do not address on-call pay. This Rule is being proposed to allow for such payments and to insure that the Department of Civil Service has information relative to various on-call policies utilized by different appointing authorities.

PROPOSAL - NEW RULE 8.2.1

8.2.1 No position above the GS-20 pay range, except medical and shortage positions listed in the State Personnel Manual, may be filled on a permanent basis, from the date of the gubernatorial first primary election through Inauguration Day, without obtaining prior approval of the Director.

EXPLANATION

During the regular 1988 Legislative Session, Senate Concurrent Resolution 2, sponsored by Senator Kenneth Osterberger, was adopted. This resolution seeks to freeze the permanent filling of high level positions when the probable outcome of a gubernatorial election becomes known through the date the new or re-elected Governor assumes that Office. This Rule is in response to that resolution, and is intended to prevent a "lame duck" administration from placing employees in high level positions on a permanent basis. Unless there is some review of such actions, a new administration could come into office with their top-level managers recently selected by the old administration.

PROPOSAL - AMEND RULE 8.10.1

8.10.1 Probationary Appointment

When a vacancy in a continuing position is filled by the original appointment of an eligible from a list certified by the Director or by the original appointment of a qualified person to a position in a class designated as noncompetitive under the provisions of Rule 7.20, such appointment shall be for a probationary period in accordance with Chapter 9 of these Rules.

EXPLANATION

This amendment to Rule 8.10.1 is being proposed so that it does not conflict with Rule 9.2 relative to a twelve-month probationary period.

PROPOSAL - ABOLISH RULE 11.23(e)

11.23 Civil, Emergency, and Special Leave.

An employee shall be given time off without loss of pay, annual leave, or sick leave when

- (a) . . .
- (b) . . .
- (c) . . .
- (d) . . .
- (e) Amend and Re-enact as Rule 11.23.2

11.23.2 Voting Leave

A probationary or permanent employee may be granted time off without loss of pay, annual leave or sick leave when voting in a primary, general or special election which falls in his regularly scheduled work day, provided not more than two hours of leave shall be allowed to vote in the parish where he is employed and not more than one day to vote in another parish.

EXPLANATION

Paragraph (e) of Rule 11.23 has sometimes been mistakenly interpreted as a mandatory Rule in the most liberal sense. However, our interpretation has always been more restrictive. Our position is that the Rule sets the limits on the time an employee shall be given off if needed to allow him to vote; it is not to give him paid time off as an incentive to vote or to alleviate any inconvenience to his voting. The proposed amendment and re-enactment as a separate rule should remove any confusion or conflict regarding the meaning.

PROPOSAL - AMEND AND RE-ENACT RULE 11.28

11.28 Holidays.

(a) An employee who is required by his appointing authority to work on his official holiday, shall be entitled to compensatory leave or overtime pay benefits as authorized in Rule 6.23(a).

(b) When a holiday falls on an employee's regular day off, and the appointing authority requires the employee to work on his designated holiday and the actual holiday, the appointing authority shall select only one of the two days as the employee's official holiday for overtime compensation as provided by Rule 6.23. The other day is to be compensated as regular overtime work.

(c) Repeal in its entirety.

EXPLANATION

The proposed amendments treat all holidays the same for overtime compensation purposes. The definition of overtime on a holiday has been revised to eliminate difference between a holiday falling within the employee's regularly scheduled workday and one falling on his regular day off.

PROPOSAL - AMEND RULE 11.29

11.29 Compensatory Leave

- (a) . . .
- (b) . . .
- (c) . . .
- (d) . . .
- (e) Upon separation or transfer from a department, the following shall apply to compensatory leave balances:

(1) All unused compensatory leave earned at the time and one-half rate and credited to an employee shall be paid upon his separation or transfer from the department in which he

earned it at one of the rates below, whichever is higher:

(a) The average regular rate received by the employee during the last three years of his employment, or

(b) The final regular rate received by the employee.

(2) All unused compensatory leave earned hour for hour and credited to an employee may be paid upon his separation or transfer from the department in which he earned it at the final regular rate received by the employee, excluding premium pay, shift differential, and non-cash compensation.

(3) All unused compensatory leave earned hour for hour, if not paid to the employee upon separation shall be cancelled upon his separation or transfer from the department in which he earned it. Such leave shall not be recredited to him upon his reemployment in that or any other department.

(f) . . .

(g) . . .

(h) . . .

(i) . . .

(j) . . .

EXPLANATION

Rule 11.29 is being amended to allow all employees to be paid for compensatory leave on separation in order to treat all levels of employees the same. This further simplifies the Rules on overtime compensation. References to FLSA requirements for inclusion of premium pay and shift differential have been eliminated since federal law supersedes Civil Service Rules.

17.17 Displacement Right of Permanent Employees Only permanent employees have the right to displace other employees. An employee does not have displacement rights to a higher position than the one he occupies at the time of the layoff action which affects him. Subject to the following provisions, a permanent employee who is affected by a layoff has the right to displace another employee who occupies the same, an equivalent, or lower job in the same career field, organizational unit and applicable commuting area affected by his layoff, subject to the provisions of Rule 17.16 and 17.16.1. An employee who displaces another, must meet the job qualifications for the position involved. A part-time permanent employee shall not displace a full-time permanent employee.

(a) . . .

(b) . . .

(c) . . .

1 . . .

2 . . .

3. The first offer shall be to a position in the same job title and parish, if such a position is available.

4. The second offer shall be to a position in an equivalent job in the same career field and the same parish, if such a position is available.

5. The third offer shall allow the employee to make a choice of one of the following, if available:

(a) A position in the next available lower level job within the employee's career field and parish, or

(b) A position in the same job title and in the same commuting area, or if no such position exists, to a position in an equivalent job within the career field and the commuting area.

(c) A position in the next lower job in the career field and within the commuting area which is higher in pay range than the offer available within the parish.

6. The fourth offer shall allow the employee to make a

choice of one of the following if available:

(a) A position in the highest job outside the career field, as long a probationary or provisional employee, in the same parish and organizational unit, or

(b) The highest such position available in the commuting area as long as it is higher than the job in the employee's parish.

7. Offers to displaced employees may cease when the first available offer listed above is accepted or declined by that employee.

8. If the employee declines or if no offers are available, the employee(s) is subject to layoff.

9. Vacancies may be offered in lieu of occupied positions.

EXPLANATION

This Rule is proposed for amendment to allow greater flexibility in displacement (bumping) offers to employees affected by a layoff. It also allows employees to have offers, when available, that will result in their staying within their parish, rather than then being forced to take long commutes within their commuting area.

Proposed subsections (c)7, (c)8 and (c)9 are unchanged from the present Rule except for their numbering.

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

Herbert L. Sumrall
Director

NOTICE OF INTENT

**Department of Economic Development
Economic Development Corporation**

The board of the Louisiana Economic Development Corporation proposes to amend its rules. At the October 25, 1988 board meeting the amended rules concerning the Minority and Women's Business Development Program were adopted.

Written comments concerning the rules should be addressed to the Louisiana Minority and Women Business Development Program, Box 94185, Baton Rouge, LA 70804-9185 to the attention of Ms. Patricia A. Robinson. They may be viewed in their entirety in the Emergency Rule section of this issue or at the Office of the State Register, 900 Riverside North, Baton Rouge, LA.

Patricia A. Robinson
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LA Economic Development Corporation
Minority and Women's Business Development Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect to local governmental units or state

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No change in fee structure

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The increased lending limits from \$150,000 to \$250,000 will strengthen minority and women entrepreneurs' ability to create new jobs and compete in the private sector.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes will strengthen minority and women entrepreneurs' ability to become or remain competitive and will create an unknown number of employment opportunities.

Arnold M. Lincove
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 741 - Pre-Algebra

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an amendment to Bulletin 741 to provide that students other than the academically able may take pre-algebra at the eighth grade level, at the option of the local systems.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., January 9, 1989 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: Elementary and Secondary
Education Committee**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The revision and distribution of Bulletin 741 will cost approximately \$50.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs to directly affected non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Graig A. Luscombe
Assistant Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), R.S. 39:1490(B) and R.S. 39:1521, notice is hereby given that the Office of the Governor, Division of Administration, Office of Contractual Review intends to amend LAC 34.V. Chapter 1. This projected rule revokes Sections 121, 124 and Appendices A, B, D and E of the earlier rules and regulations of this office and also adds Section 134 and Appendix G. LR 11:1067 (November, 1985) Sections 121, 124 and Appendices A, B, D and E should be amended and Section 134 and Appendix G added to read as follows:

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

**Part V. Procurement of Professional, Personal,
Consulting and Social Services**

**Chapter 1. Procurement of Professional, Personal, Con-
sulting and Social Services**

Subchapter A. General Provisions

§121. Contractual Review Process

A. Contracts arriving in the Office of Contractual Review will be date stamped and logged in. Contracts should be submitted prior to their effective dates and no contract shall be approved which has been submitted 60 days after its effective date, unless written justification is provided by the using agency and approval granted by the director of contractual review or his designee. All submittals will be required to have a cover letter attached thereto in conformity with Attachment D [See Appendix A].

B. If a contract does not appear to be out of the ordinary and appears to have the necessary attachments and inclusions, it will be routed as appropriate to the Division of Administration budget analyst for the submitting agency. A BA-22, or its equivalent, shall be submitted with every contract submitted to the Office of Contractual Review, which contains any expenditures or reduction in expenditures.

C. Contracts that are incomplete as to form may be returned to the submitting agency. If a contract is merely missing an attachment then the necessary attachment may be secured from the submitting agency.

D. Contracts Returned From Budget

1. Not Recommended for Approval

If a contract is not recommended for approval, the Office of Contractual Review shall discuss the reason with the budget analyst. If the problem cannot be resolved, the contract shall be returned to the submitting agency with a letter explaining the problem.

2. Recommended for Approval

If a contract is recommended for approval the review process shall continue.

E. Legal and Content Review

There are a number of different types of contracts, and content requirements may vary a little. All contracts shall contain the following:

1. Signatures of both the head of the using agency or his designee and the contractor. At least one submitted copy of each contract shall bear an actual, nonfascimile signature of each

party.

2. Contractor Name and Address (including Zipcode).

3. Scope of services that clearly and completely identifies the work to be performed and products to be delivered.

4. Beginning and termination dates for the contract. Normally, such contracts should be for a term no longer than one year, although the director of contractual review may approve contracts with terms up to three years. Contracts shall not include a clause permitting automatic renewal or extension of the original beyond a three-year period, unless authorized by the funding statute. Per R.S. 39:1496.1(c) performance-based energy efficiency contracts shall have a term not to exceed 10 years.

5. The maximum amount of compensation to be paid under the contract. This maximum must be inclusive of all payment, fees, travel expenses, etc. When applicable the amounts shall be stated by category and then given as a comprehensive total. The payment schedule shall be given also.

6. A statement giving the legislative auditor and/or the Office of the Governor, Division of Administration auditors authority to audit the financial records of the contractor relative to work done under the contract. A clause referencing audit requirements given in R.S. 24:517 is advisable for contractors who may be considered "quasi-public."

7. A clause providing that the contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the submitting agency thereto, provided, however, that claims for money due or to become due to the contractor from the using agency under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to both the using agency and the director of the Office of Contractual Review.

8. The Office of Contractual Review shall notify the using agency in writing when an assignment of proceeds notice has been received from a contractor.

9. A statement giving the contractor the responsibility for paying any taxes which may be due as a result of the contract. The taxes could include state or federal income taxes or payroll taxes.

10. Advance payments on all contracts except those for professional services are allowable if limited to less than or equal to 20 percent of the contract amount and if necessary to provide for the lowest cost delivery of service.

a. All such advances shall be approved by the director of the Office of Contractual Review. If federal funds are to be advanced, federal guidelines shall prevail on the conditions and amount of the advance. Specific state statutory authority may override the 20 percent limit for certain contracts.

b. When submitting for approval a contract including provisions for an advance, the using agency shall submit the following additional information at a minimum:

c. Certification by the using agency that the procurement of the services involved at the lowest cost requires the advance and that no other source of funding is available.

d. Provisions in the contract specifying the amount and timing of the payments and safeguarding repayment of the advance.

F. Each contract over \$5000 submitted for approval shall be accompanied by a certification letter as described in R.S.

39:1497, signed by the using agency's representative (See Appendix B).

G. Proof of review and approval by other agencies shall accompany submitted contracts as follows; or contracts will be returned to the submitting agency without final approval:

1. Civil Service

All contracts must have Civil Service approval unless exempted by the Department of Civil Service.

2. Attorney General

Contracts for legal services that are not consulting work and that do involve or lead to litigation must be reviewed by the attorney general in accordance with R.S. 49:258. Approval of the attorney general can be evidenced by the signature on the contract documents or by a letter from the attorney general. Contracts with Louisiana district attorneys do not require this approval.

3. Legislative Auditor

Contracts for financial auditing of state agencies must have prior written approval of the legislative auditor.

4. If the contractor is a corporation not incorporated under the laws of the state of Louisiana, then the contractor must secure a certificate of authority pursuant to R.S. 12:301-302 from the secretary of the state of Louisiana and verification of such certificate must be made available to the Office of Contractual Review.

5. The Office of Telecommunications Management shall review and recommend any contract containing elements of telecommunication services before returning it to the Office of Contractual Review for completion of the analysis.

H. Consulting Services Contracts for \$50,000 or More

If a contract is for services defined as consulting in R.S. 39:1484(4) and is for an amount equal to or exceeding \$50,000, it must have been awarded pursuant to the requirements of R.S. 39:1503, unless exempt by §142. Failure to so comply shall result in the using agency having to reconduct the process. A statement in accordance with R.S. 39:1503, (C) as to why the award was made must be submitted with the contract.

I. Data Processing Consulting Service contracts for more than \$100,000 shall be procured in accordance with Subchapter C of these regulations.

J. Social Service Contracts for \$150,000 or More During a 12-Month Period

If a contract is for services defined as social services in R.S. 39:1484 (24), it must have been awarded pursuant to the requirements of R.S. 39:1503 unless exempt by R.S. 1494.1. Failure to so comply shall result in the using agency having to reconduct the process. A statement in accordance with R.S. 39:1503(c) as to why the award was made must be submitted with the contract.

K. When a contractor is a corporation, a formal, dated board resolution must be secured and attached to the contract indicating that the signatory is a corporate representative and authorized to sign said contract.

L. When it has been determined that a contract is complete, the contract shall be returned to the submitting agency with an approval letter attached and signed by the director of contractual review.

M. A performance evaluation for every personal, professional, consulting or social service contract shall be done by the using agency in accordance with R.S. 39:1500. This performance evaluation shall be retained by the using agency for all small

purchase contracts approved under delegated authority. For all other contracts this performance evaluation shall be submitted to the Office of Contractual Review within 120-days after the termination of the contract. An example evaluation form can be found in Attachment F [See Appendix A]. Using agencies should use their own formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 13:87 (February 1987), LR: 14 .

§124. Exempt Occupations

The following list of occupations shall be construed as falling within the definition of medical, nursing or allied health fields given in R.S. 39:1498.2. Personnel employed in these fields would therefore be exempt from the prohibition contained in R.S. 39:1498(4) which disallows personal, professional, consulting or social service contracts between the state of Louisiana and state employees:

- Audiologist
- Dental Assistant
- Dentist
- Electroencephalograph Technician
- Hospital Chaplain
- Inhalation Therapist
- Medical Laboratory Technologist
- Accredited Medical Records Technician/Administrator
- Nurse Anesthetist
- Occupational Therapist
- Optometrist
- Osteopath
- Pharmacist
- Psychologist
- Physical Therapist
- Physician
- Podiatrist
- Practical Nurse
- Professional Dietitian
- Psychiatrist
- Radiologic Technologist
- Radioisotope Technologist
- Registered Nurse
- Respiratory Therapy Technician
- Respiratory Therapy Technologist
- Social Worker
- Speech Pathologists
- Ultrasonography Technologist

Other specialists as may be included later by the director of the Office of Contractual Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067 (November 1985) LR 14:

§134. Cost Reimbursement Contracts

If a nongovernmental provider is expected to receive \$100,000 or more per year of state funds via one or more cost-reimbursement contracts, then those contracts shall contain at least one of the following requirements:

A. Source documentation verification (evidenced by invoices, cancelled checks, certified payroll sheets, etc.) shall be

submitted to the state to justify each payment request; or

B. Utilizing internal auditors, the using agency shall perform frequent, unannounced contract compliance audits of the contractor. "Frequent" shall mean no less than once per contract or per 12 months if the contract is longer than 12 months and all disallowed expenditures shall be reimbursed to the using agency; or

C. The contract shall require the contractor to obtain a contract compliance audit of expenditures charged to the contract. This compliance audit shall be performed by a certified public accountant or the Louisiana Legislative Auditor's office. A contract compliance audit must include an examination of reimbursed expenditures to determine if they are in accord with contract terms, not reimbursed by any other source, and in accord with any guidelines set by the using agency or other relevant authority. This examination shall be conducted in accordance with generally accepted auditing and sampling procedures, including the *Government Auditing Standards* ("Yellow Book"). See Appendix G for sample opinion letter for this contract compliance audit.

Such an audit may be performed in conjunction with a financial audit, but results must be available to the using agency within 12 months after the fiscal year end of the contractor. It is the intention of this rule not to require audits at a different time of year if annual audits are currently being performed. Thus, a contract period may be covered by two separate audits.

For multi-year cost-reimbursement contracts, the provider may with the using agency's consent, elect to have a multi-year contract compliance audit done to cover the entire contract period.

If a single provider has multiple cost-reimbursement contracts subject to the requirements of §134, then the provider may elect to have an audit done using the single audit model. In these instances, a major state contract means any state contract for which expenditures during the year exceed the greater of \$100,000 or three percent of such total expenditures.

All disallowed expenditures shall be reimbursed to the using agency. Such disallowances shall normally be recouped by the using agency in current or future contracts with the provider. For cost-reimbursement contracts, any audit of the contract period issued pursuant to the Single Audit Act of 1984, P.L. 98-502, OMB Circular A-110, or other federal legislation and regulations, shall fulfill the audit requirements of this Section C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B) and 1521.

APPENDIX A. SAMPLE CONTRACT

Sample contract adaptable for use by state agencies. (This sample contract contains the minimum language required in a state contract. Additional items may be added as required by the individual agency's needs and applicable federal requirements.)

STATE OF LOUISIANA

PARISH OF _____

CONTRACT

Be it known, that on this ____ day of _____, 19 ____, the _____ (Agency Name) _____ (hereinafter sometimes referred to as "state") and _____ (contractor's name and legal address including Zipcode) _____ (hereinafter sometimes referred to as "Contractor") do hereby enter into contract under the following terms and conditions.

1.
Contractor hereby agrees to furnish the following services:

(If the Scope of Services is more lengthy than will fit here, it may be attached separately as an addendum.)

2.
In consideration of the services described above, state hereby agrees to pay to contractor a maximum fee of _____ . Payment will be made only on approval of _____ . If progress and/or completion to the reasonable satisfaction of the agency is obtained, payments are scheduled as follows:

3.
This contract may be terminated by the state upon 30 days written notice.

(Other conditions for termination may be stated here also.)

4.
Upon completion of this contract, or if terminated earlier, all records, reports, worksheets or any other materials related to this contract shall become the property of the state.

5.
Contractor hereby agrees that the responsibility for payment of taxes from the funds thus received under this agreement and/or legislative appropriation shall be said contractor's obligation and identified under federal tax identification number _____ .

6.
The contractor shall not assign any interest in this contract and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the state, provided however, that claims for money due or to become due to the contractor from the state may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the state.

7.
It is hereby agreed that the Legislative Auditor of the State of Louisiana and/or the Office of the Governor, Division of Administration auditors shall have the option of auditing all accounts of contractor which relate to this contract.

8.
This contract shall begin on _____ and shall terminate on _____ .

THUS DONE AND SIGNED AT Baton Rouge, Louisiana on the day, month and year first written above.

CONTRACTOR

STATE AGENCY

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067, November 1985).

APPENDIX B. SAMPLE CERTIFICATION
Sample Certification as required by R.S. 39:1497.

Ms. Bonita B. Brown, Director
Office of Contractual Review
Division of Administration
P. O. Box 94095
Baton Rouge, Louisiana 70804-9095
Dear Ms. Brown:

In reference to the attached contract we do certify the following:

1. Either no employee of our agency is both competent and available to perform the services called for by the proposed contract or the services called for are not the type readily susceptible of being performed by persons who are employed by the state on a continuing basis.

2. The services are not available as a product of a prior or existing professional, personal consulting or social service contract.

3. When applicable, the requirements for consulting or social service contracts, as provided for under R.S. 39:1503-1507, have been complied with.

4. The Department of _____ has developed and fully intends to implement a written plan providing for:

A. The assignment of specific Agency personnel to a monitoring and liaison function.

B. The periodic review of interim reports or other indicia of performance to date; and

C. The ultimate use of the final product of the service.

Sincerely,
AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067 (November 1985).

APPENDIX D. AGENCY TRANSMITTAL LETTER
Ms. Bonita B. Brown, Director
Office of Contractual Review
Division of Administration
P. O. Box 94095
Baton Rouge, Louisiana 70804-9095
Ms. Brown:

The following contract(s) is/are being submitted to your office this date for review and approval in accordance with R.S. 39:1481 et seq. and the rules and regulations adopted pursuant thereto:

Submitting Agency	Contractor	Amount
Upon approval of said contract(s) please return to: (List Return Address)		

Your cooperation in this regard is greatly appreciated.
AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067 (November 1985).

APPENDIX E. QUARTERLY REPORT ON SMALL PURCHASE CONTRACTS
Mrs. Bonita B. Brown, Director
Office of Contractual Review
Division of Administration
P.O. Box 94095
Baton Rouge, Louisiana 70804-9095
Ms. Brown:

During the quarter ending _____ the following contracts for \$5,000 or less were approved by the Department of _____

Contract Date	Contractor	Purpose or Service Rendered	Contract Amount

Total			_____

cc: Budget Analyst

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067 (November 1985); LR 14:

APPENDIX G. SAMPLE AUDITOR'S OPINION FOR CONTRACT COMPLIANCE AUDITS

We have audited the financial statements of the _____, Provider's Name, for the year ended June 30, 19XX, and have issued our report thereon dated September 21, 19XX. Our examination was made in accordance with generally accepted auditing standards and the *Government Auditing Standards* ("Yellow Book") issued by the U.S. General Accounting Office, and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The management of the _____, Provider's Name, is responsible for the Provider's compliance with laws and regulations. In connection with the audit referred to above, we selected and tested transactions and records from the state contract, number _____ . The purpose of our testing of transactions and records from that contract was to obtain reasonable assurance that the _____, Provider's Name, had, in all material respects, administered the contract in compliance with laws and regulations, noncompliance with which we believe could have a material effect on the allowability of contract expenditures.

Our testing of transactions and records disclosed instances of noncompliance with those laws and regulations. All instances of noncompliance that we found are identified in the accompanying schedule of findings and questioned costs.

In our opinion, except for those instances of noncompliance referred to in the preceding paragraph, for the year ended June 30, 19XX, the _____, Provider's Name, administered the state contract number _____ in compliance, in all material respects, with laws and regulations, noncompliance with which we believe could have a material effect on the allowability of contract expenditures.

Inquires concerning the proposed rule changes should be made to Bonita B. Brown, Director, Office of Contractual Review at 504/342-7097 or in writing to Office of Contractual Review, Box 94095, Baton Rouge, LA 70804-9095.

Bonita B. Brown
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Regulations on Personal, Professional,
Consulting and Social Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed regulation requires compliance audits of some \$10 million cost-reimbursement social service contracts funded yearly with state general funds. A maximum of approximately 2.7 percent or \$250,000 of such contract funds will be directed to audit expenses.

Savings cannot be estimated because audit findings cannot be predicted in advance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect is expected on revenue collections of state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No increased cost will be experienced by non-governmental contractors since audit costs will be included in the current contract reimbursement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Benefits will include more equitable competition since less efficient contractors will be located.

Bonita B. Brown
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

The Department of Health and Hospitals, Board of Embalmers and Funeral Directors, in accordance with R.S. 37:840 gives notice that rulemaking procedures have been instituted to amend LAC 46:XXXVII. 109, 901, 903 and 909 to read as follows:

§109. Embalmers Attire

A. Each Louisiana licensed embalmer or intern, while engaged in embalming a dead human body, shall be attired in a clean and sanitary smock or gown; and the body being embalmed shall at all times be covered so as to insure the privacy of said body.

B. Each Louisiana licensed embalmer or intern, while engaged in embalming a dead human body, shall be properly attired to provide for his/her own safety as well as the safety of others and in that regard, it is suggested that the proper attire of the embalmer or intern shall include the following:

1. A sanitary waterproof disposable gown, apron or smock;
2. Clean and sanitary rubber or latex gloves;
3. A mask or some other type of protective shield for eye and face protection.

C. Protective clothing should be removed before leaving

the preparation room and deposited within a container that can be properly disposed of in accordance with governmental codes covering such disposals.

§901. Requirements for Embalming

A. Any person desiring to engage in the practice of embalming and the profession of funeral directing in this state shall serve as an intern within the state of Louisiana for one year and must meet the following requirements:

1. The intern shall serve his internship within the state of Louisiana for one year under the direct supervision of a Louisiana licensed embalmer/funeral director;

2. The intern shall have actively assisted in the preparation of at least 25 dead human bodies during his period of internship and shall have actively assisted in conducting at least 25 funerals during his period of internship;

3. The intern must have a high school diploma or the equivalent G.E.D. certificate at the time of making application for internship;

4. While serving the term of internship, the intern must work on a full-time basis, that is a minimum of 40 hours per week. Half of the hours worked, on a weekly basis, must be worked during the hours of 7 a.m. and 5 p.m. while the other half of the hours worked on a weekly basis may be served any hours of the day or night;

5. The employment at the funeral home must be the intern's principal occupation;

6. The employment of the intern at the funeral home must be verified by the state board's inspector during any of the required inspections of the intern. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service of the the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment, to the state board's inspector for his review;

7. A work schedule must be submitted with the intern's application showing hours to be worked and duties to be performed. Any changes or modifications within the original work schedule must be forwarded to the board's office within 14 days of the change;

8. The internship must be served within 12 months after graduation from embalming school.

§903. Requirements for Funeral Directing

A. Any person desiring to engage in the profession of funeral directing within this state shall serve as an intern within the state of Louisiana for a period of one year and must meet the following requirements:

1. The intern shall serve as an intern within the state of Louisiana under the direct supervision of a Louisiana licensed funeral director for a period of one year;

2. The intern shall have actively assisted in conducting at least 25 funerals during the period of internship;

3. The intern applicant must have a minimum of 30 semester hours in an accredited college or university as evidenced by a certified copy of the transcript of said college or university. The minimum subject hours shall include 21 semester hours of the basic freshman courses, which include but are not limited to the following: English, math, bookkeeping, accounting, business math, psychology, history, science, business administration, biology, economics, chemistry, and marketing or such other minimum hours as the law may provide;

4. The intern must work on a full-time basis, that is, a

minimum of 40 hours per week, worked between the hours of 7 a.m. and 5 p.m.;

5. Employment at the funeral home must be the intern's principal occupation;

6. The employment of the intern at the funeral home must be verified by the state board's inspector during any of the required inspections of the intern. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment, to the state board's inspector for his review;

7. A work schedule must be submitted with the intern's application showing hours to be worked and duties to be performed. Any changes or modifications within the original work schedules, must be forwarded to the board's office within 14 days of the change;

8. The internship must be served after completing the 30 semester hours, or such other minimum hours as the law may provide within the accredited college or university, as noted hereinabove, and, prior to taking the National Conference Examinations.

9. Upon completion or internship, the intern application must appear before the board at its next regular examination meeting except when a delayed appearance for good cause, acceptable to the board is allowed.

§909. Notification to Licensed Person

A. The secretary of the board, upon notification by the applicant, will inform the licensed person responsible for the supervision and the training of the intern of the rules and regulations concerning the internship and that he will be responsible to the board for the application and enforcement of these rules and regulations. The designated supervisor must be present and in charge of the intern during the normal working hours as required and shall be responsible for the instruction and the performance of the intern during the course of internship.

B. Credit for funeral director and/or embalmer internship shall not be allowed to any person while he is in military service or while enrolled as a full-time student in a mortuary college or university (part time students pursuing eleven hours or less are acceptable).

C. It shall be a requirement and responsibility of the intern to make these reports monthly and to have them in the office of the secretary on the date specified. Failure to perform as specified in this rule will mean automatic loss of that monthly credit. Failure of the licensed supervisor to perform as agreed or to in any way falsify the records of the internship will cause a fine to be levied in accordance with the provisions of Louisiana Revised Statute 37:850 for said violation.

Interested persons may direct comments/inquiries to the Louisiana State Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011. (504) 483-4684 or 831-1162. Written comments on the proposed changes will be received through January 6, 1989.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: §109 Embalmer's Attire
§901, 903, 909 Intern requirements**

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 which will result from these proposed rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections are not expected to be affected by these rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Funeral homes and/or licensees who follow the suggested guidelines for embalmer's attire while embalming may expend an additional \$7 per body.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment in any appreciable way.

Lloyd E. Eagan
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Eligibility Determinations**

The Department of Health and Hospitals, Office of Eligibility Determinations, proposes to adopt the following rule in the Food Stamp Program.

This change in the dependent care deduction is mandated by the Hunger Prevention Act with an implementation date of October 1, 1988. This rule hereby amends the rule entitled "Dependent Care Deductions for Elderly and Disabled", published in the Louisiana Register, Vol. 13, No. 3, March 20, 1987, page 181. This proposed rule was published as an Emergency Rule in the Louisiana Register, Vol. 14, No. 10, October 20, 1988.

Proposed Rule

Proposed Rule Effective October 1, 1988, the maximum dependent care deduction shall be \$160 per dependent rather than \$160 per Food Stamp household.

Interested persons may submit written comments to the following address: Howard L. Prejean, Deputy Assistant Secretary, Office of Eligibility Determinations, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule. A copy of this proposed rule and its fiscal and economic impact statement is available for review from the local Office of Eligibility Determinations.

A public hearing on the proposed rule will be held December 7, 1988, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All inter-

ested 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: Food Stamp Program Dependent
Care Deduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The cost in FY 88/89 is \$50 (\$25 State and \$25 Federal). Food Stamp coupons are 100 percent federally funded.

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)

Certain households with more than one dependent might receive increased Food Stamp benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

David L. Ramsey
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Mental Health
Office of Mental Retardation and of Prevention and Recovery from Alcohol and Drug Abuse**

The Department of Health and Hospitals (DHH), Office of Prevention and Recovery from Alcohol and Drug Abuse intends to apply for Block Grant federal funding for fiscal year 1988-89 in accordance with Public Law 99-570, the Alcohol and Drug Abuse Treatment and Rehabilitation (ADTR) Part C, Title XIX, PHS Act/45 CFR Part 96.

DHH, Office of Prevention and Recovery from Alcohol and Drug Abuse, will continue to administer the ADTR Block Grant in accordance with provisions set forth in Public Law 99-570 and the federal regulations.

A copy of the application may be obtained by writing directly to: Louis Gibson, Office of Prevention and Recovery from Alcohol and Drug Abuse, 2744-B Wooddale Boulevard, Baton Rouge, LA 70805.

Public hearings on the ADTR Block Grant applications for fiscal year 1988-89 are scheduled as follows:

Date	Time
Tuesday, December 13, 1988	10:00 a.m.
New Orleans Alcohol and Drug Abuse Center 3934 Canal Street New Orleans, LA 70119	
Wednesday, December 14, 1988	10:00 a.m.
Alexandria Alcohol and Drug Abuse Center Monroe Highway and Rainbow Drive Pineville, LA 71361-1060	
Thursday, December 15, 1988	10:00 a.m.
Pines Treatment Center 6240 Greenwood Road Shreveport, LA 71111	
Friday, December 16, 1988	10:00 a.m.
Lafayette Alcohol and Drug Abuse Center 400 St. Julien Street, Suite 1 Lafayette, LA 70506	

At the public hearings all interested persons will have the opportunity to provide recommendations on the proposed Block Grant applications, orally or in writing. Written comments will be accepted through December 23, 1988.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: ADTR Block Grant**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no projected increase in the FFY 88-89 ADTR Block Grant, over the FFY 87-88 award. The total award will be used to implement "new and expanded" services throughout the State via contracted programs and OPRADA clinic operations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no change in revenue collections that are a result of this Grant.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
As funds from this Grant are specifically for "new and expanded" services, an additional portion of the population in need of service delivery will be reached. There is no cost to the persons or non-governmental groups affected by this Grant that are not funded by the Grant itself.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment in those areas that receive a portion of the funds distributed from this Grant in the form of contracted services will be positively affected above current levels. Funds used in clinic operations will allow current levels to be maintained.

Louis Gibson	John R. Rombach
Acting Deputy Assistant Secretary	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 amend the Facility Need Review policies and procedures which set forth the criteria for full review of applications proposing to enroll beds in the Medicaid Program. The affected criteria were published as a Rule on July 20, 1988, and are contained in LAC 48:1. 12502. A. (2) c. ii - iv(3) and 12502.F.

The amendments are as follows:

Criterion Number 6. (Documentation of Zoning) is deleted in its entirety. The zoning requirement is no longer necessary for two reasons: (1) requirements for construction will be sufficient to ensure that needed beds are developed, licensed, and enrolled in Medicaid within specified time frames. In addition, current policy requires that site change of an approved, unconstructed facility requires a full review, with bed need and utilization considered. Therefore, it will be incumbent on the applicant to obtain appropriate zoning for the proposed site, and failure to do so within set time frames will result in expiration of the approval.

Criterion Number 1. (Availability and Utilization of beds). Within this criterion, the requirement that capital costs shall not exceed the amount that a cost-conscious buyer would pay is deleted. The "cost-conscious buyer" policy is no longer relevant or necessary due to changes in the method of Title XIX Medicaid reimbursement for ICF/MR group and community homes. Reimbursement is no longer based on actual costs, but is a set per diem rate for the facility type.

The above amendments will affect the Policies and Procedures for Facility Need Review which is attached to the Title XIX State Plan.

A public hearing will be held on December 7, 1988, at 9:30 a.m. in the Louisiana State Library Auditorium, 760 Riverside Mall, Baton Rouge, LA 70804. Interested persons may submit comments on the proposed changes at any time before December 15, 1988, to the following address: Chris Pilley, Department of Health and Hospitals, Bureau of Health Services Financing, Box 94065, Baton Rouge, LA 70804-4065. Copies of this Notice may also be obtained at this address.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Facility Need Review Policy Change**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to state or local governmental units are expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No costs or benefits are predicted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment estimated.

David L. Ramsey
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Notice is hereby given that the Department of Public Safety and Corrections, Louisiana State Board of Private Security Examiners, intends to amend its rules and regulations under Title 46, Part LIX, in accordance with R.S. 37:3270 et seq. which were published in the *Louisiana Register*, December 21, 1987.

These amendments of the rules and regulations may be viewed between the hours of 8 a.m. and 5 p.m. at the offices of the Louisiana State Board of Private Security Examiners located at 5235 Florida Boulevard, Suite H, Baton Rouge, LA 70896. Comments or objections should be addressed, in writing, to Cynthia Fonté, Executive Secretary, at the above address no later than November 28, 1988. On Thursday, December 1, 1988 at 10 a.m., a public hearing will be held at the Council Chambers located in Monroe City Hall, 400 Lea Joyner Expressway, Monroe, LA 71210, for interested persons to present their views on these amendments to the rules and regulations.

Cynthia Fonté
Executive Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Amendments to Title 46

Professional and Occupational Standards Part LIX

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The existing staff can handle the workload associated with the implementation of these amendments to the rules and regulations. Therefore, there should not be any additional costs besides normal operating expenses.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The La. State Board of Private Security Examiners anticipates a \$1,000 revenue increase for FY '88/89, and FY '89/90, based on the examination fee for trainers, and administrative fine for failure to submit training verification within deadline date. Revenues collected from fines and fees are deposited into the La. St. Bd. of Private Security Examiners funds for use in the operation of the board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Estimated \$1,000 in additional costs will result from a \$25 trainer examination fee and fines for licensees in non-compliance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments to the rules and regulations will not affect competition and employment. The additional fee and expected fines do not represent a burdensome increase to private security companies regulated by these rules; and these companies are treated uniformly under the rules.

Cynthia Fonté
Executive Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Amending and Reenacting of Rental Rates

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), and R.S. 56:428(C), the Louisiana Wildlife and Fisheries Commission is hereby giving notice of its intention to amend LAC 76:VII to amend Section 503. R.S. 56:428(C) provides that "the commission shall fix the rate of rental for oyster leases at not less than \$1 nor more than \$5 per acre per year". Existing regulations fix the rate of rental at \$2 per year. The new regulation will fix the rate of rental at \$5 per acre per year. The new rule shall read:

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§503. Rental Rate

The rate of rental for oyster leases shall be \$5 per acre or fraction of an acre per year.

Interested persons may submit written comments on the proposed rule no later than 30 days from the date of publication of this notice of intent to Ronald Dugas, Seafood Division, 400 Royal, New Orleans, LA, 70130.

Virginia Van Sickle
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Increase Oyster Lease Rentals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no cost to implement these regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

At the maximum of \$5 per acre allowed by Statute (R.S. 56:428.C), oyster lease rental revenues would increase by \$900,000 annually: this assumes the present total lease acreage is maintained.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The cost to the oyster lease would increase from \$2 per acre per year to \$5 per acre per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment can not be precisely determined; but, the fee change would substantially increase the oyster lease rental cost as measured against average gross revenues per acre. Assuming an average price for a sack of oysters is \$18 per sack, the increase in oyster lease rental fees from \$2 to \$5 would represent an increase in per acre rental rates, as measured against average gross revenue from 1.9 percent of gross revenue to 4.7 percent of gross revenue.

Virginia Van Sickle
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Oyster Lease Survey Regulations

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Wildlife and Fisheries, Office of Fisheries, is hereby giving notice of its intention to amend LAC 76 VII.501. The primary effects of the amendments are to revise specifications for the taking of applications between existing leases, to create a fee for each shotpoint in excess of six when surveying a lease or application, and to create a fee for computations done for the convenience of the lease. The revised rule shall read:

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§501. Oyster Leases

A. Office Policies and Procedures

1. Office hours will be from 8 a.m. to 4:30 p.m., Monday through Friday excluding state holidays.

2. No one is to go into the lease document or quadrangle files, or application registration without permission of and accompaniment by designated office personnel.

B. The taking of Oyster Lease Applications

1. There shall be a 50 foot buffer zone established between new leases. However, by mutual written consent of applicants of adjacent water bottoms the lease boundaries may be common.

b. Where distances between oyster leases are 200 feet or less, no applications or leases shall be taken or issued except that

the intervening space may be shared equally by the existing leases or applicants if properly applied for and leased in accordance with existing policies and practices.

c. No new application will be taken when the length exceeds its narrowest width by more than a factor of three except as follows:

i. between existing leases where all available water bottoms are taken;

ii. in bayous (or similar configurations connections or cuts between bays, lakes and ponds, etc.) where all available water bottoms are taken with a subservient clause prohibiting an impedance of reasonable navigation;

iii. a lease may at the time of renewal request to take up his lease plus existing shoreline erosion not to exceed 100 feet along any shoreline providing that it does not conflict with an existing lease or application;

iv. a lease may once and only once during the life of a lease submit a revised survey by a private surveyor to take up existing erosion not to exceed 100 feet along any shoreline providing that it does not conflict with an existing lease or application;

v. no applications will be taken to divide an existing lease into two or more leases.

d. Any application for an oyster lease may be contoured to follow the shoreline.

2. If an applicant does not keep his appointment with a surveyor his application will be cancelled. The applicant will be notified of action taken and be given an opportunity to reinstate the application with an additional payment of the survey fee within 14 days of the cancellation notice. When the department surveyor cannot keep his appointment all efforts will be made to notify the applicant.

3. a. If any survey of existing leases by the surveyor of the department shows an overlap, the department will abstract the leases involved and eliminate the overlap, giving the area to the longest continuously uninterrupted lease and shall notify the lessees of the action.

b. If any survey of an application for new area shows an overlap of an existing lease and the applicant has not applied for restakes of the overlapped lease the application will be cancelled. The applicant will be notified of the action taken and be given an opportunity to reinstate the application with an additional payment of the survey fee within 14 days of the cancellation notice. An application cancelled for overlapping an existing lease will not be rescheduled until the restakes required to resolve the overlap have been applied for.

4. All applicants must appear in this office to place applications for survey and lease, or provide power of attorney to agents to set in their behalf.

5. Annual rental notices will be mailed to leases at least 30 days in advance of due date which is January 1 of each year.

6. A fee of \$10 per lease will be charged for transfer of oyster lease.

7. A fee for all extra maps, leases, plats or documents, will be charged as follows:

All maps	-	\$10 per copy
Plats	-	\$ 5 per copy
Lease Documents	-	\$ 5 per copy
Other material	-	\$ 1 per copy
Computations	-	\$ 2 per point

(Lambert to Latitude/
Longitude)

8. Survey Application Fees

a. Survey application fees for new leases after the moratorium is lifted will be as follows:

Acres	Dollars
10 or less	\$100
11 - 20	\$150
21 - 200	\$ 2.50 additional for each acre after 20
201 - 1000	\$ 1.50 additional for each acre after 200

An additional survey fee of \$10 for each shotpoint in excess of six, excluding shore shots, will be paid prior to approval of any lease.

b. Survey application fees on leases expiring by 15-year limitation are established as follows:

Acres	Dollars
10 or less	\$ 70
11 - 20	\$105
21 - 200	\$ 1.75 additional for each acre after 20
201 - 1000	\$ 1.15 additional for each acre after 200

An additional survey fee of \$10 for each shotpoint in excess of six, excluding shore shots.

c. Survey application fees for RESTAKES of one's own lease are established as follows:

\$25 per shot point

d. Survey application fees for RESTAKES of someone else's lease are established as follows:

\$90 for the first two shot points

\$50 for each additional shot point thereafter

e. The Survey Section shall notify owner(s) of lease to be restaked.

9. If an oyster farmer knowingly has a private surveyor survey over an existing lease or application, that application is cancelled and will constitute cause for the private surveyor to be barred from surveying oyster leases for a one-year period.

C. Private Surveyors Surveying Oyster Leases for Oyster Farmer

1. All surveyors must appear in person in the office of the Survey Section of the Department of Wildlife and Fisheries to research information pertinent to their surveys.

2. Surveyor to be charged the basic rate for copies of documents needed.

3. All controls and corners of oyster surveys to be tied into the Louisiana State Plan Coordinates System.

4. All surveys must comply with R.S. 56:427 B which requires the lease not to exceed the initial application by more than 10 percent compliance by negotiation with the applicant. If unacceptable, application will be cancelled and all fees forfeited.

5. Surveyors to execute properly surveyor's certificate appearing on reverse side of original application on file in the Oyster Lease Survey Section, or a photocopy of the original.

6. Surveyors must furnish the Department of Wildlife and Fisheries Survey Section with the original field notes on standard 4-1/2 x 7-1/2 looseleaf sheets.

7. Surveyors to note in the original field notes any activity in or adjacent to or on surveyed area, or any existing structures, etc.

8. Survey plats to be drawn in black ink on forms furnished by the Louisiana Department of Wildlife and Fisheries Oyster Lease Section and original tracing to become the property of same.

9. The acreage of all surveys, even though calculated to tenth or hundredth of acre, to be rounded off to the next highest acre.

10. Application number and ownership on all survey plats to be shown on original application.

11. No land area to be included in survey. Probing to be done at random throughout the surveyed area to determine type of bottom and results noted on original field notes, along with tidal information.

12. Use standard signs and symbols.

13. The Louisiana Department of Wildlife and Fisheries' Survey Section will provide all information needed to perform the survey.

14. Noncompliance with Subsection C. 1-12 above after 30-day notification from the department by certified mail, shall result in cancellation of the application and forfeiture of all fees to the department.

D. 1. Complaints in the field are to be handled in the following manner.

a. The oyster farmer should allow the survey to be completed in all situations. The surveyor has his instructions.

b. If the oyster farmer is dissatisfied with the survey after completed, he may register his complaint with the survey office within 14 days of date of survey.

c. Survey crew is to note that the oyster farmer will complete the survey under protest at time survey is being performed.

d. If the oyster farmer prevents survey from being completed in the field, his application will be cancelled. The oyster farmer has 14 days from postdate on letter notifying him of said cancellation to come into the office and pay survey fee and have application reinstated.

2. In an effort to comply with R.S. 56:425 D, which allows the department to settle disputes and R.S. 56:427 C requiring compact leases, and policy B-1, the department has the authority to grant applications to settle boundary disputes particularly as it is associated with shoreline erosion.

E. Oyster Lease Posting Requirements

In an effort to comply with R.S. 56:430, Paragraph B, and to keep within the constraints of Title 14, Section 63, dealing with criminal trespassing, the following are the posting oyster lease requirements.

a. The oyster lease or person seeking to post the oyster lease shall place and maintain signs along the boundaries of the property or area to be posted. These signs shall be written in the English language.

b. The signs shall have letters at least three inches in height and shall be of sufficient size and clarity to give notice to the public of the location and boundary of the oyster lease. The signs shall be placed and maintained at intervals of not more than one-fifth of a mile and shall be at least three to 12 feet above the water level.

c. At the main entrance to the property and at no less than at all corners along the boundary of said property, the party seeking to post same shall include his name or initials in addition to the lease number.

d. In marsh areas and canals, posted signs shall also be placed at all major points of ingress and egress.

e. In open water all signs are to be placed facing outward.

F. 1. Applications will remain in effect for a period of three years. At the end of three years any applications not surveyed by this department or a private surveyor will be cancelled.

2. Upon death of an applicant the estate will have 180 days to appoint a representative to deal with the survey of applications. If the department has not been notified within 180 days the application will be cancelled and survey fees will be retained.

3. No application for lease shall be transferrable.

4. An applicant will be required to outline on a department map the area for which he wishes to apply. Pursuant to R.S. 56:427(A), each element of the verbal description written on the application must be met by the survey plat. Additionally, the survey plat must conform completely to the map outline, attached to and made a part of the application; provided, however, that deviations from the map outline (but not the verbal written description) are permitted when such a deviation would not encroach on a neighboring lease or application, or when the signed, written consent of the leaseholder or applicant whose lease or application would be affected, has been granted. In no case will an applicant survey outside of his verbal written description.

5. a. In the event of department error which results in an application being taken in an area where there is a prior undisclosed application or lease which prevents the applicant from taking the full amount of acreage applied for in the area described, the following procedure shall apply: the applicant shall have the option of (a) taking all available remaining acres within the originally described area in a lease and receiving a prorata refund of unused survey application fees for any loss of acreage or (b) taking all applied for acres in one lease outside of the originally described area (c) if neither of the above options is acceptable to the applicant, the applicant may have his original application cancelled and receive a full refund of the survey application fee.

b. The applicant shall have thirty days from the date of notification of the conflict to exercise the above options.

c. If the applicant exercises the option as set out in Paragraph 5.a (b) above he shall be held to the amount of acres in his original application plus 10 percent.

d. In all such cases, the department shall have final approval of all relocations.

e. Before having the relocation area surveyed, it shall be necessary for the applicant to submit a new application for the area of relocation. This application shall be identified as a "relocation" application and shall indicate the old application by number for which it is being substituted and shall also be approved in writing by the chief of the Oyster Survey Section, the chief surveyor of the department, and the chief of the division.

f. All relocations shall follow this procedure. No survey shall proceed until the properly completed relocation application has been submitted, accepted and approved. No survey is authorized without the above procedure being followed nor shall the department be responsible for the cost of any survey performed prior to final approval of the relocated application.

6. No application for a new area will be accepted from any person not of the full age of majority (18 years).

G. 1. Upon lifting of the moratorium, a date will be set for the taking of appointments to make applications.

2. Each appointment will be for a 30-minute period and will allow the applicant to make one application.

3. If all applicants have received appointments and there are still openings, an applicant may go to the end of the line and make another appointment for one application. An applicant may continue to go to the end of the line and make appointments as long as applications are available.

4. In subsequent years the number of applications not surveyed by July 1 will be determined. This number will be subtracted from a base of 500 to determine the number of applicants to be accepted. On the first business day in August appointments will be taken and the rules in Paragraphs G-3 and G-4 will apply.

H. Policy to comply with laws concerning default in payment of rent on oyster leases. (Non-compliance R.S. 56:429)

1. On the first working day in February of each year, the Survey Section will compile a list of leases that are in default (R.S. 56:429). After compiling the list each owner will be notified by certified mail that his lease is in default and will be offered at public auction on the last Tuesday in March. He will also be notified that all works, improvements, betterments, and oysters on the leased area are the property of the state and that the Enforcement Division of the Louisiana Department of Wildlife and Fisheries has been so notified.

2. On the first working day following the last day of February all leases still in default will be advertised in a newspaper in the parish in which the lease is located. After the placement of the advertisement, advertisement cost will be added to the lease rent plus 10 percent. Up to and including the last Monday in March, the leases may be reinstated by payment of the rent due plus 10 percent and the advertising cost if applicable.

3. On the last Tuesday in March the auction will be held at a place to be designated by the Louisiana Department of Wildlife and Fisheries. The auctioneer will be the chief of the Seafood Division or whomever he wishes to designate. The opening bid for each lease will be the rent due plus 10 percent and advertising cost. All sales must be paid for in cash or by certified check.

The auction will start with the lowest numbered lease and continue numerically until completed.

4. Any leases not sold at auction will be removed from the Survey Section maps. The area will be open and may be taken by application at the yearly opening.

I. Procedures to comply with R.S. 56:432 and Council Memo dated December 2, 1983.

1. The Survey Section will keep an indexing system to determine the acreage held by all oyster lease holders.

2. No application will be accepted that will cause an applicant to exceed a total of 1000 acres under lease and application. Reference R.S. 56:432.

3. No lease will be issued to an oyster lease holder that will cause his account to exceed 1000 acres under lease unless he qualifies for additional acres by the ownership of oyster canning plants.

4. An oyster lease applicant will be given 30 days to reduce lease acreage prior to cancellation of any application that would cause his lease acreage to exceed 1000 acres. If the reduction is not made within 30 days the application will be cancelled and all fees retained by the department.

Interested persons may comment on these proposed

rules by contacting Philip E. Bowman, Seafood Division, 400 Royal, New Orleans, LA 70130.

Virginia Van Sickle
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Oyster Lease Survey**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no cost to implement these regulations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections for the department are expected to increase by a maximum of \$16,000 per year.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Total cost to persons requesting survey of leases will be approximately \$16,000 per year.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment. The \$16,000 revenue collections will be spread over the 2,000 persons/firms holding 9,000 leases. Each individual can reduce or eliminate his cost by properly structuring the perimeter of his lease.

Philip E. Bowman
Assistant Division Administrator

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

In accordance with the provision of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Department of Wildlife and Fisheries adopted rules and procedures, terms of the Artist Agreement and two sets of guidelines for production and marketing for the Louisiana Waterfowl Conservation Stamp and Print Program.

In general, these proposals established rules and regulations to govern the Louisiana Waterfowl Conservation Stamp and Print Program. These proposed rules may be viewed in their entirety in the Emergency Rule Section of the October 1988 *Louisiana Register*.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§309. Waterfowl Conservation Stamp

The Louisiana Department of Wildlife and Fisheries established rules and regulations governing the Louisiana Waterfowl Conservation Stamp and Print Program.

Interested parties may submit their views in writing to Hugh Bateman, Administrator, Game Division, Louisiana De-

partment of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Virginia Van Sickle
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Title 76, Part V. Chapter 3, §309**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will have no effect on cost to the state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Preliminary projection indicates that the sale of prints will generate revenue to the department of approximately \$700,000. Stamp sales to hunters will generate approximately \$300,000. The total estimated effect on revenue collected for the department is expected to be one million dollars.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Act 632 of the 1988 Regular Session will require all sportsmen 16 years of age and older to purchase a Louisiana duck stamp to hunt waterfowl. Actual cost to resident hunters will be an additional \$5 and non-residents cost will be \$7.50. The artist who provides the winning design can anticipate earning about \$60,000 in royalties for his artwork. The selected publisher will also make an undisclosed amount dependent on proposal submitted to the department.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no realistic method by which this department can estimate the effect on employment or competition.

Hugh A. Bateman
Administrator

John R. Rombach
Legislative Fiscal Officer

Committee Reports

COMMITTEE REPORT

**House of Representatives
Natural Resources Subcommittee
Oversight Review**

(Editor's Note: This referenced rule may be viewed in its entirety in the Rule Section of this issue of the *Louisiana Register*.)

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on October 24, 1988 and reviewed certain proposed rules by the Louisiana Department of Natural Resources relative to the return of the Bohemia Spillway lands that provide for changes in mailing procedures and require an advance deposit of \$175 for each application with the following results:

1) Based on the testimony presented to the effect that the proposed rules were not well thought out, excessive sums were to be used for attorney fees, there were no provisions to accommodate paupers, and the \$175 deposit was prohibitively excessive, the subcommittee determined that the proposed rule and fee were unacceptable.

2) The proposed rule and fee were found unacceptable by a vote of 9-0.

In accordance with R.S. 49:968(F) and 971, copies of this report are being forwarded this date to the governor, the Department of Natural Resources, the Louisiana Senate, and the State Register.

Bruce M. Bolin
Chairman

**GOVERNOR'S RESPONSE TO
COMMITTEE REPORT (ABOVE)
November 1, 1988**

I am in receipt of the report of the House Natural Resources Subcommittee on Oversight of October 26, 1988, advising that the rules proposed by the Department of Natural Resources regarding the Bohemia Spillway lands were found unacceptable.

The purpose of the proposed rules is twofold:

1) to require an advanced deposit of \$175 for each application and to provide for refunds;

2) to provide for changes in making procedures for notices from certified to first class mail.

I am advised that the \$175 cost deposit is governed by provisions of L.S.A. R.S. 49:971 A. which sets for the procedure for rejection of an agency fee adoption.

A. If either House or Senate oversight subcommittees appointed pursuant to R.S. 49:968 determines that a proposed fee adoption, increase, or decrease is unacceptable, the respective subcommittee shall provide a written report containing the reasons therefor to the governor, the agency proposing the fee adoption, increase, or decrease **and the other house of legislature. If the oversight subcommittee of the other house of the legislature likewise determines that the proposed fee adoption, increase, or decrease is unacceptable the fee action shall not be adopted by the agency.**

This section distinguishes "rules" and rules which seek to impose, increase or decrease fees. The cost deposit is a "fee" sought to be imposed by a rule and as such would require the rejection by both the House and Senate Oversight Subcommittees to disapprove the proposed agency action.

The Senate Natural Resources Subcommittee has not met to consider such action and the requisite time for them to do so has expired. In the event the rules were only to proposed adoption of the cost deposit, such an interpretation of the law

would require no action on my part.

However, a second purpose of the rule is to change mailing procedures and to extend certain time limits, which are governed by the provision of L.S.A. R.S. 49:968F. No mention of this portion of the rule is contained in your report, nor any reason given for determining it is unacceptable.

Therefore, I must disapprove the action of the subcommittee for reasons that the state cannot afford the additional mailing costs of \$35,000 plus administrative expenses nor can we afford the cost of administration of claims without a cost deposit. Without this action, the only remaining alternative would be to suspend or curtail the processing of applications at this time.

Buddy Roemer
Governor

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Department of Health and Hospitals Office of Eligibility Determinations

The Department of Health and Hospitals, Office of Eligibility Determinations, published an Emergency Rule in the *Louisiana Register*. Vol. 14, No. 9, September 20, 1988, on page 602. The rule eliminated 4 months extended Medicaid benefits for AFDC recipients who became ineligible for a grant as a result of the collection of child or spousal support.

As a result of the Family Support Act of 1988, extended Medicaid benefits are again available to AFDC recipients. Therefore, the Emergency Rule is hereby declared null and void.

David L. Ramsey
Secretary

POTPOURRI

Department of Health and Hospitals Office of Public Health Committee of Certification Operator Certification Program

In accordance with R.S. 40:1141 - 1152, the Committee of Certification has scheduled operator certification examinations for water and wastewater operators for 1989 as follows:

Date	City
January 18, 1989	Lafayette
February 17, 1989	New Orleans

March 17, 1989	Lake Charles - Open Exam
April 19, 1989	Shreveport
May 19, 1989	Baton Rouge
June 14, 1989	Lafayette
July 19, 1989	New Orleans
August 25, 1989	Alexandria
September 20, 1989	Monroe - Open Exam
October 18, 1989	Ponchatoula
November 15, 1989	Lake Charles
December 15, 1989	Houma

Interested persons may contact Larry Fox, Department of Health and Hospitals, Office of Public Health, 325 Loyola Avenue, Room 403, P.O. Box 60630, New Orleans, LA 70160 (504/568-5108) to submit views and comments on the examination schedule.

David L. Ramsey
Secretary

POTPOURRI

Department of Health and Hospitals Office of the Secretary

The Bureau of Medical Services Financing is correcting the final rule on adoption of a restricted formulary which was published in the *Louisiana Register* Vol. 14, No. 10, dated October 20, 1988. The Louisiana Medicaid Drug Formulary Committee established under the final rule is hereby corrected to reflect the following membership as provided under Act 372 of the 1988 Regular Session of the Louisiana Legislature.

The committee shall be composed of eleven members appointed by the secretary of the Department of Health and Hospitals to advise the secretary in the development of a closed formulary. The committee shall be comprised of the following persons:

One physician representing the Louisiana State University Medical Center; one physician representing Tulane University School of Medicine; one practicing physician who is participating in the Title XIX program as a family practitioner; one practicing physician who is participating in the Title XIX program as an internal medicine specialist; one pharmacist representing Northeast Louisiana University School of Pharmacy; one pharmacist representing Xavier University of Louisiana School of Pharmacy; one practicing pharmacist who is participating in the Title XIX pharmacy program; two members of the Pharmaceutical Manufacturers Association representing the pharmaceutical industry; the secretary of the Department of Health and Hospitals, or his designee; and the director of the Medicaid program in the Department of Health and Hospitals.

David L. Ramsey
Secretary

POTPOURRI

Department of Natural Resources Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1-700.5, notice is given that 48 claims amounting to \$96,759.26 were received during the month of October, 1988. During the same month, 39 claims in the amount of \$77,030.89 were paid, and four claims 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 December 1, 1988.

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 November 30, 1988.

No objections were filed to claims proposed for payment in the October, 1988 *Louisiana Register*.

Claim No. 87-88-559

Anthony Cacioppo, of 2124 Fable Dr. Meraux, LA 70075, Social Security No. 438-82-1239, St. Bernard Parish, Intracoastal (Water Body). Amount \$1351.74

Claim No. 87-88-548

Bruce Guerra, of Box 493, St Bernard, LA 70085, Social Security No. 438-56-1048, St. Bernard Parish, Eloi Bay. Amount \$5,000

Claim No. 87-88-617

Anthony Morales, of Rt. 1 Box 896, St Bernard, LA 70085, Social Security No. 439-72-6532, Plaquemines Parish, Black Bay. Amount \$1713.28

Claim No. 87-88-523

Manuel Creppel, of Rt. 1 Box 335-C, Marrero, LA 70072, Social Security No. 436-66-9186, Plaquemines Parish, Black Bay. Amount \$500

Claim No. 87-88-544

Kenneth L. Mareno, of P.O. Box 21, Boothville, LA 70038, Social Security No. 433-86-8914, Plaquemines Parish, near Southwest Pass. Amount \$1694.10

Claim No. 88-89-16

Myron F. Berthelot, of 116 Touchard Lane, Lafitte, LA 70067, Social Security No. 436-72-2996, Jefferson Parish, Bayou St. Denis. Amount \$1196.16

Claim No. 87-88-560

Herman C. Helmer, of P.O. Box 267, Baratavia, LA 70036, Social Security No. 438-48-7636, Jefferson Parish, Baratavia Bay. Amount \$2276.52

Claim No. 87-88-598

Roland G. Navarro, of 3209 Bayou Rd., St. Bernard, LA 70085, Social Security No. 433-90-0651, Vermilion Parish, Loran 27364.6 46944.2. Amount \$3207.66

Claim No 87-88-609

Levy J. Brunet, Jr., of Rt. 2 Box 328-L, Cut Off, LA 70345, Social Security No. 433-96-8359, Jefferson Parish, Baratavia Bay. Amount \$1013.24

Claim No. 87-88-620

Myron J. Berthelot, of 116 Touchard Lane, Lafitte, LA 70067, Social Security No. 436-7202966, Jefferson Parish, Bayou St. Denis. Amount \$496.80

Claim No. 87-88-615

Malcolm Assevado, of Box 2204 Pecan Ave., St. Bernard, LA 70085, Social Security No. 437-84-2717, St. Bernard Parish, Eloi Bay. Amount \$5000

Claim No. 87-88-635

Rodney Weiskopf, Jr., of 2009 Deogracias, Braithwaite, LA 70040, Social Security No. 435-48-1330, St. Bernard Parish, Eloi Bay. Amount \$3573.54

Claim No. 87-88-645

Howard P. Dardar, of 108 Delta Street, Belle Chasse, LA 70037, Social Security No. 437-60-8626, Loran 29115.3 47049.7. Amount \$1295.72

Claim No. 88-89-8

Jacob D. Plaisance, of 514 Dumonde Dr. Westwego, LA 70094, Social Security No. 434-44-1340, Lafourche Parish, Bay Hackberry. Amount \$545.40

Claim No. 88-89-9

Jacob D. Plaisance, of 514 Dumonde Dr., Westwego, LA 70094, Social Security No. 434-44-1340, Lafourche Parish, Bossa Bossa. Amount \$345.67

Claim No. 88-89-15

Rickey J. Frickey, of 2645 Longbranch Dr., Marrero, LA 70072, Social Security No. 435-02-8990, Jefferson Parish, Bayou St. Denis. Amount \$465

Claim No. 88-89-12

Calvin A. Cheramie, of Box 382 Rt. 1, Galliano, LA 70345, Social Security No. 438-40-4309, St. Bernard Parish, Lake Borgne. Amount \$468.80

Claim No. 87-88-627

Peter P. Ronquille, of P.O. Box 232, Lafitte, LA 70067, Social Security No. 437-54-0438, Orleans Parish, Lake Pontchartrain. Amount \$1210

Claim No. 88-89-37

Errol D. Lovell, Sr., of 2817 DeBouchel, Meraux, LA 70075, Social Security No. 439-68-5724, St. Bernard Parish, Eloi Bay. Amount \$698.36

Claim No. 87-88-596

Wallace Perez, Sr., of Rt. 1 Box 653, St. Bernard, LA 70085, Social Security No. 434-50-3645, Plaquemines Parish, Breton Sound. Amount \$1966.68

Claim No. 87-88-595

Lionel R. Fitzgerald, of Box 482, Barataria, LA 70036, Social Security No. 436-54-3442, Jefferson Parish, Lafitte Canal. Amount \$645.03

Claim No. 87-88-534

Arthur E. Plaisance, of 1180 Barbe St., Westwego, LA 70094, Social Security No. 433-66-4976, Plaquemines Parish, Tiger Pass. Amount \$857.37

Claim No. 88-89-48

Norman A. Plaisance, of Rt. Box 346 West 144th St., Galliano, LA 70354, Social Security No. 454-34-0925, St. Bernard Parish, Treasure Bay. Amount \$477.82

Claim No. 88-89-2

Duet Trawlers, Inc., of 8622 West Main, Galliano, LA Fed ID# 72-0831609, Loran 29043.5 46932.9. Amount \$797

Claim No. 87-88-571

Alvin Charpentier, of 107 E. 69th St., Cut Off, LA 70345, Social Security No. 436-46-9445, Terrebonne Parish, Lake Barre. Amount \$881.37

Claim No. 87-88-603

Jeanette Cantrelle, Inc., of Rt. 2 Box 498, Cut Off, LA 70345, Fed ID# 72-0793501, Vermilion Parish, Gulf of Mexico. Amount \$532.50

Claim No. 87-88-616

Robaine C. Inc., of 114 St. Pierre Lane, Golden Meadow, LA 70357 Fed. ID# 72-1084681, Lafourche Parish, Loran 28452.1 46843.2. Amount \$3757

Claim No. 87-88-602

LCH Capt. Henry, Inc., of Rt. 2 Box 228, Cut Off, LA 70345 Fed ID# 72-0944422, Plaquemines Parish, Loran 28950.5 46911.6. Amount \$2678.52

Claim No. 87-88-554

Ricky J. Guerra, of 2940 Bayou Road, St. Bernard, LA 70085, Social Security No. 438-98-0298, Plaquemines Parish, Lake Eloi. Amount \$1725.38

Claim No. 87-88-626

M. J. LeBlanc Trawlers, Inc. of Rt. 1 Box 0496, Lafitte, LA 70067, Fed ID# 72-0833887, Plaquemines Parish, Loran 28855.1 46778.7. Amount \$2833.86

Claim No. 88-89-13

Floyd J. Trosclair, of 546 Country Rd., Bourg, LA 70343, Social Security No. 438-48-7809, St. Mary Parish, Loran 27612.3 46956.8. Amount \$1620.42

Claim No. 87-88-622

Alvin Gonzales, of 1066 Avenue A, Westwego, LA 70095, Social Security No. 436-64-3049, Jefferson Parish, Barataria Waterway. Amount \$1266.

Claim No. 87-88-632

Ronald J. Thomassie, of P.O. Box 231, Lafitte, LA 70067, Social Security No. 438-58-5291, St. Bernard Parish, Loran 29089.5 46967.2. Amount \$3449.83.

Raymond W. Stephens, Jr.

Secretary

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P—Potpourri

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