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Executive Orders

EXECUTIVE ORDER BR 91 - 1

WHEREAS, the Office Facilities Corporation (the "corporation") a non-profit corporation was incorporated in the Parish of East Baton Rouge on September 18, 1989 for the purpose of the financing and the acquisition, purchase, construction, renovation, improvement, or expansion of public facilities for lease to the State of Louisiana and to carry out and fulfill the stated purposes of Act 806 of the Louisiana Legislature, Regular Session 1989 (the "Act");

WHEREAS, pursuant to the Act, the State of Louisiana (the "state") is authorized to enter into the lease purchase agreements with the corporation to finance the acquisition, purchase, construction, renovation, improvement or expansion of public facilities; and

WHEREAS, after careful investigation and thorough study in cooperation and consultation with the Division of Administration, the corporation has decided to undertake a project consisting of the acquisition, purchase, renovation, improvement and/or expansion of (i) an office building facility located at 4615 Government Street in the City of Baton Rouge, Louisiana, including the acquisition of the site therefor, to be leased to the state; (ii) an office building facility located at 825 Kaliste Saloom Road, Lafayette, Louisiana, including the acquisition of the site therefor, to be leased to the state; and (iii) an office building facility located at 2150 Westbank Expressway, Harvey, Louisiana (within the greater New Orleans area), including the site therefor, to be leased to the state; and the refunding of the corporation's \$2,500,000 Office Facilities Corporation In Rem Note (Wooddale Towers Project) Series 1990 originally issued to finance an office facility located at 1885 Wooddale Boulevard in the City of Baton Rouge, Louisiana (i), (ii), (iii) and the refunding of the corporation's Notes described above to be referred to herein collectively as the "Project"); and

WHEREAS, the corporation has determined that the most feasible and cost effective method of financing the Project is through the issuance of Bonds of the Corporation payable from and secured by lease rental payments to be made by the State as lessee of the Project; and

WHEREAS, the State, acting by and through the Division of Administration, is willing to lease the project at a rental sufficient to pay the principal of, interest on and premium, if any, of the Bonds issued to finance the Project and costs associated therewith, subject to an annual appropriation dependency clause as required by the Act; and

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

SECTION 1: Pursuant to the provisions of the Act, the Division of Administration (the "Division") acting through the Commissioner of Administration, the Deputy Commissioner of Administration or an Assistant Commissioner of Administration is hereby designated as the agency authorized on behalf of the state to enter into a lease purchase agreement

with the Corporation under the terms of which it will lease the Project from the Corporation upon such terms and conditions consistent with the provisions of the Act as are mutually agreeable to the Division and the Corporation, subject to the provision that such lease purchase agreement shall contain an annual appropriation dependency clause.

SECTION 2: This executive order shall be effective upon signature of the Governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of January, 1991.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox W. McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Substance Abuse Program
Amendment to Bulletin 741

The State Board of Elementary and Secondary Education, at its meeting of January 24, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953(B) and approved the substance abuse program for inclusion in Bulletin 741 as stated below:

Emergency adoption is necessary in order that this emergency rule, previously adopted as an emergency rule and effective September 27, 1990, will not expire before the rule becomes effective on February 20, 1991. Effective date of this emergency rule is January 24, 1991.

ELEMENTARY PROGRAM OF STUDIES/ MINIMUM TIME REQUIREMENT

Add a new standard #2.090.01 to page 66 of Bulletin 741 which states:

Elementary schools shall provide a minimum of eight contact hours of substance abuse prevention education each school year. Instruction shall be provided in accordance with the state substance abuse curriculum (Bulletin 1864, Volume I) or through substance abuse programs approved by the State Board of Elementary and Secondary Education.

Refer to R.S. 17:402-5

R.S. 40:981.3

All affected standard numbers will be adjusted accordingly.

SECONDARY SCHOOLS

Add a new standard #2.096.01 to page 74 of Bulletin 741 which states:

Secondary schools shall provide a minimum of eight contact hours of substance abuse prevention education each school year. Instruction shall be provided in accordance with the state substance abuse curriculum (Bulletin 1864, Volume I) or through substance abuse programs approved by the State Board of Elementary and Secondary Education.

Refer to R.S. 17:402-5

R.S. 40:981.3

All affected standard numbers will be adjusted accordingly.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendments to Bulletin 1877
Implementation Guide for LTIP and LaTEP

The State Board of Elementary and Secondary Education, at its meeting of January 24, 1991, exercised those

powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and approved amendments to Bulletin 1877, *Implementation Guide for LTIP and LaTEP* which was adopted as an emergency rule and printed in the July 20, 1990 issue of the *Louisiana Register*. The pages of the document which are printed in this current issue of the *Louisiana Register* (February 20, 1991) reflect the amendments and are to replace the pages in the document adopted as an emergency rule, July 20, 1990.

This emergency rule, effective February 20, 1991, supersedes and replaces the amendments to Bulletin 1877 which were advertised as an emergency rule and printed in the October 20, 1990 issue of the *Louisiana Register*.

These revisions were requested as a result of a recent legal settlement of the LAE/Rose Carter Case and need to be in place immediately. The revisions, approved by the Department of Education's legal staff, will further ensure an assessment system that is reasonable, non-discriminatory, equitable and fair for all involved.

Data Recording Form--the form used by each assessor to record observation data for the STAR assessment.

Department--see LDE

Documentation--copies of the official STAR Data Recording Forms completed by members of the assessment team.

Due Process--fair and impartial treatment as guaranteed under the law including, but not limited to, the 1st, 5th and 14th amendments of the Constitution of the United States, Section 1983 of the Civil Rights Act of 1871, Title VII of the Civil Rights Act of 1964, and Title IX of the Educational Amendment of 1972, relative to procedural requirements.

Educational Accountability--reflects the respective shared responsibilities and duties of the following groups:

- 1) local boards, administrators, principals, teachers, and other personnel
- 2) the Louisiana Department of Education
- 3) parents and students
- 4) other governing authorities as specified by the constitution and laws of the state.

Equivalent level supervisor--an administrator other than the school principal (e.g., assistant principal, administrative assistant or central office administrator/supervisor) all of whom have received certification as STAR assessors.

Evaluatee--one who is evaluated.

Evaluation--the process of making considered judgements concerning the professional accomplishments and competencies of a teacher based on a broad knowledge of the area of performance involved and the specific pre-established standards of performance.

Extenuating circumstances--acceptable ground for extension of the assessment process or modification of the process; such grounds refer to circumstances over which the evaluatee has no control and may (but not necessarily) include the following:

- a. Sabbatical leave
- b. Leaves of absence
 1. personal illness
 2. personal leave
 3. military duty
 4. jury duty
 5. maternity leave
- c. Personnel illness or serious injury

Performance Criteria--general and specific standards by which a teacher's performance is assessed and upon which judgements are based.

Performance Dimension--the conceptual focus which guides the criteria for effective teaching practices.

Pre-Assessment Interview--a meeting between the assessment team and the intern teacher to discuss CUP assessment indicators that need clarification prior to the assessors completing the scoring of the CUP independently.

Pre-Observation Discussion--held prior to an assessor's observation of a teacher's classroom performance to identify any changes in the lesson plan for the day of the observation.

Principal--the administrator of the school to which the teacher being assessed is assigned.

Professional Development Plan--based on a teacher's identified areas needing improvement, this plan is developed by the principal with input from the teacher, approved by the assessment team, and supplemented by a teacher's self-directed improvement activities; its implementation is monitored by the principal. A teacher being assessed may receive such a plan at the end of the first assessment period as well as at the end of the assessment year; if a second year of professional development is granted, such a plan will again be developed and also be implemented.

Provisional Certificate--issued to all teachers new to the Louisiana public school system, regardless of experience or certification in other states; valid for two years.

Public School--public elementary and secondary schools governed by parish or city school boards and under the supervision of the SBESE.

Raw Notes--written account of an occurrence or condition observed by an assessor during a scheduled LTIP or LaTEP observation. The notes are descriptive data collected for the assessment but are not part of the evaluation process.

Recording Form--LTIP and LaTEP assessment process form which provides documentation of observations and assessments of the teacher by the assessor.

Regional Service Centers (RSC)--a network of eight LDE centers located throughout the state.

Remediation Year--the school year following the assessment year in which a teacher received a nonsatisfactory rating.

Renewable Professional Certificate--issued to a teacher whose assessment rating is satisfactory or superior. This certificate is valid for five years.

Satisfactory Rating--assessment rating issued to a teacher whose evaluation

piloted and validated before it is implemented statewide. Based on piloting and validation research, the LDE must recommend to the SBESE a proper range of scores for superior, satisfactory, and nonsatisfactory assessments.

Recognizing the need for trained assessors, the legislation assigns responsibility to the LDE to develop, direct and coordinate the implementation of a training program for assessors.

All necessary record keeping and coordination, including scheduling of evaluations necessary to the implementation of the program are to be done by the LDE.

The LDE must also coordinate all efforts with public colleges and universities, the Administrative Leadership Academy and the RSCs; it must coordinate the implementation of LTIP and LaTEP and other programs to avoid unnecessary duplication of effort.

Additionally, the LDE will make recommendations to the SBESE for any rules and policies needed for implementation.

B. The State Board of Elementary and Secondary Education

The SBESE has been directed to establish a Teacher Evaluation Advisory Committee, to review the work of the LDE and provide direction to the LDE regarding proper implementation.

Additionally, the SBESE is directed to adopt and promulgate rules and policies deemed necessary for implementation. For example, the SBESE must set the range of scores for evaluation categories (e.g., superior, satisfactory, nonsatisfactory) based on recommendations from the LDE.

Further, it is the responsibility of the SBESE to create, by rule, a grievance procedure for teachers so that, at a minimum:

- a) the teacher is provided a copy of the assessment performance profile.
- b) the teacher is permitted to file a written response to be permanently attached to the teacher's assessment file.
- c) a post-assessment conference is held to inform the teacher of the results of the evaluation in order that the teacher may respond to the evaluation and have the opportunity to amend, remove or strike any proven inaccurate or invalid information within the performance assessment profile.
- d) the teacher is given the right to receive evidence by documentation of any item contained in the evaluation that the teacher believes to be inaccurate, invalid or misrepresented. If documentation is not presented, such items shall be removed from the profile.

AN OVERVIEW OF THE PROCESS IS PROVIDED BELOW: (Attachment A)

Fall Semester

1. The teacher to be assessed under LTIP prepares and submits a Comprehensive Unit Plan (CUP) to the assessment team for independent review and scoring. LTIP assessors shall receive information about the CUP in a pre-assessment interview with the intern teacher before completing the scoring of the CUP. The LaTEP teacher prepares daily lesson plans for a seven day period or a CUP.
2. In LTIP, the assessment team will meet to prepare for a CUP interview with the intern teacher. The team will interview the intern teacher, and after the interview, each member will independently score CUP indicators that needed clarification.
3. In LaTEP, the team does not meet with or interview the teacher. The daily lesson plans are not scored by the assessors. If a LaTEP teacher receives a score that is below standard on any STAR component, the teacher is encouraged to prepare a CUP in the spring. It will be reviewed independently by each team member prior to an observation visit but will not be scored.
4. After the CUP or lesson plans are submitted and reviewed, each team member will complete an independent observation. The observations will be conducted during the time frame specified in the CUP or lesson plans and shall coincide with the length of the lesson. A pre-observation discussion and a post-observation discussion must be conducted for the purposes of requesting and receiving clarification relative to the observation.
5. Each assessor will independently score Dimensions II, III, and IV of the assessment instrument and send the completed data recording form to a designated data processing agency, the RSC. Each teacher shall have the right to receive copies of the individual STAR Data Recording Forms relating to him or her normally at least three working days in advance of the assessment conference, provided timely request has been received at least five (5) working days before the conference. In the unlikely event the documents cannot be provided to the teacher three days in advance of the conference, the teacher may consent to a conference at a later date not to exceed an additional five (5) working days to allow for timely receipt of the forms. So that there will be no misunderstanding by use of the term "assessment conference," we are referring to the conference which must be held 15 days after the receipt of the teacher's profile by the Department of Education in any given semester. For the teacher to be eligible to receive the documents, she must simply request the documents in writing from the regional assessment coordinator. Otherwise, the STAR Data Recording Forms with respect to that teacher will be deemed part of the teacher's confidential case history under the Children First Act and will be accessible only by BESE, the Department of Education, the teacher and any school board employer of the teacher.
6. The RSC will prepare a formative assessment performance profile. Copies of the profile will be sent to the teacher and to each assessment team member.
7. In LTIP, the support team will conduct a post-assessment conference with the intern teacher. A Professional Development Plan will be formulated by the team for any intern whose score falls below the standard on any STAR

component.

8. In LaTEP, an assessment conference will be conducted by the principal unless the teacher requests that the entire assessment team be present. A Professional Development Plan will be formulated by the principal with input from the teacher. A plan must be developed for any teacher whose score falls below the established state standard on any STAR component. A plan may be formulated for teachers who score at or above standard on any STAR component. The plan must be approved by the assessment team. In LaTEP, the principal will monitor the teacher's implementation of the plan.

Spring Semester

1. LTIP

If a teacher receives a score that is at or above the standard on all components of the fall CUP assessment, the spring assessment process will be repeated without the preparation and review of an additional CUP. ~~If~~ If a teacher's score on any STAR component is below standard then an additional CUP must be prepared by the teacher and reviewed by the assessment team as part of the spring assessment process.

LaTEP

If a teacher scores below standard on any STAR component during the fall assessment, the spring assessment process will be repeated and the teacher is encouraged to prepare a CUP. If prepared, the CUP will be reviewed by the assessment team as part of the spring assessment process but will not be scored.

3. In LTIP, an intern teacher who receives a satisfactory rating at the end of the spring assessment progresses to LaTEP. An intern who receives a nonsatisfactory rating may be recommended for a second year in LTIP.
4. In LaTEP, a satisfactory or superior rating at the end of the spring assessment will terminate the current process which will be repeated ~~within~~ five years later.
5. In LaTEP, a nonsatisfactory rating will result in a program of professional development which must be approved by the assessment team. The program must include the preparation of the CUP and activities directed by the principal in addition to the teacher's self-directed activities. (Refer to item number 8, Fall Semester.)
6. In LaTEP, after a nonsatisfactory rating, a teacher will be in remediation and must repeat the assessment process the next school year. The subsequent assessment results include the following possibilities:
 - a) A satisfactory rating upon re-assessment will terminate the current process which shall be repeated within a five-year cycle.
 - b) A nonsatisfactory rating with significant progress upon re-assessment will result in an extension of the professional development program for one year. The maximum term of the professional development program and re-assessment will be two

years.

- c) A nonsatisfactory rating upon re-assessment will result in expiration of certification. No certificates or credentials shall be issued for a period of at least two years. Re-entry is possible after the two-year period if the teacher has earned at least six hours of credit in graduate level or undergraduate level courses related to the area(s) needing improvement as noted on the assessment profile. The teacher must be assessed immediately under re-entry under LaTEP.

- 7. In LaTEP any teacher assessed during the 1990-91 school year whose evaluation is not high enough to warrant a five year renewable certificate by criteria set by the SBESE in January 1991 shall be placed in remediation at the end of the 1990-91 school year but shall retain his/her current certificate until an assessment of three observations is completed in the fall of 1991. The assignment of a five-year renewable certificate or a provisional in-remediation certificate shall be based on the three observations conducted during the second half of 1990-91 and on the three observations conducted during the first half of 1991-92.

IMPLEMENTATION: RULES AND POLICIES

A. Preparation for the Assessment Process

1. Orientation

a) Orientation I

A LTIP/LaTEP Orientation I manual and video tape prepared and disseminated by the LDE are available in each LEA and RSC. LEAs must provide inservice training to all teachers on LTIP/LaTEP.

b) The State Standardized Orientation Program

The State Standardized Orientation Program (Orientation II) required by the "Children First" Act for all teachers provides in-depth information on the programs. Orientation II addresses the legislative mandates, assessment processes, policies and procedures, and the STAR assessment instrument.

Orientation II presenters are designated by the LEA Superintendent and approved by the LDE. The LDE strongly recommends that the school principal and/or a master teacher at the school present Orientation II. Central office personnel may provide orientation at the school level, upon request, when the principal has not been trained or certified as an assessor. Presenters must be certified STAR assessors.

Orientation II will be provided preferably at the school building level for small groups. It must be completed no later than September 15, 1990.

If Orientation II is not provided at a school(s) within an LEA, then no assessments will occur in the violating school(s) for that school

³Significant progress will be further defined once standards have been established

will make the final determination of team composition.

After the team is selected, the RSC coordinator will conduct an organizational meeting for assessors, scheduled in coordination with the principal.

The principal will identify dates for each team member's observation, with the approval of the RSC coordinator. The RSC coordinator will schedule observations with written documentation showing that observations occur within the seven day period covered by the CUP or daily lesson plans. The class period and subject to be observed are chosen by the teacher to be assessed. The teacher will not be provided the scheduled dates; however, the teacher will be informed that the three assessors will observe within the seven day period specified in the CUP or the daily lesson plans.

2. All LTIP Teachers in Fall ; LTIP Teachers Who Score below Standard on any STAR Component during the Fall Assessment; and LaTEP Teachers Who Are in Remediation

Comprehensive Unit Plan (CUP)

- a) Time Line for Teacher Preparation of CUP

After notification of the assessment schedule by the RSC, the teacher has a minimum of three weeks to prepare and submit the CUP to members of the assessment team.

Three copies of the CUP must be submitted, one to each member of the assessment team. In LTIP, an intern teacher must submit the CUP at least one week prior to the pre-assessment interview. In LaTEP, the CUP must be submitted at least one week prior to the first observation.

Delivery of the CUP to each assessor is the responsibility of the teacher. Delivery may be by hand or by mail, and documentation of delivery is advisable.

If the CUP is not submitted as required, and if there are no extenuating circumstances as determined by the LDE, the assessment will proceed on schedule and the teacher will be scored unacceptable on all assessment indicators related to the CUP.

- b) Time Line for Team Assessment of CUP

Scoring of the CUP must be completed independently by each member of the assessment team before the first observation.

If the CUP is not assessed as required, and if there are no extenuating circumstances as determined by the LDE, the teacher will be allowed to select from several options to satisfy the

requirements (i.e., mini lesson plan, daily lesson plan, extended CUP).

c) Required Submission of the CUP

The CUP is a required component of the fall assessment of the LTIP teacher. However, if a teacher receives a score that is at or above the standard on all components of the fall CUP assessment, the CUP shall not be required in subsequent assessments of the teacher for that year, but daily lesson plans are required.

If the teacher scores below standard on any STAR component during the fall assessment period, the CUP will be required as a part of the spring assessment.

d) Criteria for Preparation of the CUP

A standard CUP format has not been provided because the LDE does not want to impose a single format on teachers. Dimension I of the STAR provides a teacher opportunity to use creativity in preparing a lesson. The complexity and length of the CUP will be determined by the teacher based upon the developmental and ability levels of students in the class.

In any context, the CUP should:

- be the original work of the teacher
- be legible to the assessor
- encompass the seven days in the subject area chosen by the teacher from his/her assigned teaching areas.

During Orientation II, three suggested formats for the CUP are shared with the teacher.

2a. LaTEP Daily Lesson Plans

a) Time Line for Teacher Preparation of Daily Lesson Plans

After notification of the assessment schedule by the RSC, the teacher has a minimum of three weeks to prepare and submit the daily lesson plans to members of the assessment team.

Three copies of the daily lesson plans must be submitted, one to each member of the assessment team. The daily lesson plans must be submitted at least one week prior to the first observation.

Delivery of the daily lesson plans to each assessor is the responsibility of the teacher. Delivery may be by hand or by mail and documentation of delivery is advisable.

If the daily lesson plans are not submitted as required, and if there are no extenuating circumstances as determined by the LDE, the assessment will proceed on schedule and the teacher will be required to submit a CUP for the spring assessment.

b) Daily Lesson Plan Components

All teachers participating in the LaTEP are required to prepare a set of lesson plans for the seven day period of time during which assessments will be conducted by assessment team members.

Lesson plans prepared by LaTEP teachers must include:

1. Class profile
2. Learning goals and objectives
3. Activities and the amount of time to be spent on each activity
4. Aids and materials
5. Homework assignments
6. Formal assessment and evaluation procedures

If a teacher in the LaTEP chooses to prepare a CUP in place of the set of lesson plans, he/she may do so and must follow the procedures specified in the Policy/Implementation Guide for preparation of the CUP by an intern teacher.

c) Submission of the CUP

If the teacher scores below standard on any STAR component during the fall assessment period, the teacher is encouraged to prepare a CUP for the spring assessment but it will not be scored. If the teacher is placed in remediation following the spring assessment period, the CUP must be a part of the Professional Development Plan.

3. Procedures for Classroom Observation

a) Scheduling

The first observation must be conducted no earlier than October 1 of the school year.

The observation must be the length of the class period; for elementary teachers at least a minimum of 30 minutes.

b) Procedures

- (1) Observations must be conducted independently by each assessor during the specified seven day period in the CUP or daily lesson plans.
- (2) The observation must be a scheduled visit within the framework of the seven day period specified in the CUP or daily lesson plans. The teacher will not be informed of the specific dates that each assessor will observe his/her classroom performance. If an assessor fails to observe the teacher during the scheduled seven day period due to extenuating circumstances on the part of the assessor or the teacher, the observation will be rescheduled.
- (3) A pre-observation discussion is required.

- (4) Each assessor must observe standard procedures as set forth in the STAR assessor training; specifically the assessor must:
 - (a) sit in an area where all students can be monitored.
 - (b) remain for entire lesson as outlined in the CUP or daily lesson plans, for a minimum of 30 minutes.
 - (c) take written notes.
 - (d) not bring any documents, materials or equipment into the classroom other than the paper for recording notes.
- (5) Post-observation discussion must be conducted for the purposes of requesting and receiving clarification relative to the observation. General comments may be given to the teacher (e.g., interesting lesson).
- (6) No specific feedback or comments concerning the teacher's performance will be provided to the teacher during the observation or prior to the assessment conference.

4. Procedures for Handling Assessment Data

- a) Between the time of the observation and the assessment conference, the assessors and the teacher must have no personal contact regarding the teacher's performance.
- b) The assessor must make STAR assessment decisions (complete STAR Data Recording Form) within 24 hours of the observation and prior to observing any other teacher.
- c) The assessor must complete the standard STAR Data Recording Form. The original copy of that form must be placed in an envelope provided by the LDE, sealed and submitted to the designated RSC data processing center within five working days. Each teacher shall have the right to receive copies of the individual STAR Data Recording Forms relating to him or her normally at least three working days in advance of the assessment conference, provided timely request has been received at least five (5) working days before the conference. In the unlikely event the documents cannot be provided to the teacher three days in advance of the conference, the teacher may consent to a conference at a later date not to exceed an additional five (5) working days to allow for timely receipt of the forms. So that there will be no misunderstanding by use of the term "assessment conference," we are referring to the conference which must be held 15 days after the receipt of the teacher's profile by the Department of Education in any given semester. For the teacher to be eligible to receive the documents, she must simply request the documents in writing from the regional assessment coordinator. Otherwise, the STAR Data Recording Forms with respect to that teacher will be deemed part of the teacher's confidential case history under the Children First Act and will be accessible only by BESE, the Department of Education, the teacher and any school board employer of the teacher.
- d) The assessor must keep a copy of the standard STAR Recording Form and any other data collected during the observation until the data processing center sends notification that the original document has been received and entered into the computer. **Confidentiality laws shall be maintained.** Immediately on such notification, the assessor must shred his/her copy of the STAR

Recording Form. Raw notes must be retained by assessors for a minimum of two years.

- e) The RSC data processing center will send to the teacher's home address a STAR Assessment Performance Profile within five working days from receipt of the STAR Recording Forms. The Profile is a composite representation of the observations of the assessment team.
- f) The RSC will also send a copy of the STAR Assessment Performance Profile to each assessor. **Confidentiality laws shall be maintained as prescribed by law.**
- g) The LDE shall notify the LEA superintendent and school principal of the summary decision on each teacher assessed.

5. Procedures for Assessment Conference

- a) All members of the assessment team will confer within 15 working days of receipt of the teacher's Profile. If a Professional Development Plan is needed, it will be developed by the principal, with input from the teacher, based on information provided by all members of the team. The plan must be approved by the assessment team.
- b) The assessment conference will be held to discuss the results of the Assessment Performance Profile at a time and location convenient for all parties involved.
- c) Under LTIP, the assessment team must meet with the teacher within 15 working days after the receipt of the Assessment Performance Profile.
- d) Under LaTEP, the principal or equivalent level supervisor must conduct the assessment conference with the teacher within 15 working days after the receipt of the Assessment Performance Profile. The teacher may submit a request for a conference with all team members within five working days after the receipt of the Assessment Performance Profile; if so, the entire team must meet with the teacher within 15 working days of the request.
- e) All copies of the Assessment Performance Profile must be returned to the teacher at the end of the assessment conference.
- f) If a Professional Development Plan has been developed, it is presented to the teacher at the time of the assessment conference. During the conference, the teacher will be informed that he/she has five working days in which to notify the principal of self-directed activities in order for the activities to become a part of the plan.
- g) It is the principal's or equivalent level supervisor's responsibility to:
 - approve the teacher's plan for self-directed activities;
 - keep a copy of the Professional Development Plan on file;
 - monitor the implementation of the plan on a day to day basis.
- h) If a Professional Development Plan is prescribed for a teacher, the Professional Development process (remediation) begins no earlier than ten working days after the assessment conference.

D. Outcomes of the LTIP and LaTEP Spring Assessments

Both LTIP and LaTEP assess the classroom performance of teachers, but there are some distinctions between outcomes and follow-up procedures in the two programs.

1. LTIP Procedures

- a) An intern teacher who receives a satisfactory rating at the end of the first LTIP assessment year moves into LaTEP. The intern retains a provisional certificate which will expire within the next school year; thus the intern must be assessed in LaTEP within the assessment year following the LTIP assessment.
- b) An intern teacher who receives a nonsatisfactory rating at the end of the first LTIP assessment year may be recommended for a second year in LTIP by the assessment team. The intern must be re-assessed under LTIP that second year; however, it will be the decision of the LEA to employ the intern the second year.
- c) An intern teacher who is employed for a second year under LTIP will be re-assessed. If the teacher receives a nonsatisfactory rating in the second assessment year, the provisional certificate will expire.

2. LaTEP Procedures

- a) A teacher who receives a satisfactory or superior rating at the end of the first LaTEP assessment year will be issued a renewable professional certificate.
- b) A nonsatisfactory rating at the end of the assessment year places the teacher in remediation and a "provisional/in remediation" certificate, valid for one year, will be issued. Such a certificate replaces all previously held Louisiana teaching certificates.
- c) A teacher who holds a "provisional/in remediation" certificate will be assessed the following year.
 - 1) A satisfactory rating upon re-assessment at the end of the second assessment year will terminate the current process. The process will be repeated five years later. A renewable professional certificate will be issued.
 - 2) A nonsatisfactory rating with significant progress⁴ upon re-assessment may result in an extension of the "provisional/in remediation" certificate for one year. The maximum term of the "provisional/in remediation" certificate is two years.
 - 3) A nonsatisfactory rating upon re-assessment results in the expiration of the certificate. No certificates or credentials may be issued for a period of at least two years. Re-entry is possible after the two year period if the teacher has earned a minimum of six hours of credit in graduate level courses related to the area(s) needing improvement.

⁴Significant progress will be further defined once standards have been established.

- 4) After a two year period, a teacher who has lost his/her certification and earns appropriate graduate or undergraduate credits can re-enter the LaTEP assessment process. The teacher will be issued a provisional teaching certificate. The teacher's name must be included on the list of teachers to be assessed during his/her re-entry year. The teacher must be assessed within the first 60 working days of the school year. A satisfactory rating at the end of the assessment year will result in the issuance of a renewable professional certificate valid for five years.
- 5) An evaluatee may be assigned new assessment team members during the remediation year.

E. Due Process Components

Teachers will be afforded due process in all aspects of the Louisiana teacher assessment programs. The due process rights include:

1. Each teacher shall have the right to receive copies of the individual STAR Data Recording Forms relating to him or her normally at least three working days in advance of the assessment conference, provided timely request has been received at least five (5) working days before the conference. In the unlikely event the documents cannot be provided to the teacher three days in advance of the conference, the teacher may consent to a conference at a later date not to exceed an additional five (5) working days to allow for timely receipt of the forms. So that there will be no misunderstanding by use of the term "assessment conference," we are referring to the conference which must be held 15 days after the receipt of the teacher's profile by the Department of Education in any given semester. For the teacher to be eligible to receive the documents, she must simply request the documents in writing from the regional assessment coordinator. Otherwise, the STAR Data Recording Forms with respect to that teacher will be deemed part of the teacher's confidential case history under the Children First Act and will be accessible only by BESE, the Department of Education, the teacher and any school board employer of the teacher.
2. The evaluatee will be provided with a copy of the Assessment Performance Profile after the completion of the assessment process within 15 working days.
3. An assessment conference must be held following the Assessment Performance Process in LTIP and LaTEP and must include a discussion of the assessment profile. The conference must be held prior to the implementation of a Professional Development Plan.
4. The evaluatee may file a written response to the assessment which will be permanently attached to the evaluatee's Assessment Profile. The response will be filed at the RSC.
5. The evaluatee has the right to receive proof, by documentation, of any item contained in the profile that the evaluatee believes to be inaccurate, invalid or misrepresented. If documentation does not exist, the item in question must be amended or removed from the Assessment Performance Profile.

6. Confidentiality of assessment results must be maintained as prescribed by law.
7. The assessor's raw notes will be provided if subpoenaed for court proceedings.
8. A grievance procedure and an appeals procedure that follows the proper lines of authority under LTIP and LaTEP have been established and must be followed.

Louisiana Department of Education Grievance Procedure
for the Louisiana Teaching Internship
and the Louisiana Teacher Evaluation Program

A grievance is a claim by a teacher that the assessment is inaccurate, invalid or misrepresented. Such claim of error shall include evaluator bias, evaluator omission or evaluator error. Any other issues are to be handled as administrative complaints. The written complaint must be submitted to the LTIP/LaTEP RSC Coordinator.

Step 1

- A. Any teacher who believes that he/she has a grievance may file the grievance at any time during the assessment process, but not later than 20 working days after the final assessment conference. The grievance must be in writing and shall state: (a) the precise factual basis on which it is based and (b) the specific relief requested by the teacher. The grievance shall be presented to the principal or acting administrator. The principal or acting administrator shall acknowledge receipt in writing and keep a record of its filing.
- B. Within seven working days of receipt of the written grievance, the principal or acting administrator shall schedule a conference with the teacher and his/her representative to discuss the specific terms of the grievance. If the conference must be delayed (e.g. illness, prior scheduling, holidays, etc.), the principal shall reschedule the conference within twenty working days of the original conference date with the teacher. Any other extensions would be considered only in the case of documented illness or severe emergency.
- C. Within seven working days of the conference, the principal or acting administrator, must confer with other member(s) of the evaluation team concerning the specifics of the grievance, arrive at a mutually agreeable decision and render a written response specifically addressing each element of the grievance and specifically addressing each area in which relief has been requested. If no mutually agreeable decision can be reached by the evaluation team, then the grievance will be handled as prescribed in Step 2. Within the above stated seven day time limit, the principal or acting administrator shall hand deliver or mail, certified, the evaluation team's written response to the teacher.

Step 2

- A. If a teacher is not satisfied with the decision rendered at Step 1, he/she shall institute a written appeal within ten working days of receipt of the response from the evaluation team by hand delivering or mailing, certified mail, (must be post marked on or before the tenth day) a notice of appeal to the Coordinator of Evaluation at the appropriate Louisiana Department of Education Regional Center. The official Notice of Appeal Form must be completed and submitted by the teacher.

Definition of Terms contained within the Due Process Component

Appeal	a challenge of a decision rendered by the Board of Elementary and Secondary Education to not renew a teaching certificate.
Assessment Conference	a face-to-face conference between the teacher and the evaluation team spokesperson conducted after the <u>assessment process</u> has been completed.
Coordinator of Evaluation	a person hired by the Louisiana Department of Education, housed at the Regional Service Center(s) to provide/facilitate those activities necessary for harmonious interaction between those persons involved in the teacher evaluation program.
Evaluator Bias	a preference or inclination that inhibits impartial <u>assessment</u> by an assessor.
Evaluator Error	intentional or unintentional deviation(s) by an assessor from the prescribed procedures set by the <u>Policy Implementation Guidelines for the Teacher Evaluation Program</u> .
Evaluator Omission	to fail to include or to leave out those steps necessary by an assessor for a procedurally accurate assessment of a teacher.
Formal Hearing	a meeting wherein arguments, proofs and evidence are presented and testimony is heard.
Grievance	a claim by a teacher that the assessment is inaccurate, invalid or misrepresented. The claim of error shall include evaluator bias, evaluator omission, evaluator error. Any other issues are to be handled as administrative complaints. The written complaint must be submitted to the LTIP/LaTEP RSC Coordinator.
LDE	Louisiana Department of Education
Regional Hearing Officer	a legally trained person specifically contracted and trained by the LDE to conduct a formal investigation or hearing and to report his findings of fact and render decisions based on those facts. No person who has a personal or professional interest which would conflict with his/her objectivity may be contracted to serve as a Hearing Officer (e.g. STAR assessor).

DECLARATION OF EMERGENCY

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

Log Number WP08E

In accordance with the emergency provisions of the Administrative Procedure Act R.S. 49:953(B), and under the authority of R.S. 30:2011 and 30:2074(B)(1), the secretary of the Department of Environmental Quality declares that an emergency action is necessary to add new language under LAC 33:IX.1115, Louisiana Surface Water Quality Standards. This emergency action will allow the Office of Water Resources to provide further specifications for critical flow requirements necessary to the regulation and permitting of state surface waters. The secretary therefore establishes the following new requirements which shall be effective February 8, 1991.

In those cases where unique site-specific conditions or other considerations preclude the application of the critical flow requirements stated in LAC 33:IX.1115.D.7. under Critical Flow, the Office of Water Resources, Department of Environmental Quality may approve on a case-by-case basis an alternative critical flow based upon the review of sufficient data. A resulting flow specification shall not exceed long-term average flow. Additionally, the critical flow specification shall be scientifically defensible and protective of designated uses.

This emergency rule shall expire on June 8, 1991; however, the secretary of the Department of Environmental Quality has initiated rulemaking procedures to finalize the requirements of this rule on June 20, 1991.

Paul H. Templet, Ph.D.
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals State Board of Certification for Substance Abuse Counselors

The Louisiana State Board of Certification for Substance Abuse Counselors has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(b), to set guidelines for a Continuing Education Provider System and guidelines for Board Approved Clinical Training Institutions. Both guidelines fall under R.S. 37:3371-3384 as amended.

The need for emergency action is to initiate these programs post haste in order that applicants for certification and recertification may immediately avail themselves to services provided which are mandated by the L.S.B.C.S.A.C. Also, any lengthy delay will render the L.S.B.C.S.A.C. financially unable to carry out its mandate since, by law, user fees are the board's only source of revenue. Certain provisions of the original enabling legislation have proven to impede maximum user facilitation and such legislation hopefully will be rectified as soon as possible. However, until such time the

rule(s) implemented here must be initiated effective March 1, 1991.

Continuing Education

The following regulations have been developed to announce the L.S.B.C.S.A.C.'s continuing education program. The primary purpose of continuing education is to enhance the quality of substance abuse counseling being delivered to the public. This purpose will be more effectively accomplished by restricting continuing education offerings to subjects which are related to alcoholism and drug abuse counseling and treatment.

Providers must comply with the regulations set forth herein according to the effective date of each section.

Providers must also be aware that all information contained in these provisions supersedes all other policies set by the L.S.B.C.S.A.C. prior to January 1, 1991.

It is absolutely necessary that prospective providers read the entire text before applying for provider status.

Instructions and General Information

1. To become a L.S.B.C.S.A.C. continuing education provider for certification and recertification of alcoholism and drug abuse counselors, you must submit the application found elsewhere in this manual. You will notice that the same application is used for both approval and renewal. On the application, simply circle either APPROVAL or RENEWAL.

2. For Provider Approval

a. Complete the application, and circle the APPROVAL.

b. A \$200 fee by CERTIFIED CHECK or MONEY ORDER must accompany application.

3. For Provider Renewal

a. Complete the application, and circle the RENEWAL.

b. A \$200 fee by CERTIFIED CHECK or MONEY ORDER must accompany application.

It is important that you refer to the GUIDELINES AND INSTRUCTIONS FOR PROVIDERS OF CONTINUING EDUCATION FOR CERTIFICATION AND RECERTIFICATION OF ALCOHOLISM AND DRUG ABUSE COUNSELORS IN THE STATE OF LOUISIANA regarding information about the types of courses which are acceptable for continuing education credit. All instructors you contract with are also well advised to read this material.

4. An ongoing provider audit program has been established by the L.S.B.C.S.A.C. Providers will be selected for audit on a random basis. Furthermore, those providers against whom complaints have been registered by attendees will be audited on a priority basis. Audits may be done without prior notification, particularly in cases where there have been complaints by attendees.

5. The L.S.B.C.S.A.C. may also send a representative to offerings for an unannounced audit (not for credit) in order to maintain its program of quality assurance. In such an event, course instructors will be informed at the outset that a L.S.B.C.S.A.C. representative is present, and the length of time the representative will be in attendance.

The L.S.B.C.S.A.C. sincerely appreciates your interest in the continuing education for certification and recertification requirements.

**Guidelines and Instructions for Providers of
Continuing Education for Certification
and Recertification of
Alcoholism and Drug Abuse Counselors
in the State of Louisiana**

ARTICLE 1. CONTINUING EDUCATION

a. *Continuing Education* means the variety of forms of learning experiences, including, but not limited to lectures, conferences, academic studies, inservice education, institutes, seminars, and workshops undertaken by providers for certification and recertification. These learning experiences are meant to enhance the knowledge of the student in direct and indirect patient care.

b. *Offering* means a systematic learning experience, at least two hours in length, which deals with and is designed for the acquisition of tasks, knowledges, skills and information in direct and indirect patient care.

c. *Content Relevant to the Student* means content relevant to the development and maintenance of current competency in the delivery of chemical abuse counseling as specified by L.R.S. 37:3374-3384.

d. *Hour* means at least 60 minutes of participation in an organized learning experience.

e. *Approved Providers* means those individuals, partnerships, corporations, associations, organizations, organized health care systems, educational institutions, governmental agencies or private practitioners offering continuing education as approved by the L.S.B.C.S.A.C.

f. *Successful Completion* means the student has met all criteria as specified by the provider for continuing education course credit.

g. *Evaluation* means the method used by the provider to measure the student's successful completion of the instructional objectives of the continuing education course.

ARTICLE 2. CORE FUNCTIONS — DEFINITIONS

1. *Screening* - The process by which a client is determined appropriate and eligible for admission to a particular program.

2. *Intake* - The administrative and initial assessment procedures for admission to a program.

3. *Orientation* - Describing to the client:

a. general nature and goals of the program,

b. rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program,

c. in a non-residential program, the hours during which services are available,

d. treatment costs to be borne by the client, if any, and,

e. client's rights.

4. *Assessment* - Those procedures by which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems and needs for the development of the treatment plan.

5. *Treatment Planning* - The process by which the counselor and the client:

a. identify and rank problems needing resolution,

b. establish agreed-upon immediate and long term goals and,

c. decide on a treatment process and the resources to be utilized.

6. *Counseling* (Individual, Group and Significant Others) - The utilization of special skills to assist individuals,

families or groups in achieving objectives through:

a. exploration of a problem and its ramifications,

b. examination of attitudes and feelings,

c. consideration of alternative solutions and,

d. decision making.

7. *Case Management* - Activities which bring services, agencies, resources or people together within a planned framework of action toward the achievement of established goals. It may involve liaison activities and collateral contracts.

8. *Crisis Intervention* - Those services which respond to an alcohol and/or other drug abuser's need during acute emotional and/or physical distress.

9. *Client Education* - The provision of information to individuals and groups, concerning alcohol and other drug abuse and the available services and resources.

10. *Referral* - Identifying the needs of the client that cannot be met by the counselor or agency and assisting the client to utilize the support systems and community resources available.

11. *Reports and recordkeeping* - Charting the result of the assessment and treatment plan, writing reports, progress notes, discharge summaries and other client-related data.

12. *Consultation with other Professionals in regard to Client Treatment/Services* - Relating with our own and other professionals to assure comprehensive, quality care for the client.

ARTICLE 3. FEES, APPROVAL AND RENEWAL

1. The provider must submit an application to the L.S.B.C.S.A.C. for the approval at least 60 days prior to the date the first offering is to begin. The board retains the right to waive this requirement.

2. The fee for approval/renewal of a continuing education provider is \$200. The provider approval expires one year from the date of initial approval. The fee for renewal of a continuing education provider number is \$200.

3. Written notice of provider approval/renewal will be sent by the L.S.B.C.S.A.C. indicating the period for which approval is granted, and the provider number.

4. As a courtesy to providers, a renewal notice will be sent to the address of record prior to expiration date of the provider number. Failure to receive a renewal notice does not relieve the provider of the responsibility to renew his provider number.

5. A provider approval number is non-transferable.

ARTICLE 4. APPROVED PROVIDERS

1. For the purpose of these articles, the title "Approved Provider" can only be used when an individual, partnership, corporation, association, organization, organized health care system, educational institution or governmental agency, having committed no act which would lead to disciplinary action, and has submitted a provider application on the form supplied by the L.S.B.C.S.A.C., remitted the appropriate fee and has been issued a provider number.

2. An individual, partnership, corporation, association, organization, organized health care system, governmental agency, educational institution and other organizations may be issued only one provider number, provided, however, that any autonomous entity, within such organization may be issued one provider number.

3. An approved provider shall have a written and published policy, available on request, which provides information on:

- a. refunds in case of non-attendance,
- b. time period for return of fees and,
- c. notification if course is cancelled.

4. The approved provider is required to accept full responsibility for each and every offering, including, but not limited to record-keeping, advertising offering as related to the L.S.B.C.S.A.C.'s standards, issuance of certificates and instructor qualification. When two or more providers co-sponsor an offering, only one provider number shall be used for that offering, and that provider must assume full responsibility for record-keeping, advertising content as related to the L.S.B.C.S.A.C. standards, issuance of certificates and instructor(s) qualification.

5. Providers may not grant fractional credit for continuing education.

ARTICLE 5. PROVIDER RECORDS

1. Approved provider(s) must keep the following records for a period of four years in one location within the state of Louisiana, or in another place approved by the L.S.B.C.S.A.C.

- a. Complete outlines of each offering given, including a brief overview, objectives, comprehensive topical outline and method of evaluation of students.
- b. Record of time, place, and date of each offering given.
- c. A curriculum vitae or resume for each instructor.
- d. Name and social security number of each student taking any approved offering, and a record of the certificate issued to them.
- e. Record of student's evaluation scores, if applicable.
- f. Evaluations by students.

ARTICLE 6. CHANGE IN STATUS

Approved providers must notify the L.S.B.C.S.A.C. within 30 days, of any changes in organizational structure of a provider and/or the person(s) responsible for the provider's continuing education offering(s), including name and address changes.

ARTICLE 7. SITE VISITS

The L.S.B.C.S.A.C. may audit records, courses, instructors and related activities of a provider to monitor compliance with the regulations. An L.S.B.C.S.A.C. representative may make periodic site visits to approved providers. At a mutually acceptable time and date the auditor will look at required records as well as review the provider's assessment of the student's educational requirements relevant to the 12 core functions and community needs. In addition, offerings will be audited from time to time, and the audit may be unannounced.

ARTICLE 8. CONTINUING EDUCATION HOURS

The L.S.B.C.S.A.C. will accept hours of approved continuing education on the following basis:

- a. Each hour of theory shall be accepted as one continuing education hour (CEH).
- b. Offerings less than two hours in duration will not be approved.
- c. One CEU (continuing education unit) is equal to 10 continuing education hours (CEH's).
- d. One academic quarter unit is equal to 10 continuing education hours (CEH's).
- e. One academic semester unit is equal to 15 continuing education hours (CEH's).

ARTICLE 9. CONTINUING EDUCATION COURSE CRITERIA

1. The content of all offerings on continuing education must be relevant to alcohol and drug abuse counseling, and must be related to the 12 core functions, scientific knowledge, or technical skills required for alcohol and drug abuse counseling, or be related to direct and/or indirect patient/client care.

2. It will be the responsibility of the provider to clearly show for the board, by the description of the offering, the statement of objectives and outline of the content, how the offering relates to alcohol and drug abuse counseling, or be related to direct and/or indirect patient/client care.

- a. Content related to the 12 core functions.
- b. Theoretical content related to scientific knowledge of practicing in the field of alcoholism and drug abuse counseling.
- c. Content related to the application of scientific knowledge in the field of alcoholism and drug abuse counseling.
- d. Content related to direct patient/client care.
- e. Content related to indirect patient/client care.

3. Offerings which are designed for lay people are not acceptable for meeting requirements for certification and recertification.

ARTICLE 10. PRESENTER QUALIFICATIONS

1. It is the responsibility of the provider to use qualified presenters.

2. Presenters giving approved continuing education offerings shall have the following minimum qualifications:

- a. The instructor shall:
 - i. hold a current valid L.S.B.C.S.A.C. credential,
 - ii. be free from any disciplinary action by L.S.B.C.S.A.C.,
 - iii. be knowledgeable, current and skillful in the subject matter of the course as evidenced through:
 - (a) holding a baccalaureate or higher degree from an accredited college or university and valid experience in subject matter, or
 - (b) experience in teaching similar subject matter content within the last two 2 years preceding the course, or
 - (c) have at least one year experience within the last two years in the specialized area in which he/she is teaching.

- b. The NON-B.C.S.A.C. instructor shall:
 - i. be currently licensed or certified in his/her area of expertise if appropriate and,
 - ii. show evidence of specialized training, which may include, but not be limited to, a certificate of training or an advanced degree in given subject area and,
 - iii. have at least one year experience within the last two years in the practice of teaching of the specialized area in which he/she teaches.

ARTICLE 11. ADVERTISEMENT

1. Information disseminated by approved providers publicizing continuing education shall be true and not misleading and shall include the following:

- a. The statement "Provider approved by the L.S.B.C.S.A.C., Provider No. 000-00."
- b. Provider's policy or refunds in cases of non-attendance by the registrant.
- c. A clear, concise description of the offering content and objectives.
- d. Provider name and number as officially on file with the L.S.B.C.S.A.C.

2. For the purpose of evaluating providers, the provider must send to the L.S.B.C.S.A.C. a copy of the brochure(s) disseminated to the public, c/o the L.S.B.C.S.A.C. 30 days prior to beginning of offering.

ARTICLE 12. WITHDRAWAL

1. The L.S.B.C.S.A.C. may withdraw its approval of a provider or deny a provider application for causes which include, but are not limited to the following:

- a. Conviction of a felony while certified as a provider.
- b. Failure to correct deficiencies within a 20-day period after receiving a written warning notice from the L.S.B.C.S.A.C. specifying deficiencies.
- c. We strongly disapprove and discourage anyone to advertise, promote or imply that a given course is tantamount to passing the written or oral examination for original certification or recertification. This could result in revocation of provider's number.

2. Any material misrepresentation of fact by a continuing education provider or applicant in any information required to be submitted to the L.S.B.C.S.A.C. or is grounds for withdrawal of approval or denial of application.

3. The L.S.B.C.S.A.C. may withdraw its approval of a provider after giving the provider written notice setting forth its reason for withdrawal, and after affording a reasonable opportunity to be heard by the L.S.B.C.S.A.C. or its designee(s), and after giving 30 days written notice of the specific charges to be heard.

4. Should the L.S.B.C.S.A.C. deny the provider approval, applicant has the opportunity to formally appeal the action to the L.S.B.C.S.A.C. or its designee(s) within a 30-day period.

5. No provider will be granted approval for a provider number over the telephone under any circumstances.

ARTICLE 13. MAILING LISTS

1. Mailing lists may be purchased from the L.S.B.C.S.A.C., 141 Ridgeway Drive, Suite 205, Lafayette, LA 70503. Phone number, (318) 988-4378.

2. Mailing lists are the property of the L.S.B.C.S.A.C.

3. Prices of the mailing lists are subject to change without notice.

ARTICLE 14. HOLD HARMLESS

It is expressly agreed and understood that the provider is independent of the L.S.B.C.S.A.C., and the provider shall hold harmless the L.S.B.C.S.A.C.'s representatives thereof from all suits, actions, or claims of any kind brought on account of any person or property in consequence of any act or omission by the provider or its employees, or from any claims or amounts arising or recovered under Workers' Compensation Laws or any other law, bylaw, ordinance, regulation, order, or decree. The provider shall be solely responsible for all damage to property and personal injury of any kind resulting from any act, omission, neglect, or misconduct of any employee or agent of said provider in the manner or method of performing the work of the provider.

ARTICLE 15. PREAPPROVAL OF OFFERINGS

1. Every offering presented by an approved education provider must be granted prior approval by the L.S.B.C.S.A.C. Approval must be granted on an individual presentation basis.

2. Approved education providers only will be permitted to conduct offerings for continuing education credit.

3. Approved education provider must submit pre-approval request to conduct an offering. Approved education

provider may not announce or otherwise advertise approval or status of application until such approval is granted by the L.S.B.C.S.A.C.

4. The fee for each offering by an approved education provider is \$50 per presentation. The fee must be received by the L.S.B.C.S.A.C. before presentation, and the fee is non-refundable.

5. Application for prior approval must be made only on board approved forms.

6. Requirements found on the application are subject to the same regulations for approval as a board approved education provider.

7. Offerings from out of state providers may be accepted by the L.S.B.C.S.A.C. for credit without pre-approval contingent upon final approval of the offering by the board.

8. In all cases the L.S.B.C.S.A.C. retains final right of approval for any and all offerings or other requirements contained herein based on the board's legislative mandate to adhere to R.S. 37:3371-3384 as amended.

ARTICLE 16. EFFECTIVE DATE

All articles contained herein are effective as of January 1, 1991.

Guidelines and Instructions for Approved Clinical Training Institutions

The following has been developed to announce the Louisiana State Board of Certification for Substance Abuse Counselors' Board Approved Training Institutions Program. The primary purpose of the program is to regulate and thus insure quality clinical training for prospective substance abuse counselors. The authority to do so is found in R.S. 37:3371-3384, as amended specifically; R.S. 3374(14).

ARTICLE 1. ELIGIBILITY

Any agency, corporation, organization, organized health care facility, or the like, public or private, for profit or not for profit which offers substance abuse counseling or employs and/or trains substance abuse counselors in the state of Louisiana is subject to become a board approved training institution.

Clinical training hours submitted in application for certification as a board certified substance abuse counselor will be accepted only from board approved clinical training institutions beginning with applications dated after January 1, 1992.

It is expressly agreed and understood that the institution is independent of the L.S.B.C.S.A.C., and the institution shall hold harmless the L.S.B.C.S.A.C.'s representatives thereof from all suits, actions, or claims of any kind brought on account of any person or property in consequence of any act or omission by the institution or its employees, or from any claims or amounts arising or recovered under Workers' Compensation Laws or any other law, bylaw, ordinance, regulation, order, or decree. The institution shall be solely responsible for all damage to property and personal injury of any kind resulting from any act, omission, neglect or misconduct of any employee or agent of said institution in the manner or method of performing the work of the institution.

ARTICLE 2. QUALIFICATIONS

In order to qualify as a board approved clinical training institution, any eligible entity must adhere to the following:

1. show proof upon request by this board of documented hours of supervision of the trainee, totaling at least

the minimum requirements for board certification in the twelve core functions. Minimum requirements for board certification is 1920 clock hours. At least 75 clock hours must be supervised in each core function. Supervisor must be a qualified professional. Documentation shall also reflect the signature of the supervisor;

2. receive board visitation or audit as necessary;
3. provide for the benefit of the trainee any and all house policies and procedures;
4. notify the board in writing of engagement and/or termination of any trainee within 10 working days of such action;
5. provide documentation of trainee's schedule accompanied by notation of a signed supervisor;
6. provide documentation of actual performance of trainee's schedule and documentation of actual supervision;
7. provide trainee with rules and regulations of the L.S.B.C.S.A.C. including code of ethics and foster adherence thereof;
8. provide written program of training which must reflect adequate training in the 12 core functions of substance abuse counseling;
9. have in physical possession documentation on an approved board form, all of the above. Possession must be for a two-year period after engagement of trainee;
10. any and all other rules and regulations adopted by the board.

ARTICLE 3. DEFINITIONS

1. *Board* shall mean the Louisiana State Board of Certification for Substance Abuse Counselors.

2. *Core functions* shall mean the screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, referral, reports and recordkeeping activities associated with substance abuse counseling, and consultation with other credentialed professionals.

3. *Qualified professional supervisor* shall include:

- a. a substance abuse counselor who has been certified and has worked in a licensed or board approved substance abuse treatment program for a minimum of two years;
- b. a credentialed professional such as a board certified social worker, licensed psychologist, or licensed physician;
- c. any other professional recognized as a trainer by the board upon presentation of verification and documentation of his expertise.

4. *Substance abuse* shall mean the periated pathological use of drugs, including alcohol, which causes physical, psychological, economic, legal, or social harm to the individual user or to others affected by the user's behavior.

5. *Substance abuse counselor* shall mean any person who, by means of his special knowledge acquired through formal education and practical experience is qualified to provide substance abuse counseling services which utilize the basic core functions specific to substance abuse counseling and who is certified as such in accordance with the provisions of the Chapter.

ARTICLE 4. CORE FUNCTIONS - DEFINITIONS

1. *Screening* - The process by which a client is determined appropriate and eligible for admission to a particular program.

2. *Intake* - The administrative and initial assessment procedures for admission to a program.

3. *Orientation* - Describing to the client:

- a. general nature and goals of the program;
- b. rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;
- c. in a non-residential program, the hours during which services are available;
- d. treatment costs to be borne by the client, if any;
- e. client's rights.

4. *Assessment* - Those procedures by which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems and needs for the development of the treatment plan.

5. *Treatment Planning* - The process by which the counselor and the client:

- a. identify and rank problems needing resolution;
- b. establish agreed upon immediate and long term goals;
- c. decide on a treatment process and the resources to be utilized.

6. *Counseling* (Individual, Group and Significant Others) - The utilization of special skills to assist individuals, families or groups in achieving objectives through:

- a. exploration of a problem and its ramifications;
- b. examination of attitudes and feelings;
- c. consideration of alternative solutions;
- d. decision making.

7. *Case Management* - Activities which bring services, agencies, resources or people together within a planned framework of action toward the achievement of established goals. It may involve liaison activities and collateral contracts.

8. *Crisis Intervention* - Those services which respond to an alcohol and/or other drug abuser's need during acute emotional and/or physical distress.

9. *Client Education* - The provision of information to individuals and groups, concerning alcohol and other drug abuse and the available services and resources.

10. *Referral* - Identifying the needs of the client that cannot be met by the counselor or agency and assisting the client to utilize the support systems and community resources available.

11. *Reports and Recordkeeping* - Charting the result of the assessment and treatment plan; writing reports, progress notes, discharge summaries and other client-related data.

12. *Consultation With Other Professionals In Regard To Client Treatment/Services* - Relating with our own and other professionals to assure comprehensive, quality care for the client.

ARTICLE 5. FEES

The fee schedule for Board Approved Clinical Training Institutions may include:

Application Fee	.....	\$200
Processing Fee	.....	\$200
Compliance Fee	.....	\$200
Audit Fee	.....	\$200
Visitation Fee	.....	\$200
Annual Total	.....	\$1000

The fee schedule for Board Approved Clinical Training Institutions shall be annually \$1000. The annual fee is payable in the following manner: A \$200 application fee must accompany the application. The balance of the fee, \$800,

shall cover the basic cost of process, compliance, auditing and administration.

The application fee shall be remitted upon submission of application to the L.S.B.C.S.A.C.

The balance of remaining fees can be paid by lump sum or may be paid quarterly with the approval from this board.

All fees are due annually and are due for the calendar year beginning January 1. Certification is for a one-year period only, beginning on January 1 of the calendar year.

Applications received before June 30, 1991, shall be assessed the full annual fee. Applications received after June 30, 1991, shall be assessed the full application fee, but only one-half the remaining fees for 1991 only.

The renewal application fee of \$200 is payable on or before January 1 of each calendar year. Renewal applications received after January 1 of the calendar year are to be considered late and assessed a late fee of \$100.

Failure to furnish fee(s) upon request may lead to suspension and/or revocation of certification.

All fees are non-refundable.

Sidney J. Dupuy, III, M.D.
Chairman

DECLARATION OF EMERGENCY

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

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

To avoid denial of skilled nursing services to Medicaid eligible individuals diagnosed with Acquired Immune Deficiency Syndrome due to lack of bed space, the Bureau of Health Services Financing adopted changes in the Facility Need Review Program allowing review of free-standing beds for patients diagnosed with AIDS. Currently there are no beds so designated in the state. The emergency rule allows for issuance of Request for Proposals to provide facility beds for these patients and review of these proposals based on methodology detailed in the Policies and Procedures for Facility Need Review.

RULE

The Policies and Procedures for Facility Need Review dated January 20, 1991 are revised to reflect the following change in Section 12502 - Determination of Bed Need:

The following Subsection D is inserted after Subsection C (page 12):

D. Skilled Nursing Facility - Infectious Disease Beds (Beds for AIDS Patients)

1. The service area for SNF-ID beds, for Medicaid planning purposes, is the state.

2. There shall be no more than 50 free-standing SNF-ID beds statewide.

3. Beds which are counted in determining need shall include all free-standing SNF-ID beds which have been approved under the Facility Need Review Program.

4. The department, in order to determine if beds are in fact needed, may review the census data, utilization trends, and other factors such as special needs in an area, information received from other health care providers and other knowledgeable sources in the state, waiting lists in existing facilities, requests from the community, patient origin studies, appropriateness of placements in an area, availability of alternatives, and such other factors as the department may deem relevant.

5. In order for beds/facilities to be added in the state, the department will determine whether beds are needed, and if indicated, may issue a Request for Proposal (RFP) to develop the needed beds.

6. The RFP will indicate:

a. The number of beds needed, the date by which the beds are needed to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining need for the beds.

b. The RFP will be issued through the press (AP, UPI, major metropolitan area newspaper), and will specify the dates during which the department will accept applications.

c. No applications will be accepted under these provisions unless the department declares a need and issues a Request for Proposal. Applications will be accepted for expansions of existing facilities and/or for the development of new facilities.

d. Applications will be accepted for a 30-day period, to be specified in the RFP. Once submitted, an application cannot be changed; additional information will not be accepted.

e. The department will review the proposals and independently evaluate and assign points (out of a possible 100) to the applications, as follows:

0-20 pts: Availability of beds to the Title XIX population
- time frame for construction and/or Medicaid certification

- availability of site for the proposal

0-20 pts: Appropriateness of location, or proposed location

- accessibility to target population

- relationship or cooperative agreements with other health care providers

- distance to nearest acute care hospital

0-20 pts: Availability of funds; financial viability

0-20 pts: Responsiveness to special needs of patients

0-20 pts: Experience and availability of key personnel (i.e. Director of Nursing, Administrator, Medical Director)

f. If no proposals are received which adequately respond to the need, the department may opt not to approve an application.

g. At the end of the 60-day review period, each applicant will be notified of the department's decision to approve the application with the highest number of points. All applicants will be given a breakdown of points for each factor in each application. An applicant may appeal the assignment of points to his own application. Applicants will be given 30 days from the date of receipt of notification by the department in which to file an appeal. (Refer to Section 12505 c., Appeal Procedures.)

h. The issuance of the approval of the application with the highest number of points shall be suspended during the 30-day period for filing appeals and during the pendency of any administrative appeal and judicial review. All administrative appeals shall be consolidated for purposes of the hearing.

i. Proposals submitted under these provisions are bound to the description in the application with regard to the site/location, and to the type of beds and/or services proposed. Approval for Medicaid certification shall be revoked if these aspects of the proposal are altered.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

The Medicaid Program established by Title XIX of the Social Security Act provides medical assistance to certain low-income individuals and families and is administered by the states in accordance with federal requirements. The program by law is intended to be the payor of last resort; that is, other available third party resources must be used before the Medicaid Program pays for the care of an individual eligible for Medicaid. The overall purpose of State Medicaid third party liability (TPL) programs is to ensure that federal and state funds are not spent for covered services to eligible Medicaid recipients when third parties exist that are legally liable to pay for the services.

In accordance with the statutory provisions of the Deficit Reduction Act of 1984, since May 12, 1986, the state agency has utilized the method of claims payment called cost avoidance to process all Medicaid claims involving third party liability. In cost avoidance, if probable third party liability is established at the time the claim is filed, the agency rejects the claim and returns it to the provider for a determination of third party liability. When the amount of third party liability is determined, the agency pays the claim to the extent that payment allowed under the agency's payment schedule exceeds the amount of the third party's payment.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (P.L. 99-272), was enacted on April 7, 1986. Section 9503 of COBRA amended Section 1902 (a)(25) of the Social Security Act to enact new provisions relating to third party liability in the Medicaid Program. DHHS/HCFE published the final rule in the *Federal Register* on January 16, 1990, implementing these COBRA provisions. Congressional intent in revising the methods of paying claims was to reduce the health providers' responsibility in administering the third party liability program so that physicians and other providers will continue their participation in the Medicaid Program, particularly in those geographical areas where there is unmet need for certain health and medical services.

The regulations implementing Section 9503 of COBRA set forth exceptions to the cost avoidance method of claims payment in TPL situations. For these exceptions the state is mandated to pay the submitted claim in the full amount allowed under the agency's payment schedule and

then seek reimbursement from any liable third party to the limit of legal liability. This method of claims payment is referred to as "pay and chase." Accordingly, the pay and chase method of claims payment will apply to Medicaid claims for the following services covered under the state's Medicaid Plan:

- A. prenatal care for pregnant women;
- B. preventive pediatric services including Early and Periodic Screening Diagnosis and Treatment of individuals under the age of 21 years; and
- C. services provided to an individual for whom child support enforcement services are being carried out by the Title IV-D state agency.

Prenatal Care Services

Prenatal care is defined as services provided to pregnant women if such services related to the pregnancy or to any other medical condition which may complicate the pregnancy. The types of claims involved are claims for routine prenatal care, prenatal screening of mother or fetus, and care provided in the prenatal period to the mother for complications of pregnancy.

Preventive Pediatric Care Services

Preventive pediatric care is defined as screening and diagnostic services to identify congenital physical or mental disorders, routine examinations performed in the absence of complaints, and screening or treatment designed to avert various infections and communicable diseases from ever occurring in individuals under age 21. This includes immunizations, screening tests for congenital disorders, well child visits, preventive medicine visits, preventive dental care, and screening and preventive treatment for infectious and communicable diseases.

HCFA-Approved Procedure Codes

The HCFA Regional Office has provided the ICD-9-CM Diagnosis Codes for prenatal care services and preventive pediatric care services. These HCFA-approved procedure codes will be used to identify the prenatal and preventive pediatric care claims which will be subject to the pay and chase method of payment. These procedure codes will be made available to providers in the provider newsletter and will be included in the provider manual at an early date.

The state agency will pay and chase claims whenever these codes are listed as the primary diagnosis for covered Medicaid services. For free-standing laboratories and radiology centers, the state agency will pay and chase reimbursement if the procedural codes are listed as the primary or secondary diagnosis. If there is no diagnosis code indicated on the claim (for example, pharmacy and medical transportation) which denotes prenatal or preventative pediatric care, the cost avoidance method of claims payment will be applied when there is probability of third party liability. In addition, hospitals and prepaid health plans such as health maintenance organizations are excluded from the mandatory pay and chase method of payment. Claims associated with inpatient hospital stay for labor and delivery and post-partum care will continue to be cost-avoided.

Medical Support Enforcement

The Title IV-D provision is a "pay and chase" requirement under COBRA which is provided to an individual for whom child support enforcement services are being carried out under Title IV-D. Congressional intent of this requirement was to protect the custodial parent and his/her dependent children from having to pursue the absent spouse, and his/

her employer or insurer, for third party liability. The statute and implementing regulations give states the option to require the medical or health provider to bill a liable third party and then wait 30 days from the date of the service to bill Medicaid. The state plan must specify the method chosen to assure provider compliance with the billing requirements. The state agency is amending the state plan to notify HCFA that Louisiana has elected to pay and chase these claims in the same manner that prenatal claims and preventive pediatric care claims will be processed. Providers will not be required to bill a liable third party prior to submitting claim for Medicaid reimbursement. The state will pay these claims and seek reimbursement from any liable third party. However, the provider will have the option to bill a third party first. In situations where the third party is billed first, the provider must wait the required 30-day period before billing Medicaid. In addition, when payment has been received from the third party, the provider must attach a copy of the Explanation of Benefits from the third party to the Medicaid claim. The provider will then be reimbursed to the extent that payment allowed under the bureau's payment schedule exceeds the amount of the third party payment.

For covered Title XIX services other than those specifically excluded from cost avoidance in this Emergency Rule, the agency will continue to use the cost avoidance method of claims payment.

RULE

Effective May 20, 1990, in accordance with 42 CFR Section 433.139 which implements Section 9503 of COBRA, Medicaid claims for services covered under the state plan will be cost avoided when there is probable third party liability unless the claim is for one of the following services:

- A. prenatal care for pregnant women;
- B. preventative pediatric services including Early and Periodic Screening Diagnosis and Treatment of individuals under the age of 21 years;
- C. services provided to an individual for whom child support enforcement services are being carried out by the Title IV-D state agency.

In processing these claims, the Medicaid agency will pay the claim and seek reimbursement from liable third parties, utilizing the claims method of payment called "pay and chase." When the claim is for a service provided to an individual for whom child support enforcement services are being enforced through the Title IV-D state agency, the provider is not required to bill a liable third party prior to billing the state Medicaid agency. The state elects to process these claims in the same manner as for prenatal care and preventive pediatric services, that is, through the pay and chase process.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exer-

cised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program effective March 1, 1991.

Provision of adequate, accessible care in rural areas has become a problem as the escalating cost of medical technology has been compounded by decreased utilization of local medical resources. Small-town hospitals all over the nation are falling behind in the financial struggle to provide basic medical services for the local population. As rural populations move toward utilization of medical center resources, local hospitals eventually cease to exist, leaving no readily accessible source of emergency care. Patients requiring hospitalization must leave the local area, cannot be treated by a physician who must travel an hour or more to see his patient in the hospital. Physicians without adequate local technical resources are forced to relocate to a less medically isolated area. Accessible care in rural communities has become a need with no obvious solution.

Health care professionals in Claiborne Parish are making a concerted effort to reverse the trend in their area. Health professionals have banded together to form the Claiborne Parish Health Care Committee. In a major initiative to explore possible solutions, the Committee held a Rural Health Care Conference in July, 1990, inviting interested parties from all over the state to participate. In attendance were rural hospital representatives, elected officials from the local level through the state level, health care professionals, public health officials, educational, religious, and business interest, and the media.

In response to the needs voiced at that meeting and subsequently, the Community Care Program was developed by the Department of Health and Hospitals as a Medicaid initiative to increase access to care in areas of the state where underutilization of basic health care services has been demonstrated.

There are approximately 2,600 Medicaid recipients certified in Claiborne Parish, including about 600 children under age 21 who are eligible to receive Early and Periodic Screening, Diagnosis, and Treatment services. A preliminary examination of two years of claims history disclosed that 40 percent of the parish recipient population received no medical services during this period. A significant number of recipients received services for providers located across parish lines who are physically nearer than providers within the parish. Enrollment of providers will, therefore, be extended to those physicians in congruent parishes who treat residents of Claiborne Parish.

The purpose and objective of the Community Care Program is to alter the basic manner in which Medicaid services are obtained to:

- A. assure needed access to care;
- B. provide for continuity of services;
- C. strengthen the physician-patient relationship;
- D. promote the educational and preventive aspects of health care including early diagnosis and treatment;
- E. encourage development and utilization of locally available health care resources;
- F. reduce unnecessary and inappropriate utilization and costs; and
- G. promote efficient and appropriate management of the health care system, including the responsibility of the individual to use health care resources appropriately.

Physicians, defined as general practitioners, family practitioners, internists, pediatricians, and obstetrician/gyne-

cologists, or group practices with at least one full-time equivalent of one of the above specialties, will be separately enrolled as providers of Community Care services. Enrollment as a Community Care Provider shall be contingent upon agreement to provide services as described herein in addition to physician services rendered in accordance with accepted medical practice, and shall not require that provider be licensed as a case management agency. Medicaid patients will be given the opportunity to select a Community Care physician from the list of participating providers. Those not making such a selection will be referred to a participating provider seen by that recipient during the last twelve months, if appropriate, or to the nearest participating provider.

Participating Community Care Providers will be required to provide 24-hour availability of primary care and referral for other necessary services consistent with normal family physician relationships and practices. Specific requirements include:

A. twenty-four hour access. Community Care Providers must arrange for physician coverage 24 hours per day, seven days per week. The physician must inform the recipient of his/her normal office hours and explain the procedures the recipient should follow when the office is closed. A single 24-hour telephone number must be provided by the provider.

B. provision of basic health services and urgent care. The Community Care Provider will serve as the recipient's primary physician, providing basic health care services in accordance with accepted medical practice, including treatment of conditions not likely to cause death or lasting harm, but for which treatment should not wait for a normally scheduled appointment (e.g., suturing minor cuts, setting simple broken bones, treating dislocated bones, and treating conditions characterized by abnormally high temperatures).

C. referral for other medical services. Referrals may be made by the Community Care Provider to another physician for specialty care or for primary care during his/absence or non-availability. No special authorization or referral form is required, and referrals shall occur in accordance with accepted practices in the medical community. A referral must be made if the recipient requests a second medical opinion when surgery has been recommended.

D. accessibility of care. As a condition of participation, referrals shall be made to the nearest appropriate facility, specialist, or substitute primary care provider.

Community Care Providers, in addition to their normal fee for service reimbursements for Medicaid, will be paid \$5 per month for each Community Care recipient for whose care management the provider is responsible.

This rule is necessary in order to enhance access to care for Medicaid recipients in targeted areas where patterns of utilization indicate unresolved difficulty of access. Specifically, it is necessary to reach the mandated participation rates for Early and Periodic Screening, Diagnosis, and Treatment services provisions mandated by the Health Care Financing Administration as a result of the Omnibus Budget Reconciliation Act of 1989, and thereby avoid federal sanctions. Adoption of this measure will secure new federal funding.

RULE

Community Care Management is defined as individualized planning and service coordination of medical services. Services shall be provided to Medicaid recipients who are residents of designated geographic areas.

Enrolled providers of Community Care services are licensed physicians, defined as general practitioners, family practitioners, internists, pediatricians, and obstetrician/gynecologists, or group practices with at least one full-time equivalent of one of the above specialties, who are separately enrolled as providers of Community Care services. Community Care Providers shall be exempt from and, therefore, deemed to have met, state licensure standards for case management. Enrollment as a Community Care Provider shall be contingent upon agreement to provide services as described herein in addition to physician services rendered in accordance with accepted medical practice.

The enrolled care manager must ensure that services are provided by licensed physicians specializing in general practice, family practice, internal medicine, pediatrics, or obstetrics/gynecology, or by professional staff under the direction of the individual care manager who possesses those qualifications. Maximum caseload size is 500 cases at any given time.

General provisions and standards for payment listed in the Title XIX State Plan for case management services shall apply. Special requirements are as follows:

A. twenty-four hour access. Community Care case managers must inform the recipient of his/her normal office hours and explain the procedures the recipient should follow when the office is closed. A single twenty-four hour telephone number available to recipients at no charge must be provided.

B. provision of basic health services and urgent care. The case manager will serve as the recipient's primary physician, providing basic health care services in accordance with accepted medical practice, including treatment of conditions not likely to cause death or lasting harm, but for which treatment should not wait for a normally scheduled appointment (e.g., suturing minor cuts, setting simple broken bones, treating dislocated bones, and treating conditions characterized by abnormally high temperatures).

C. referral for other medical services. Referrals may be made by the care manager to another physician for specialty care or for primary care during his/her absence or non-availability. No special authorization or referral form is required, and referrals shall occur in accordance with accepted practices in the medical community. A referral must be made if the recipient requests a second medical opinion when surgery has been recommended or a second medical opinion is required under Title XIX (Medicaid) for the surgical procedure.

D. accessibility of care. The primary office location of the case manager shall be in the parish of residence of recipients to whom services are offered, or may be in a contiguous parish if such location is no less accessible than the offices of providers in the parish of recipient residence. As a condition of participation, referrals shall be made to the nearest appropriate hospital, specialist, or substitute primary care provider.

E. recording. The case manager shall document and clearly label individualized planning and service coordination activities in the medical record.

F. Freedom of Choice assistance. The case manager shall assist clients in requesting a change in case management providers, or in enrolling or withdrawing from Community Care Management.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medicaid Program. The rule was previously adopted by emergency rulemaking and published in the October 20, 1990 issue of the *Louisiana Register* (Volume 16, Number 10), page 839.

The reimbursement methodology for inpatient hospital services incorporates a provision for payment adjustment for hospitals serving a disproportionate share of low-income patients. This disproportionate share payment adjustment was implemented on July 1, 1988, in accordance with Section 4112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203). Rulemaking to adopt the provisions was published in the *Louisiana Register*, Volume 14, Number 8, dated August 20, 1988.

The bureau has made the finding that Title XIX inpatient hospital reimbursement rates are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards except for those hospitals which provide services to a disproportionate share of medically indigent inpatients. One of the qualifying criteria for a disproportionate share payment adjustment is that the hospital must have a utilization rate in excess of the defined Medicaid utilization rate or the low-income utilization rate. Through emergency rulemaking, effective July 1, 1990 the bureau is adopting a change in the criterion for disproportionate share payment adjustment under the low-income utilization methodology. An additional criterion related to "free care" is required in order for hospitals to qualify under the low-income utilization methodology. Hospitals shall be required to provide a minimum of 10 percent "free care" based on either revenues or total inpatient charges. The intent of the proposed change is to assure access to medical services by Medicaid recipients and the medically indigent who are either not insured or underinsured. In addition, the bureau will increase the payment under the low-income utilization methodology to three times the amount over the qualifying percentage (25 percent). This will also provide more adequate reimbursement for the additional costs incurred by the provision of medical services to a disproportionate share of low-income patients including Medicaid recipients which was the intent of Section 1902(a)(13) and 1923 of the Social Security Act.

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

RULE

I. In order to qualify for a payment adjustment based on low-income utilization, the hospital must:

A. provide an amount of "free care" equivalent in costs to 10 percent of total inpatient costs; or

B. provide "free care" charges equal to 10 percent of total charges.

The hospital must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and procedures for applying for same.

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

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

B. the fraction (expressed as a percentage), the numerator of which is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in (A) above in the period which are reasonably attributable to inpatient hospital services; and the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not include contractual allowances and discounts (other than for indigent patients not eligible for Medicaid), that is, reductions in charges given to other third party payers, such as HMO's, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations.

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

III. Payment Adjustment

When a disproportionate share hospital qualifies for a payment adjustment based on low-income utilization, the adjustment factor is as follows: For each percentage, or portion thereof, of the low-income utilization rate as defined in II. in excess of 25 percent, a payment adjustment factor of three percent shall be applied.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

Effective November 1, 1986, Medicaid coverage of individuals ages 18, 19, and 20 for whom public agencies are assuming full or partial financial responsibility and who are in

foster homes or private institutions, and individuals who are in adoptions subsidized in full or part by a public agency (categories F, V, I and O) was discontinued. This change was the result of circumstances which required the review of all optional Medicaid services. While budget constraints within the Medicaid program required that coverage of these groups be eliminated, the Department of Social Services, Office of Community Services was required to continue to provide medical care. Costs to the state associated with that care exceed the state share of the cost of providing Medicaid services to this population.

In order to reduce state expenditures for the care of the targeted population and to obtain available federal financial participation, the Bureau of Health Services Financing is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B)(1) to adopt the following rule. The rule was previously adopted by emergency rulemaking effective November 1, 1990 and published in the October 20, 1990 issue of the *Louisiana Register* (Volume 16, No. 10), page 840.

RULE

Medicaid eligibility in the F and V categories of assistance as an Optional Categorically Eligible group is extended to those individuals age 18 through 20.

Implementation of the rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program effective March 1, 1991.

SUMMARY

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

The Department of Health and Hospitals is the single state agency responsible for administration of the Medicaid Program in the state. Under the terms of an interagency agreement, OFS field staff determines eligibility for Medicaid coverage. The eligibility determination examiners of the Medical Assistance Program (MAP) Unit are stationed on-site in

state charity hospitals and some public health units to assist patients in making application for Medicaid benefits.

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

Emergency rulemaking is necessary to extend Medicaid coverage to hospital patients in need of expeditious certification in order to receive necessary services.

EMERGENCY RULE

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

Implementation of the rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

In accordance with requirements of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), the Bureau of Health Services Financing has adopted the designation Nursing Facilities participating in Title XIX, Medicaid, in referring to all current ICF I, ICF II, and SNF facilities effective October 1, 1990. Reimbursement shall be based on patient-specific classifications of care rather than the current facility-specific levels of care. Current level of care per diem rates shall be applicable to corresponding classifications of care, with additional base rate adjustments and lump-sum payments providing the necessary reimbursement to allow provision of services in conformity with OBRA '87 regulations.

Current reimbursement methodology provides for adjustments to rates either as a temporary adjustment which will eventually be reflected in the rates or as a new factor included as a base rate component value.

However, certain requirements of OBRA '87 require significant one-time expenditures which conform to neither of the existing adjustment methodology modes, but lend them-

selves to lump-sum reimbursement methodology. The adjustments proposed to be reimbursed in this manner as the result of OBRA '87 requirements are:

1. Privacy Curtains. A maximum \$100/curtain cost has been determined to be a reasonable cost for privacy curtains for existing facilities. Reimbursement will be accomplished through a one-time lump sum payment of actual cost subject to the \$100 limitation.

2. Electrical rewiring/receptacles. Reimbursement for qualifying electrical rewiring of up to 25 percent of a facility's beds, for the purpose of providing skilled nursing services, may be made subject to the applicable limit described above. Qualifying rewiring must meet the following requirements:

- a. there must be 10 receptacles per skilled room;
- b. there must be two duplex outlets (four receptacles per bed - one duplex outlet on each side of the head of the bed);
- c. there must be one additional duplex outlet on an opposite wall;
- d. wiring must comply with the National Electrical Code.

Reimbursable costs may include direct wiring to the facility's generator to assure life-support power for up to 25 percent of the facility's SN beds not to exceed 6.25 percent of certified and enrolled beds.

Reimbursement shall be for actual cost to be billed as a one-time lump sum, up to a maximum of \$5,300.

3. Generator purchase. Reimbursement for actual cost of purchase of a qualifying generator will be made as a one-time lump sum payment, up to a maximum of \$12,000, if any of the following conditions are met:

- a. the facility has no generator;
 - b. the facility has a generator with a capacity of less than 10KW;
 - c. the facility has a generator of any size which is 10 years old or older.
4. New generators must:
- a. have a capacity of at least 10KW;
 - b. have been purchased between 12/78 and 10/90.

This rule is necessary to provide a vehicle for reimbursement of certain expenses necessary to implement the mandatory requirements of OBRA '87 legislation. The rule was previously adopted by emergency rulemaking and published in the October 20, 1990 issue of the *Louisiana Register* (Volume 16, No. 10), page 840.

RULE

Reimbursement for certain nursing facility expenses may be accomplished by lump-sum payment of one-time expenses. Lump-sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay and is mandated by federal requirements, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to BHSF review and approval of costs prior to reimbursement.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medicaid Program. The rule was previously adopted by emergency rulemaking and published in the October 20, 1990 issue of the *Louisiana Register* (Volume 16, No. 10), page 841.

In the absence of federal regulations specifying the permissible members of the Medicaid filing unit, the bureau continues to define reasonable filing units in conjunction with technical assistance from the Health Care Financing Administration.

The bureau is expanding its definition of reasonable filing units in conjunction with HCFA's recommendation, to provide inclusion of Prohibited AFDC Provisions (PAP) children in the parent or legal guardian's Medically Needy determination.

The needs of the children should be considered in the parent or legal guardian's budget unit for eligibility purposes, without removing them from their certification as a categorically needy unit. Section 1902(A)(10)(C) of the Social Security Act defines medically needy as any group of individuals described in Section 1905(a) who are not described in Subparagraph (A), "which includes both the required and optional categorically needy individual." Therefore, individuals such as the children eligible under the PAP regulation (42 CFR 435.113) cannot be medically needy individuals. Under current policy, this prohibited the inclusion of these children in the parent or legal guardian's Medically Needy determination.

However, after consultation with HCFA, it was determined that sufficient latitude exists in the regulations to include the children in the Medically Needy budgetary unit for the parent or legal guardian's medically needy determination. The needs of the children are therefore included in the determination of the parent or legal guardian's eligibility, but the children are eligible for Medicaid as a separate categorically needy filing unit.

RULE

A parent or legal guardian who is ineligible for inclusion in his/her children's categorical certification may be considered for an AFDC-related Medically Needy caretaker relative certification, with the categorically eligible children included in the budgetary unit. Any medical liabilities for the children not covered by a third party, to include Medicaid, shall be used to offset any excess income.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medicaid Program. The rule was previously adopted by emergency rulemaking and published in the October 20, 1990 issue of the *Louisiana Register* (Vol 16, No. 10), page 842.

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

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

RULE

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

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program effective March 1, 1991:

SUMMARY

Skilled Nursing Services for Infectious Disease (SN/ID) are covered under the state's Title XIX Medical Assistance Program in accordance with applicable federal and state rules and regulations. Previously provider reimbursement was calculated on the basis of allowable costs for care at specified occupancy rates. For the first 12 months or until 20 percent occupancy was achieved (whichever occurred first), reimbursement was 90 percent of the FY 88/89 rate paid for inpatient hospitalization treatment of AIDS at the state's Charity Hospital in New Orleans without inclusion of disproportionate share amounts. Following 12 months participation or after 20 percent occupancy was achieved, the facility was required to provide a proposed budget reflecting anticipated costs at 20 percent occupancy. This budget was used to establish the interim rate subject to review and approval by the agency, utilizing Medicare principles for determining allowable costs for SNF facilities. When the facility reached the 40 percent, 60 percent, or 85 percent occupancy level, the facility was required to provide a proposed budget reflecting anticipated costs at 40 percent, 60 percent, or 85 percent occupancy level. This budget was used to establish the interim rate for the higher occupancy level, subject to review and approval by the agency, utilizing Medicare principles for determining allowable cost for nursing facility services. Increases in occupancy triggered a downward adjustment in the client per diem to reflect the approved budget at the appropriate occupancy level. No adjustment was made if the occupancy level declined following the attainment of the 20 percent, 40 percent, 60 percent or 85 percent thresholds. Facilities were required to submit cost reports at the end of each 12-month period. Providers were required to segregate SN/ID costs from other long term care costs in their annual cost report or submit a separate cost report for SN/ID services. No duplication of costs was allowed. All rates were subject to annual cost settlement following Medicare principles for determining allowable cost for nursing facilities and capped at 90 percent of the FY 88/89 rate paid for inpatient hospitalization treatment of AIDS at the state's Charity Hospital in New Orleans without inclusion of disproportionate share amounts.

Previous payment levels and reporting requirements for nursing facility services for patients with AIDS were determined to be a barrier to the provision of services. The state is amending the rate mechanism to a flat-rate methodology with reimbursement at the rate of \$230.05 per diem. Emergency rulemaking implementing this change is necessary in order to assure delivery of necessary services and prevent imminent peril to the health and welfare of AIDS patients in need of nursing facility services.

EMERGENCY RULE

Reimbursement for Skilled Nursing Facility Services for Infectious Disease (SN/ID) shall be capped at \$230.05 per diem, subject to the established SN payment, limitations, standards for participation, and standards for payment with the additional requirements for this Title XIX provider type. At the end of the facility's cost reporting period, the facility shall file a separate long-term care facility cost report or segregate such costs from other nursing services provided, which cost report shall be subject to audit. When audited cost is below the per diem limit, the bureau shall charge back the calculated overpayment amount. No additional payment shall be

made for audited costs which exceeds the per diem cap. All participating facilities will be expected to work closely with the bureau to insure that services are provided at the most cost-effective rate.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of Alcoholic Beverage Control

Pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, the following rule was adopted by the Office of Alcoholic Beverage Control effective January 23, 1991, to provide procedures for the issuance of limited duration temporary alcoholic beverage permits for fairs, festivals and other special events. The regulation is necessary because the 19th Judicial District Court ruled in the matter entitled "Catering Kegs, Inc., v. Department of Public Safety and Corrections, et al," Docket No. 359398, that the guidelines which have been utilized for issuance of these permits were never properly promulgated. Without adoption of the emergency rule, hundreds of worthwhile charitable and civic events would no longer be able to legally serve alcoholic beverages, with a result that many of these events would no longer be economically feasible. These events are a major tourist attraction for the state, and their demise would result in an imminent peril to the state's tourism industry and its economy. This rule is also necessary to effectuate the intent of the Legislature as expressed in R.S. 26:793 that certain religious and charitable organizations not be charged a fee for the permits required to hold such events.

REGULATION NUMBER XII — FAIRS, FESTIVALS AND SPECIAL EVENTS

For purposes of this regulation, special events are defined as events, held at any location which is not on the premises of a regular licensed alcoholic beverage outlet, where alcoholic beverages are served as an incidental part of the event for payment rendered or are supplied as a part of a general admission or other type fee. Special events do not include private parties where no sales are made or fee is charged and the only purpose in applying for the permit is to obtain product or services from a wholesale dealer.

For such events, this office will issue a special temporary retail alcoholic beverage permit. These permits will be for a duration of three consecutive days only, and no more than four such permits shall be issued to any one person within a single calendar year.

There shall be three types of temporary alcoholic beverage permits — Type A, Type B and Type C.

Type A permits will be issued only to non-profit organizations with tax exempt status under the United States Internal Revenue Code, Sections 501 (c)(3) and 501 (c)(8). To qualify for this permit, applicants must submit written proof of their tax exempt status, a copy of a local permit or letter from the local governing authority granting their permission to sell alcoholic beverages, a valid lease, contract or written permission of the owner of the property upon which the event is to

be held if the property is not owned by the applicant and a completed, notarized application form. Type A permits shall be issued without charge by the Office of Alcoholic Beverage Control.

Type B permits will be issued only to non-profit organizations which are able to provide reasonable written proof of their non-profit status, but are unable to provide written proof of their tax exempt status under the Internal Revenue Code sections cited above. To qualify for this permit, applicants must submit the same documentation as for Type A permits, substituting the written proof of non-profit status for the written proof of tax exempt status. Applicants for Type B permits will be assessed a \$10 handling fee to cover the cost of processing the application.

Type C permits will be issued to persons holding special events where alcoholic beverages are sold or are supplied as part of a general admission or other type fee, but who do not meet the requirements for Type A or Type B temporary permits. To qualify for a Type C temporary permit, applicants must meet the qualifications required of permit holders under R.S. 26:80 and R.S. 26:280 and must submit a copy of a local permit or letter from the local governing authority granting their permission to sell alcoholic beverages, a valid lease or contract with the owner of the property on which the event is to be held if it is not owned by the applicant and a completed, notarized application form. A \$100 fee will be assessed to cover the cost of handling the Type C permit application.

When the holder of a temporary permit of any type calls upon an industry member to service an event, the industry member must charge the retail dealer for all equipment used and services given in an amount at least equal to that listed as follows:

- A. Labor — at a rate equal to that required as a minimum wage under the federal Wage and Hour Law.
- B. Self contained electric units in which the beer container is refrigerated within the unit — \$35 per day.
- C. Electric unit in which the beer container sits outside the cooling unit — \$35 per day.
- D. Picnic pumps — \$5 per day.
- E. Tubs — \$5 per day.
- F. Cold plates — \$15 per day.
- G. Trucks designed to handle packaged beer without refrigeration — \$50 per day.
- H. Refrigerated trucks designed to handle packaged or draught beer — \$100 per day.
- I. Mobile refrigerated draught units such as trailers or other vehicles — \$100 per day.
- J. Cups, ice, additional CO₂ gas and similar supplies and equipment — cost to industry member.

Equipment such as that listed above may not be furnished to regular licensed retail dealers unless the dealer acquires a temporary special event permit.

Tents, recreational vehicles, stages and other such items, devices and equipment not directly connected with the dispensing or serving of alcoholic beverages or that have any utility value to the special event permit holder or retail dealer are not included in this section and are therefore prohibited from being furnished, given, rented, loaned or sold to a special event permit holder or retail dealer.

The holders of temporary special event permits may return unused product at the conclusion of the event for cash or credit refund.

The provisions of R.S. 26:90 and 26:286 shall apply to all special events for which temporary permits are issued under this regulation, and violations are punishable as provided for under the provisions of Title 26.

The provisions of Regulation Number IX dealing with unfair business practices also apply to all transactions between wholesale dealers and the holders of special event permits of any type with the following exception: industry members may temporarily provide banners, inflatables or other such items to the holders of Type A or Type B special event permits. These items may not be provided, however, to the holders of Type C special event permits. Advertising on such items shall be limited to brand names and federally licensed logos or product labels, along with informational statements or salutory greeting messages relating to the special event. All such items shall not be placed on or about regular licensed retail premises. An industry member shall not directly or indirectly require that his display material be the exclusive material displayed at the event. These items must be returned to the industry member immediately following the event.

Larry Dickinson
Assistant Secretary

DECLARATION OF EMERGENCY

**Department of State
Office of Uniform Commercial Code**

In accordance with the emergency provisions of R.S. 49:953(B), and under the authority of R.S. 49:230(C)(2), the Department of State, Office of Uniform Commercial Code, hereby adopts the following emergency rule governing the submission of UCC filings affecting transmitting utility debtors made during the period beginning December 1, 1990 through December 20, 1990.

**Title 10
BANKS AND SAVINGS AND LOANS
Part V. Uniform Commercial Code**

**Chapter 1. Secured Transactions
§107. Forms To Be Used in Filing**

A. - H.

I. Filings affecting transmitting utility debtors made during the period from December 1, 1990 through December 20, 1990, which specifically identify the status of the debtor as a transmitting utility by containing an affirmative statement to that effect, also shall be treated as effective until terminated. Filings do not specifically identify the status of the debtor as a transmitting utility, and shall not be considered to contain an affirmative statement to that effect, merely because the debtor's name contains the word "utility" or otherwise suggests that the debtor may be a transmitting utility.

W. Fox McKeithen
Secretary

DECLARATION OF EMERGENCY

**Department of the Treasury
Bond Commission**

The Department of the Treasury, Bond Commission, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to publish the fee schedule below.

The Louisiana State Bond Commission amended the commission's rules as originally adopted on November 20, 1976; this emergency rule is necessary to ensure compliance with Act 506 of 1990 which requires the imposition of closing fees based on a percentage of the issuance of debt, with the percentage decreasing on a sliding scale as the size of the debt issuance increases. The Act also requires that the percentages imposed not be greater than those imposed as of May 1, 1990. It is the intent of the commission that the revised fee schedule will more closely track the actual costs of the commission and eliminate or reduce the amount of rebated fees.

Pursuant to Act 506 of 1190 (La. R.S. 39:1405) the commission adopted the following fee schedule, effective immediately:

STATE BOND COMMISSION FEE SCHEDULE

General Governmental Issues*

General Governmental Application Fee		\$100.00**	
Closing Fee:	Par		Percentage
	First	\$ 500,000	0.065%
	Next	\$ 4,500,000	0.060%
	Next	\$ 5,000,000	0.055%
	Next	\$10,000,000	0.050%
	Next	\$30,000,000	0.045%
	Over	\$50,000,000	0.035%

Certified Copy Fee: No charge for 1 copy; \$5 for each additional copy

Private Purpose Bonds***

Private Activity Application Fee		\$1,500.00**	
Closing Fee:	Par		Percentage
	First	\$ 500,000	0.125%
	Next	\$ 20,000,000	0.110%
	Next	\$ 25,000,000	0.105%
	Next	\$ 50,000,000	0.100%
	Over	\$100,000,000	0.090%

Annual Agenda Subscription Fee:

\$100 Private
\$ 50 Public Sector

*To be levied on debt instruments with maturities in excess of 12 months excluding budgetary loans made under the provisions of LA. R.S. 39:745, 17:89, 33:9001.

**Application fee will be credited toward the closing fee when bonds are issued, sold and delivered.

***Private activity bonds are defined as bonds the proceeds of which are used primarily for the benefit of a private company or enterprise or the payment on such bonds are paid from revenues derived from a private enterprise or concern, regardless of the issuer or the tax exempt status of the debt.

Mary L. Landrieu
State Treasurer and Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

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

Effective 12:01 a.m. February 23, 1991 the closure of commercial fishery for king mackerel in Louisiana waters will be extended until 12:01 a.m. July 1, 1991.

The secretary was notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service on October 17, 1990 that the commercial king mackerel quota for the western Gulf of Mexico had been reached and the season closure is necessary to prevent overfishing. The closure of Louisiana waters was originally made effective on October 27, 1990.

A. Kell McInnis III
Acting Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B) the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set annual seasons, and R.S. 56:433 which establishes the Wildlife and Fisheries Commission's and the Department of Wildlife and Fisheries' responsibility for oyster management, the secretary of the Department of Wildlife and Fisheries, pursuant to resolutions passed by the Wildlife and Fisheries Commission on August 3, 1990 at Rockefeller Refuge and on January 10, 1990 at Baton Rouge hereby declares an emergency and adopts the following rule:

The oyster season for the taking of seed oysters on the Public Oyster Seed grounds east of the Mississippi River will reopen one-half hour before sunrise January 15, 1991 and will continue through one-half hour after sunset February 15, 1991.

The oyster season in Vermilion Bay will reopen for both bedding and sacking one-half hour before sunrise January 15, 1991 and will continue through one-half hour after sunset April 1, 1991.

All oysters fished for commercial purposes must be three inches and larger.

A. Kell McInnis III
Acting Secretary

Rules

RULE

Department of Agriculture and Forestry Agricultural Finance Authority

The Louisiana Agricultural Finance Authority (LAFA), an agency of the Department of Agriculture and Forestry, hereby adopts regulations pursuant to its authority under R.S. 3:266(4). These regulations establish the terms and conditions by which LAFA may purchase or contract to purchase and sell or contract to sell agricultural loans by lending institutions with funds derived from the sale of Securitized Agricultural Revenue Bonds Series 1986A.

Title 7

AGRICULTURE AND ANIMALS

Part III. Agricultural Credit Corporation

Chapter 5. Agricultural Finance Authority

§526. Definitions

The following definitions shall apply to §526-§531, which are sections pertaining to the Louisiana Agricultural Finance Authority Securitized Agricultural Revenue Bond Program.

A. *Act* means the Louisiana Agricultural Finance Act, Chapter 3-B of Title 3 of the Louisiana Revised Statutes of 1950, as amended (R.S. 3:261 through R.S. 3:284).

B. *Agreements* means agreements by which the Issuer agrees to purchase from Lenders certain Agricultural Loans.

C. *Agricultural Loan* means a loan made by a Lender to any person for the purpose of financing land acquisition or improvement; soil conservation; irrigation; construction, renovation, or expansion of buildings and facilities; purchase of farm fixtures, livestock, poultry and, fish of any kind; seeds; fertilizers; pesticides; feeds; machinery; equipment; containers or supplies employed in the production, cultivation, harvesting, storage, marketing, distribution, or export of agricultural products.

D. *Borrower* means any person engaged in agricultural production or exportation who has entered into an Agricultural Loan with a Lender.

E. *Co-Trustee* means Premier Bank, formerly known as the Louisiana National Bank of Baton Rouge.

F. *Indenture* means the Trust Indenture and its exhibits by and among the Louisiana Agricultural Finance Authority and Capital Bank and Trust Company now known as Sunburst Bank, as Trustee and Louisiana National Bank of Baton Rouge, now known as Premier Bank, as Co-Trustee dated as of September 15, 1986. This document is identified as Exhibit A and may be obtained in its entirety from the Department of Agriculture, Agriculture Finance Authority, 5825 Florida Boulevard, Baton Rouge, LA 70806.

G. *Issuer* means the Louisiana Agricultural Finance Authority (LAFA).

H. *Lenders* means any lending institution as defined in the Act which institution either (1) sells an Agricultural

Loan to the Trustee or (2) enters into a Repurchase Obligation with the Trustee.

I. *Trustee* means Sunburst Bank, formerly known as Capital Bank and Trust Company.

J. All capitalized, undefined terms used herein shall have the meanings ascribed thereto in the Indenture and its exhibits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 17: (February 1991).

§527. Definition of Program

A. Under the Act, the Issuer is authorized to issue revenue bonds to alleviate the serious shortage of capital and credit available for investment in agriculture, for domestic and export purposes, at interest rates within the financial means of persons engaged in agricultural production and agricultural exports. The Act also authorizes the Issuer (1) to purchase or make contracts to purchase Agricultural Loans made by Lenders to Borrowers, and (2) to make loans or contract to make loans to and deposits with certain lending institutions, who will in turn make agricultural loans to Borrowers with the proceeds.

B. The Issuer, pursuant to its powers under the Act has authorized the issuance of Bonds and intends to use a portion of the proceeds of the Bonds (1) to purchase without recourse from Lenders certain Agricultural Loans, which are to be originated by the Lenders and purchased by the Issuer pursuant to Agreements and which shall be secured by Mortgages and with either a Letter of Credit or a Guaranty, and (2) to enter into Repurchase Obligations with certain banks to enable such banks to in turn make Agricultural Loans to Borrowers. Under the Act, the Issuer, prior to the purchase or contract to purchase Agricultural Loans from Lenders, and prior to making or contracting to make Agricultural Loans to certain national banks who will in turn make loans to Borrowers, is required to promulgate certain rules and regulations with regard to its loan program. These rules and regulations are intended to comply with this requirement of the Act and with the Administrative Procedure Act, Louisiana Revised Statutes of 1950, as amended, Section 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 17: (February 1991).

§528. Types of Loans to be Purchased or Made

A. The Issuer shall only purchase Agricultural Loans made by Lenders or enter into Repurchase Obligations with certain national banks who will in turn make Agricultural Loans to Borrowers.

B. Acquisition of Eligible Loans

Moneys in the Loan Fund shall be used only for the acquisition of Eligible Loans pursuant to Agreements or to enter into Repurchase Obligations, as described below. No Eligible Loan shall be purchased unless such Eligible Loan bears interest, payable semiannually on April 1 and October 1 of each year, at a rate no less than 9.10 percent, and matures no later than October 1, 1996. No Repurchase Obligation shall be entered into unless such Repurchase Obligation carries with it an interest component as a part of the resale price of 9.10%, and matures no later than October 1, 1996.

No Eligible Loan or Repurchase Obligation shall be purchased unless it requires that any principal amounts prepaid under such Eligible Loan or Repurchase Obligation, for whatever reason, shall be paid to the Trustee in accordance with Section 4.14 of the Indenture, and in no event shall any prepayment (including prepayments due to casualty or condemnation) be in an amount less than \$100,000. Prior to the disbursement of any funds from the Loan Fund to acquire an Eligible Loan or enter into a Repurchase Obligation, the Trustee shall complete a Program Checklist and submit the same to the Issuer and to Standard and Poor's Corporation.

2. Moneys in the Loan Fund shall be used to acquire any Eligible Loans presented to the Issuer and the Trustee by a Lender in accordance with the provisions set forth herein, pursuant to an Agreement at a price described below upon receipt by the Trustee of all documents, opinions and certificates required in the Agreement and the Program Checklist. Each Eligible Loan shall be purchased at a purchase price of 99.78 percent of the outstanding principal amount of such Eligible Loan, less a surrender charge (as that term is defined in the Investment Agreement and which shall be payable to the Insurance Company), in the amount determined by the Investment Agreement provided that the purchase price of an Eligible Loan shall not be in an amount less than \$100,000 and shall not exceed \$5,000,000. The average principal amount of Eligible Loans must be at least \$500,000. Eligible Loans may not be acquired after September 30, 1991, and the total amount of Withdrawals (as such term is defined in the Investment Agreement) at any point in time shall not exceed the applicable Maximum Cumulative Withdrawal Amounts (as defined in the Investment Agreement). Payments made by a Credit Provider under a Letter of Credit or Guaranty shall be applied as a credit against amounts owing by a Borrower under a Financed Eligible Loan with respect to which such Letter of Credit or Guaranty was issued.

3. The Issuer will cooperate with each Lender, and shall require each Lender to cooperate with the Issuer, such that all accrued interest through the date on which the Eligible Loan is acquired by the Issuer is paid directly or reimbursed to each Lender.

4. Each Eligible Loan shall be secured by an irrevocable Letter of Credit, a Guaranty, or a comparable instrument which shall effectively guarantee payment of all principal and interest on such Eligible Loan, such Letter of Credit, Guaranty or comparable instrument being issued by a Credit Provider whose long-term unsecured debt rating is rated at least as high as the initial rating on the Bonds, as confirmed in writing by Standard and Poor's Corporation, or, if not so rated (and then only in the case of a Letter of Credit delivered by a savings and loan association insured by FSLIC or a state-chartered banking association insured by FDIC), such Credit Provider shall pledge securities sufficient to maintain the initial rating on the Bonds; the types of eligible collateral securities, and the level of collateralization required for each type of collateral security in order to obtain such a rating from Standard and Poor's Corporation, are set forth in Exhibit F; provided that if any such securities to be pledged consist of FHA/VA Mortgage Notes, Conventional Mortgage Notes, FHA/VA Mortgage Notes - ARMS and Conventional Mortgage Notes - ARMS (as those terms are used in the Collateral Pledge Agreement FSLIC), then prior to the acquisition of the Eligible Loan the Trustee shall receive notice from

Standard and Poor's Corporation (at the expense of the respective Borrower) to the effect that the delivery of FHA/VA Mortgage Notes, Conventional Mortgage Notes, FHA/VA Mortgage Notes-ARMS and Conventional Mortgage Notes-ARMS by such Credit Provider will not adversely affect the rating on the Bonds. In the event that an Eligible Loan is to be secured by an instrument other than a Letter of Credit or a Guaranty in precisely the forms attached to the Indenture, such Eligible Loan shall not be purchased with Bond proceeds until such time as the Trustee receives written confirmation from Standard and Poor's Corporation (at the expense of the respective Borrower) that such purchase will not adversely affect the rating of the Bonds.

C. Repurchase Obligations

Moneys in the Loan Fund shall also be used by the Issuer to enter into any Repurchase Obligation presented to it by a Credit Provider in accordance with the provisions set forth herein (to enable such Credit Provider to in turn finance an Eligible Loan). Securities purchased under a Repurchase Obligation shall be purchased at a price of 99.78 percent of the Purchase Price, less a surrender charge (as that term is defined in the Investment Agreement and which shall be payable to the Insurance Company) in the amount determined by the Investment Agreement. The purchase price of a Repurchase Obligation shall not be in an amount less than \$100,000 and shall not exceed \$5,000,000. The average principal amount of Repurchase Obligations must be at least \$500,000. Repurchase Obligations may not be acquired after September 30, 1991, and the total amount of Withdrawals (as such term is defined in the Investment Agreement) at any point in time shall not exceed the applicable Maximum Cumulative Withdrawal Amounts (as defined in the Investment Agreement).

D. There shall be included as a provision to every Loan Note, the agreement of the maker thereof to the effect that the Loan Note shall continue to bear interest until such time as the Trustee has on deposit Available Moneys representing sufficient funds for the payment of such Loan Note.

E. No Eligible Loan shall be purchased by the Trustee, and no Repurchase Obligation shall be entered into by the Trustee, during any period commencing with the date which would (if such Eligible Loan were otherwise purchased) constitute a Draw Date for such Eligible Loan and ending on the immediately succeeding Interest Payment Date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 17: (February 1991).

§529. The Credit Provider

The following financial institutions shall qualify as Credit Providers and shall meet the following conditions:

A. A savings and loan association insured by FSLIC may act as Credit Provider and shall deliver a Letter of Credit and in the event such savings and loan association does not have a long-term unsecured debt rating by Standard and Poor's Corporation at least equal to the initial rating on the Bonds, such Letter of Credit shall be collateralized in accordance with a Collateral Pledge Agreement (FSLIC) which shall be delivered to the Trustee.

B. A national bank may act as a Credit Provider and if it does not have a long-term credit rating at least equal to the

initial rating on the Bonds, shall enter into a Repurchase Obligation which shall be delivered to the Trustee.

C. Any national bank which has an unsecured long-term debt rating by Standard and Poor's Corporation at least equal to the initial rating on the Bonds may act as a Credit Provider and shall deliver an unsecured Letter of Credit.

D. A state chartered bank insured by FDIC may act as a Credit Provider and shall deliver a Letter of Credit, and in the event such state-chartered bank does not have a long-term unsecured debt rating by Standard and Poor's Corporation at least equal to the initial rating on the Bonds, such Letter of Credit shall be collateralized in accordance with a Collateral Pledge Agreement (FDIC) which shall be delivered to the Trustee.

E. Any other legal entity may act as a Credit Provider which has a long-term unsecured debt rating (or, in the case of an insurance company, a claims-paying ability rating) by Standard and Poor's Corporation at least equal to the initial rating on the Bonds and may only deliver a Guaranty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 17: (February 1991).

§530. Procedure Required for Funding Agricultural Loans with Proceeds of the Bonds

A. Initiation of Eligible Loan Purchase

A Lender may submit to the Issuer, the Trustee and the Co-Trustee a Proposal to Sell Agricultural Loans in substantially the form attached as Exhibit B hereto. Such form shall include a description of the rates, fees and terms of the loans made by the Lender to the Borrower and a description of the project financed, including its location and characteristics. The Lender shall also describe the security for the loan. Upon receipt of a Proposal to Sell Agricultural Loans, the Issuer, the Trustee and the Co-Trustee, on behalf of the Issuer, shall review such proposal. If the Issuer determines that the loans to be purchased are Agricultural Loans and that the loans to be purchased are Eligible Loans meeting the requirements of the Act, the Issuer shall be empowered to send a Conditional Approval, in substantially the form attached as Exhibit C hereto, to the Lender. The form of Agreement shall be enclosed with the Conditional Approval.

B. Initiation of Repurchase Obligation

A national bank may submit to the Issuer, the Trustee and the Co-Trustee a Proposal to Enter Into Repurchase Obligation in substantially the form attached as Exhibit D hereto. Such form shall include a description of the rates, fees, and terms of the loans to be made by the national bank to the Borrower and a description of the project financed, including its location and characteristics. The national bank shall also describe the security for the loan. Upon receipt of a Proposal to Enter Into Repurchase Obligation, the Issuer, the Trustee and the Co-Trustee, on behalf of the Issuer, shall review such proposal. If the Issuer determines that the loans to be made by the national bank are Agricultural Loans and determines that the loans to be made by the national bank are Eligible Loans meeting the requirements of the Act, the Issuer shall be empowered to send a Conditional Approval, in substantially the form attached as Exhibit E hereto, to the national bank. The form of the Repurchase Obligation shall be enclosed with the Conditional Approval.

C. Procedure to Purchase Eligible Loan

Upon execution of the Agricultural Loan Purchase Agreement by the Lender, the Lender shall return and the Trustee, on behalf of the Issuer, shall receive the Agreement, which must be signed by the Lender within 14 days of postmark date of the Conditional Approval. The Issuer shall then sign the Agreement and notify the Trustee. The Trustee shall establish a loan closing date. The Trustee shall, by telephonic notice, inform the Issuer and the Lender of such date. Such date is referred to herein as the "Loan Purchase Date". On the Loan Purchase Date, and upon completion of the Program Checklist by the Trustee, which shall be forwarded to the Issuer and Standard and Poor's Corporation, the Issuer shall direct the Trustee to disburse moneys from the Loan Fund for loan purchase.

D. Procedure to Enter Into Repurchase Obligation

Upon execution of the Repurchase Obligation by the national bank, the national bank shall return and the Trustee, on behalf of the Issuer, shall receive the Repurchase Obligation, which must be signed by the national bank with 14 days of postmark date of the Conditional Approval. The Issuer shall then sign the Repurchase Obligation and notify the Trustee. The Trustee shall establish a loan closing date. The Trustee shall, by telephonic notice, inform the Issuer and the national bank of such Purchase Date, and upon completion of the Program Checklist by the Trustee, which shall be forwarded to the Issuer and Standard and Poor's Corporation, the Issuer shall direct the Trustee to disburse moneys from the Loan Fund for the purpose of making a loan to the national bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 17: (February 1991).

§531. Amendment to Program Guidelines

The Program Guidelines, Exhibit B of the Indenture, may not be amended by the Issuer, Trustee, or Co-Trustee at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 17: (February 1991).

EXHIBIT A
TRUST INDENTURE

(Editor's Note) This exhibit may be obtained in its entirety from the Department of Agriculture, Agricultural Finance Authority, 5825 Florida Boulevard, Baton Rouge, LA 70806.

EXHIBIT B

FORM OF PROPOSAL TO SELL AGRICULTURAL LOANS

LOUISIANA AGRICULTURAL FINANCE AUTHORITY
SECURITIZED AGRICULTURAL
REVENUE BOND PROGRAM

Louisiana Agricultural Finance Authority
12055 Airline Highway
Baton Rouge, Louisiana 70816

Sir:

The (Name of Lender) (the "Lender") hereby requests to participate in the Securitized Agricultural Revenue Bond Program of the Louisiana Agricultural Finance Authority (the "Authority").

(1) Name of Lender.
(2) Jurisdiction of Organization and Date of Incorporation.

(3) Address and Telephone Number of Principal Officer.

(4) Name and Title of Person to whom correspondence with regard to this Program should be addressed.

(5) Description of Loans. Please provide the following information with respect to each existing or proposed loan which the Lender desires to sell.

(i) Total amount of loan

(ii) Date of loan

(iii) Eligible Loan

(a) When does the loan mature?

(b) How is principal payable (e.g. monthly, quarterly, semiannually, annually, at maturity)?

(c) How is interest payable (e.g. monthly, quarterly, semiannually, annually, at maturity)?

(d) What is the interest rate on the loan?

(iv) Please attach the amortization schedule of the loan, showing when principal is payable (e.g. monthly, quarterly, semiannually, annually, at maturity), when the principal comes due and on what dates.

(v) Project financed

(a) Location

(b) Description of Project

(6) Dollar amount of loan to be financed by the Authority

(7) If existing, does Lender wish to refinance loans to be sold?

(8) If yes, please give desired length and terms of refinanced loans

EXHIBIT C
CONDITIONAL APPROVAL

(Lender)

Sir:

You are hereby notified that your Proposal To Sell Agricultural Loans to the Louisiana Agricultural Finance Authority ("Authority") has been tentatively approved pending completion of and signing an Agricultural Loan Purchase Agreement, a form of which is enclosed. This approval is based upon the information and representations provided by you in your Proposal to Sell Agricultural Loans application and is expressly conditioned upon the accuracy of such information and timely completion of the Agricultural Loan Purchase Agreement.

Pursuant to our earlier correspondence, the terms of the loan following the purchase by the Authority shall be as follows:

(Terms of Refinanced Loan)

Please execute and return the enclosed Agricultural Loan Purchase Agreement within fourteen days of the postmark of this Conditional Approval to the offices of the Louisiana Agricultural Finance Authority, Department of Agriculture, 12055 Airline Highway, Baton Rouge, LA 70816, Attention: Director. If the Agricultural Loan Purchase Agreement is not received by the Authority within fourteen days of the postmark on the letter delivering this Conditional Approval, the Authority may discontinue consideration of the applicant's loan purchase.

Sincerely,

LOUISIANA AGRICULTURAL FINANCE
AUTHORITY

EXHIBIT D

**FORM OF PROPOSAL TO ENTER INTO REPURCHASE
OBLIGATION**

**LOUISIANA AGRICULTURAL FINANCE AUTHORITY
SECURITIZED AGRICULTURAL
REVENUE BOND PROGRAM**

Louisiana Agricultural Finance Authority
12055 Airline Highway
Baton Rouge, LA 70816

Sir:

The (Name of National Bank), a national banking association organized and existing under the laws of the United States, (the "Bank") hereby requests to participate in the Securitized Agricultural Revenue Bond Program of the Louisiana Agricultural Finance Authority (the "Authority").

- (1) Name of Bank.
- (2) Date of Incorporation.
- (3) Address and Telephone Number of Principal Office.

(4) Name and Title of Person to whom correspondence with regard to this Program should be addressed.

(5) Description of Loans. Please provide the following information with respect to each proposed loan which the Bank desires to make.

(i) Total amount of loan _____

(ii) Date of loan _____

(iii) Eligible Loan

(a) When will the loan mature?

(b) How is principal payable (e.g. monthly, quarterly, semiannually, annually, at maturity)? _____

(c) How is interest payable (e.g. monthly, quarterly, semiannually, annually, at maturity)? _____

(d) What is the interest rate on the loan? _____

(iv) Please attach the amortization schedule of the loan, showing when principal is payable (e.g. monthly, quarterly, semiannually, annually, at maturity), when the principal comes due and on what dates. _____

(v) Project financed

(a) Location _____

(b) Description of Project _____

(6) Dollar amount of loan to be financed by the Authority _____

EXHIBIT E

CONDITIONAL APPROVAL

(National Bank)

Sir:

You are hereby notified that your Proposal To Enter Into Repurchase Obligation to the Louisiana Agricultural Finance Authority ("Authority") has been tentatively approved pending completion of and signing a Repurchase Obligation, a form of which is enclosed. This approval is based upon the information and representations provided by you in your Proposal To Enter Into Repurchase Obligation application and is expressly conditioned upon the accuracy of such information and timely completion of the Repurchase Obligation.

Pursuant to our earlier correspondence, the terms of the loan shall be as follows:

(Terms of Refinanced Loan)

Please execute and return the enclosed Repurchase Obligation within fourteen days of the postmark of this Conditional Approval to the offices of the Louisiana Agricultural Finance Authority, Department of Agriculture, 12055 Airline Highway, Baton Rouge, LA 70816, Attention: Director. If the Repurchase Obligation is not received by the Authority within fourteen days of the postmark on the letter delivering this Conditional Approval, the Authority may discontinue consideration of the applicant's loan.

Sincerely,

LOUISIANA AGRICULTURAL FINANCE
AUTHORITY

EXHIBIT F

ELIGIBLE COLLATERAL AND COLLATERAL LEVELS

REPURCHASE OBLIGATIONS

Type of Collateral Security	Percentage of Market Value to be Sold
FHLMC Participation Certificates ¹	158.0%
GNMA Pass-Through Certificates ¹	147.0%
FNMA Pass-Through Certificates ¹	158.0%
Cash and Federal Funds	100.0%
Government Securities ² with a remaining term to Maturity of up to and including	
one year	108.0%
five years	128.0%
ten years	135.0%
fifteen years	140.0%
thirty years	150.0%

LETTERS OF CREDIT/GUARANTIES

Type of Collateral Security	Percentage of Market Value to be Pledged
FHLMC Participation Certificates ¹	158.0%
GNMA Pass-Through Certificates ¹	147.0%
FNMA Pass-Through Certificates ¹	158.0%
Cash and Federal Funds	100.0%
Government Securities ² with a remaining term to Maturity of up to and including	
one year	108.0%
five years	128.0%
ten years	135.0%
fifteen years	140.0%
thirty years	150.0%
FHA/VA Mortgage Notes ³	150.0%
Conventional Mortgage Notes ³	150.0%
Conventional Mortgage Notes—ARMS ³	170.0%
FHA/VA Mortgage Notes—ARMS ³	170.0%

¹Assumptions:

- (a) Certificates represent undivided interest in pool of fixed-rate single family mortgage loans with no further negative amortization.
- (b) Registered in name of, and held by, bond trustee.
- (c) Collateral cash flow released to collateral provider so long as requisite collateral level maintained.
- (d) Collateral levels assume collateral proceeds will cover up to six months of accrued interest at maximum rate of 12%/annum.
- (e) Collateral securities marked to market on a monthly basis.
- (f) Collateral provider has two business days to cause any deficiency in collateral level requirement.
- (g) Collateral cannot be valued in an amount greater than the lesser of (i) 100% of its redemption value of (ii) 100% of its maturity value.

²Assumptions:

- (a) "Government Securities" are obligations which are direct obligations or which are fully guaranteed by the full faith and credit, of the United States of America which pay periodic interest and pay principal at maturity or call.
- (b) The assumptions in (c), (d), (e), (f) and (g) in Footnote 1 above apply to Government Securities.

³Assumptions:

- (a) Mortgage loans meet the requirements of a prime collateral pool.
- (b) The assumptions in (c), (d), (e), (f) and (g) in Footnote 1 above apply to Conventional/FHA/VA Mortgages.

Bob Odom
Commissioner

RULE

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING
Part XIII. Wagering**

Chapter 103. Pari-Mutuels

§10317. Closing and Opening of Pari-Mutuel Machines

The horses shall be at the starting gate at post time, which shall not be changed after the horses leave the paddock. The starter shall immediately load the horses in the starting gate and start the horses as soon as possible thereafter in order to avoid delay. The pari-mutuel ticket issuing machines shall be locked by the state steward and the "off" bell sounded when the gate opens. It shall be the duty of the stewards to see to it that the horses arrive at the starting gate as near to post time as possible. If their arrival at the starting gate exceeds two minutes past the advertised post time as reflected by the infield board, the pari-mutuel machines shall be locked unless extenuating circumstances exist as determined by the stewards such as an accident to a horse or jockey, or equipment failure. At the discretion of the state steward, the ticket issuing machines may be unlocked prior to the declaration that the result of the race is official. However, in no case shall the mutuel cashiers' windows be opened until after the declaration that the results of the race is official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Racing Commission, in 1971, amended LR 2:439 (December 1976), repromulgated by the Department of Commerce, LR 3:35 (January 1977), LR 4:281 (August 1978), amended LR 5:96 (May 1979), amended by the Department of Economic Development, LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING
Part I. General Provisions**

Chapter 17. Corrupt and Prohibited Practices

§1739. Disqualified Horse Recognized as Winner

A. When the stewards declare a horse to be the winner or qualifier of an elimination or eligibility race for a futurity, stakes or handicap and, thereafter, a report as described in LAC 35:I.1729 is received from the state chemist, the horse shall be deemed to have forfeited its eligibility to compete in any subsequent race related to that futurity, stakes or handicap.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), repromulgated by the Department of Commerce, LR 3:45 (January 1977), LR 4:287 (August 1978), amended by the Department of Economic Development, LR 15:961 (November 1989), amended LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

Department of Economic Development Racing Commission

Title 35

HORSE RACING

Part XV. Off-Track Wagering

Chapter 123. General Rules

§12330. Fax Transmission

A. Fax machines shall be located in each tote room as the priority back-up method of communication of wagering data. Verbal transmissions of wagering data will be accepted only in the event of a fax failure and confirmed in writing as soon as possible. Proof of successful fax transmission shall be maintained for a minimum of 60 days by the association.

B. Scratched horses and other betting format changes must be communicated from host mutuel department head to all tote department managers at both live and guest associations via fax transmission immediately upon receipt of that information from the host track stewards or if the urgency of communication requires otherwise and confirmed in writing as soon as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 211-222.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

Department of Economic Development Racing Commission

Title 35

HORSE RACING

Part XV. Off-Track Wagering

Chapter 123. General Rules

§12328. Notification of Change

Notification of any race date changes or changes in format for wagering including, but not limited to, addition of

exactas, pick six, daily doubles and/or other exotic wagering must be provided by the host track to both the host track tote company, guest track tote companies, guest track mutuel department and off-track wagering facility tote companies at the time such changes are approved by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 211-222.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

Department of Economic Development Racing Commission

Title 35

HORSE RACING

Part XV. Off-Track Wagering

Chapter 123. General Rules

§12341. Pari-Mutuel Tickets

A. Pari-mutuel tickets utilized at an off-track wagering facility shall use a numerical designation for each betting interest.

B. All off-track wagering, guest and host facilities shall, upon request, cash all pari-mutuel tickets purchased at its facility during all hours of operation within the guidelines provided for under R.S. 4:176 and R.S. 4:219.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 211-222.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:290 (May 1988), amended by the Department of Economic Development, LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

Department of Economic Development Racing Commission

Title 35

HORSE RACING

Part V. Racing Procedures

Chapter 63. Entries

§6360. Rider Named on Two Horses

A rider may be named on two horses in a race provided one is on the also-eligible list. A coupled entry shall be considered one horse for the purpose of this rule.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 13:432 (August 1987), amended by the Department of Economic Development, LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING**

Part XV. Off-Track Wagering

Chapter 123. General Rules

§12331. Simulcast Audio Transmission

A. Each off-track wagering facility shall have the capability to deliver the simultaneous audio transmission of a race to the facility in the event that the simulcast of the racing program is interrupted. The transmission of only the audio description of the racing program to the off-track wagering facility must be approved by the commission or its designee, except when prior approval is not possible.

B. In the event of the loss of both audio and video signals from the host track to guest tracks and/or off-track wagering facilities, wagering may continue. However, either the audio or video signal must be re-established as soon as possible, but no later than the start of the next day's wagering program or wagering shall not be allowed to begin at the guest track or off-track wagering facility that has suffered the loss of both audio and video signals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 211-222.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:289 (May 1988), amended by the Department of Economic Development, LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING**

Part XV. Off-Track Wagering

Chapter 123. General Rules

§12329. Simulcast Video Transmission

A. Every simulcast shall be encrypted using a time displacement decoding algorithm encryption system.

B. Not less than 30 minutes prior to the commencement of the transmission of each racing program, the host

association shall initiate a test program of its transmitter, encryption, decoding and data communication to assure proper operation of the system.

C. Every simulcast shall contain a digital display of the actual time of day, the name of the race track from where it emanates, the number of races being displayed, and the sequential fractional time of the race as the race is being run.

D. The host association shall retain a video record of all simulcasts, in decoded form, and shall provide a copy of such record on girth a 1/2" or 3/4" video cassette when requested by the commission.

E. Each host association is responsible for the contents of its simulcast and shall use all responsible efforts to present a simulcast which offers viewers an exemplary depiction of its racing program, a periodic display of wagering information and continuity programming between horse racing events.

F. The transmission of data between the totalizator system and the host association and the remote terminals at the off-track wagering facility shall be independent of the simulcast transmission. A separate point-to-point leased data communications line, using either analog or digital transmission methods, shall be required between the host association and each off-track wagering facility.

G. There shall be sufficient television monitors in each tote room to provide key tote employees a view of all horses starting from the starting gate at any track.

H. In the event of a data or wagering communication failure, and communication is not restored by three minutes to post for the current race at the host track, betting shall cease at the guest track and/or off-track wagering facilities where such communication has been lost, and wagers to the that point shall be manually merged. No further wagering data shall be accepted at the failed facilities until communications can be restored and authorization is given by both the host and guest mutuel departments.

I. In the event of a data communication failure which requires the manual merging of pools, betting for the next race cannot proceed at guest tracks or off-track wagering facilities which have suffered such loss until data communication has been re-established and all payoffs for any prior race have been posted. Races shall not be delayed at the host track past post time as normally reflected on the infield tote board while awaiting the re-establishment of failed data communications between the host track and the guest or off-track wagering facilities.

J. Any loss in communications causing a delay in races or payoffs between host tracks, guest tracks and/or off-track wagering parlors shall be considered an "incident" and will require incident reports to be filed with the commission by all tote managers and mutuel managers involved within 48 hours of the incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 211-222.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:289 (May 1988), amended by the Department of Economic Development, LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING**

Part V. Racing Procedures

Chapter 83. Appeals to the Commission

§8307. Subpoenas and Notices of Hearing

A. The commission may issue an administrative subpoena to an individual referred to the commission, an individual appealing a stewards' ruling, and any witness. The commission may issue a notice of hearing to an individual requesting reinstatement or an individual requesting to come before the commission for special circumstances. Excluding witnesses, the individual's responsibility shall include, but is not limited to the following.

1. Submitting notarized documents of evidence to the commission's domicile office prior to the meeting. Such documentation may include any documents evidencing reasons for the individual's reinstatement.

2. If desired by the individual, being represented by an attorney.

3. Bringing his/her badge to the meeting, unless previously surrendered to the stewards or the commission.

4. If pertinent, submitting the name, address and telephone number of any parole officer, to the commission's domicile office prior to the meeting.

5. If audio-visual equipment is desired by the individual, setting up and operating such equipment, and all costs incurred thereof.

B. The commission may issue a notice of hearing to an individual's attorney, which may include, but is not limited to the following.

1. The requirement of the attorney's written request of any witnesses he desires to appear before the commission, including their addresses and to what each witness will testify.

2. A responsibility clause to provide for reimbursement to individual's witnesses for their cost and/or travel expenses incurred.

C. The commission may issue a notice of hearing to an owner when having an interest in the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:144, 148, 154, 192 and 197.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1793. Testing for Alcohol Abuse

Any person licensed by the commission shall, when directed by the state steward, submit to a breathalyzer test, and if the results thereof show a reading of .05 percent or more of alcohol in the blood, such person shall not be permitted to continue his duties. For the first offense, any person having a reading of .05 percent or more shall be fined \$50 and not be permitted to perform his duties for the day. For the second offense, any person having a reading of .05 percent or more shall be fined \$100 and not be permitted to perform his duties for the day. For a third offense, any person having a reading of .05 percent or more shall be suspended for 30 days and be subjected to an evaluation as called for in LAC 35:1.1791.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 13:290 (May 1987), amended by the Department of Economic Development, LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1791. Testing for Dangerous Substance Abuse

A. No person licensed by the commission shall use any controlled dangerous substances as defined in the "Louisiana Controlled Dangerous Substance Act," R.S. 40:961 et seq., or any prescription legend drug, unless such substance was obtained directly, or pursuant to a valid prescription or ordered from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the person licensed by the commission to give notice to the state steward that he is using a controlled dangerous substance or prescription legend drug pursuant to a valid prescription or ordered from a licensed physician. This notice shall be in the form of an affidavit provided by the commission and completed by the licensed practitioner. Failure to provide the state steward with the appropriate affidavit prior to the collection of a urine sample shall result in a positive violation and shall be administered pursuant to Subsection

D. Failure of a licensed person to provide this affidavit from his doctor or physician within 10 days of being notified by the stewards of a finding for a prescription drug shall be treated as a positive and having the person subject to a penalty as contained herein.

B. Every person licensed by the commission at any licensed racetrack may be subjected to a urine test, or other non-invasive fluid test at the discretion of the state steward in a manner prescribed by the commission. Any licensed person who fails to submit to a urine test when requested to do so by the state steward shall be liable to the penalties provided herein.

1. Failure or refusal to submit to a urine test when ordered by the state steward shall result in a minimum 90-day suspension. Failure or refusal to submit to a urine test for a second time shall result in a suspension by the stewards to the full extent of their power and referral to the commission.

C. Any person licensed by the commission who is requested to submit to a urine test shall provide the urine sample to a chemical inspector of the commission. When requested to provide a sample, that person shall submit the sample before leaving the race track. Failure to do so shall be considered a refusal. The sample so taken shall be immediately sealed and tagged on the form provided by the commission and the evidence of such sealing shall be indicated by the signature of the tested person. The portion of the form which is provided to the laboratory for analysis shall not identify the individual by name. In obtaining any sample, it shall be the obligation of the licensed person to cooperate fully with the chemical inspector, who may be required to witness the securing of such sample. Anyone who tampers with a urine sample shall be fined and/or suspended as provided for by R.S. 4:141 et seq. and/or the rules of racing.

D. A positive controlled dangerous substance or prescription drug result shall be reported in writing to the commission or its designee. On receiving written notice from the official chemist that a specimen has been found positive for a controlled dangerous substance or prescription legend drug, the commission or its designee shall proceed as follows.

1. The licensed person shall, as quickly as possible, be notified in writing and a hearing scheduled with the stewards.

2. For a licensed person's first violation, he shall be suspended 30 days and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement shall be contingent upon evaluation by a commission approved board certified drug evaluator or counselor, and after providing a negative urine report.

3. For a licensed person's second violation, he shall be suspended six months and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement may be allowed upon proof of enrollment, and continued attendance in a commission approved drug rehabilitation program.

4. For a licensed person's third violation, he shall be suspended for 15 years and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana.

5. The stewards and/or commission approved board certified drug evaluator or counselor may require urine/hair analyses or other non-invasive body fluid tests at any time during rehabilitation for reasonable cause.

6. Unexcused absences from a drug rehabilitation pro-

gram shall result in the participant being suspended for seven days from racing.

7. Excused absences from a drug rehabilitation program must be approved prior to the participant's absence by the commission approved drug evaluator or individual counselor.

8. Amphetamines and other central nervous system stimulants are not permitted except in cases of exogenous obesity. In those cases, the participant must give proof that the multiple dietary attempts to control exogenous obesity have failed and that he is participating in a medically supervised dietary program which includes the short term (two to three weeks) usage of amphetamines.

E. Any information received in the process of obtaining a urine sample, including but not limited to, medical information, the results of any urine test, and any reports filed as a result of attending a drug rehabilitation program, shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the information received and/or reports of any positive results and/or reports from a drug rehabilitation program shall be limited to the commissioners of the Louisiana State Racing Commission, the commission and/or its designee, counsel to the commission and the subject, except in the instance of a contested matter. In the instance of a contested matter, any information received and reports prepared shall not be disclosed without the approval of the commission or its designee.

F. Information received and reports prepared pursuant to this rule shall be stored in a locked secured area in the office of the commission for a period of one year, after which time, they shall be destroyed. However, the commission may maintain the information received and reports on individuals who have violated this rule for the purpose of recording the number of violations and the results of supervisory treatment, and for use should future violations occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 13:289 (May 1987), amended by the Department of Economic Development, LR 15:620 (August 1989), LR 16:394 (May 1990), LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

Department of Economic Development Racing Commission

Title 35 HORSE RACING

Part XV. Off-Track Wagering

Chapter 123. General Rules

§12332. Tote Forms, Glossary of Terms

A. All tote companies operating within the state of Louisiana shall use a standard "manual merge" form approved by the commission. This form shall be authenticated by the

signature of the tote manager and mutuel manager at both host and guest track or off-track wagering facilities, or by their designees.

B. All tote companies operating within the state of Louisiana shall correspond under a mutually accepted glossary of terms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 211-222.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 17: (February 1991).

Claude P. Williams
Executive Director

RULE

Board of Elementary and Secondary Education

Amendments to Bulletin 741
Scoring on the ACT

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published November 20, 1990 and under authority contained in the State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Amendment to Bulletin 741

Louisiana School Administrators'
Handbook (effective October 20, 1990)

Amend Standard 2.015.47 to read:

The student shall have scored at least a minimum composite score of 24 on the ACT or the appropriate concordant value on the enhanced ACT or a minimum of 24 or the appropriate concordant value on the Enhanced ACT in the area to be pursued at the college level.

Amend Standard 2.108.02 to read:

The student shall have earned a minimum composite score of 24 on the ACT or the appropriate concordant value on the Enhanced ACT, and this score must be submitted to the college.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 17: (February 1991)

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Amendment to Bulletin 741,
Part B, Nonpublic Standards

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published November 20, 1990 and under authority contained in

the State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Amendment to Bulletin 741,

Part B, Nonpublic Standards

Standard 6.200.00 - High School Diplomas

Nonpublic high school equivalency diplomas shall be signed by the state Superintendent of Education, the Board of Elementary and Secondary Education president, the private high school principal, and the private school board president or whoever is delegated this authority for the private school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 17: (February 1991)

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Amendment to Bulletin 741
Substance Abuse Program

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published November 20, 1990 and under authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Amendment to Bulletin 741

Louisiana School Administrators' Handbook
Elementary Program of Studies/
Minimum Time Requirement

Add Standard 2.090.01 to page 66 which states:

Elementary schools shall provide a minimum of eight contact hours of substance abuse prevention education each school year. Instruction shall be provided in accordance with the state substance abuse curriculum (Bulletin 1864, Volume I) or through substance abuse programs approved by the State Board of Elementary and Secondary Education.

Refer to R.S. 17:402-5,

R.S. 40:981.3

All affected standard numbers will be adjusted accordingly.

Secondary Schools

Add Standard 2.096.01 to page 74 which states:

Secondary schools shall provide a minimum of eight contact hours of substance abuse prevention education each school year. Instruction shall be provided in accordance with the state substance abuse curriculum (Bulletin 1864, Volume I) or through substance abuse programs approved by the State Board of Elementary and Secondary Education.

Refer to R.S. 17:402-5,

R.S. 40:981.3

All affected standard numbers will be adjusted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:402

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 17: (February 1991)

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Amendments to Bulletin 1822

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published November 20, 1990, and under authority contained in the State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Amendments to Bulletin 1822

Competency Based Postsecondary Curriculum Outlines

Changes in titles and course lengths as follows:

<u>Course Title</u>	<u>Length</u>
Computer Technology	2363 hours, 21 mos.
Surgical Technology	1560 hours, 13 mos.
744 Classroom hrs.- 7 mos.(6-hr. days)	
816 Clinical hrs.-6 mos.(7.5 hr. days)	

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: LR 17: (February 1991)

Em Tampke
Executive Director

RULE

Department of Education Office of Student Financial Assistance Louisiana Student Financial Assistance Commission

Agency Name Change

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Student Financial Assistance Commission (LASFAC) announces the agency's name change.

Act 1054 of the 1990 Regular Session of the Legislature changed the name of both the commission and the Office of Education Services. The commission's new title is the "Louisiana Student Financial Assistance Commission." The daily operations of the commission are carried out by the "Office of Student Financial Assistance."

All references in the Loan Program Policy and Procedure Manual to the "Governor's Special Commission on Education Services" are hereby changed to read the

"Louisiana Student Financial Assistance Commission" and the "Office of Student Financial Assistance," respectively.

The new titles should help parents and students identify the agency as a source of information concerning student financial assistance programs.

The address, telephone, and FAX phone numbers for the agency remain unchanged and are as follows: Box 91202, Baton Rouge, LA 70821-9202; (504) 922-1011; (504) 922-1089 (FAX): 1-800-626-0115 (LA WATS); and 1-800-433-9578 (Out of State WATS).

The authority to adopt and implement the agency name change is Act 1054 of the 1990 Regular Session of the Legislature.

Jack L. Guinn
Executive Director

RULE

Department of Education Office of Student Financial Assistance Louisiana Student Financial Assistance Commission

Updated Cure Procedure on Old Delinquencies

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Student Financial Assistance Commission (LASFAC) amends and adopts the following policies and procedures regarding updated cure procedures on old delinquencies.

Effective October 1, 1990, the LASFAC has approval from USDE to use the same cure policy and procedures on all delinquent loans regardless of the first day of delinquency. In addition, for a loan where the first day of delinquency is before March 10, 1987, violations of due diligence may be cured by obtaining a judgment against the borrower.

If a lender has begun a cure using the old procedures and determines that he will not be able to complete the cure by the October 1, 1990 deadline, contact the claims section (922-1011) for an extension of time on the amounts affected.

The LASFAC believes this change will benefit all program participants by making the cures uniform, and will eliminate the confusion in determining which cure must be performed to restore the guarantee.

The authority to adopt and implement the updated cure procedure is written approval from the United States Department of Education (USDE).

Jack L. Guinn
Executive Director

RULE

Department of Education Office of Student Financial Assistance Louisiana Student Financial Assistance Commission

Guarantee Fee Schedule

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisi-

ana Student Financial Assistance Commission (LASFAC) amends and adopts the following policies and procedures regarding the guarantee fee schedule.

LASFAC reduced its guarantee fees charged students attending graduate/professional and traditional two- and four-year colleges.

The reduced guarantee fees apply only to loans guaranteed on or after July 1, 1990, and have school periods that began on or after July 1, 1990. Both of the criteria must be met for the reduced fee to apply.

The new fees are as follows:

Graduate/Professional	3% or \$60
Four-Year Colleges	3% or \$60
Two-Year Colleges	3% or \$60
Vocational/Technical	3%
Proprietary	3%
PLUS Loans (all schools)	3%
SLS Loans (all schools)	3%

LASFAC has authorized implementation of the revised guarantee fee schedule effective July 2, 1990.

Jack L. Guinn
Executive Director

RULE

Department of Education Office of Student Financial Assistance Louisiana Student Financial Assistance Commission

PLUS/SLS Variable Interest Rate Calculation for the Period
July 1, 1990 to June 30, 1991

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Student Financial Assistance Commission (LSFAC) amends and adopts the following policies and procedures regarding PLUS/SLS Variable Interest Rate Calculation for the period July 1, 1990 to June 30, 1991.

Effective July 1, 1990, the LASFAC announced a new interest rate of 11.49 percent for all PLUS/SLS loans.

The variable rate is subject to change every year over the life of the loan, therefore, it is impossible to predict whether a borrower will ultimately pay a loan earlier or later if the payments are kept constant.

USDE annually determines the interest rates and then gives LASFAC the authority to adopt and implement the PLUS/SLS variable interest rate change.

Jack L. Guinn
Executive Director

RULE

Department of Education Office of Student Financial Assistance Louisiana Student Financial Assistance Commission

Stafford, PLUS, SLS, and Consolidation Loan Special
Allowance Rates

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Student Financial Assistance Commission (LASFAC) amends and adopts the following policies and procedures regarding Stafford, PLUS, SLS, and Consolidation Loan Quarterly Special Allowance Rates.

The United States Department of Education pays a lender interest benefits and special allowance on eligible loans on a quarterly basis. The calendar quarters end on March 31, June 30, September 30 and December 31.

The U. S. Treasury Department determines the rates and the U. S. Department of Education authorizes payment of Special Allowance Rates.

Jack L. Guinn
Executive Director

RULE

Department of Employment and Training Office of Workers' Compensation Administration

The Department of Employment Training, Office of Workers' Compensation Administration, is repromulgating rules which govern safety requirements for employers.

These rules are authorized by R.S. 49:950 et seq. and 23:1291 et seq. and Acts 1083 and 1085 of the 1990 Legislative Session.

Acts 1083 and 1085 established a change in the law and required that the existing rules be repromulgated.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 9. Safety Requirements

§901. Statutory Requirements

A. Part IV, Subpart A, 1291(B)(4), Louisiana Statutes, as amended, requires every Louisiana employer of more than 15 employees to provide, if self-insured, or is provided by the carrier, if privately insured, plans for implementation of a working and operational safety plan. The plans shall be made available for inspection by the director upon request. The plan shall be privileged and confidential pursuant to R.S. 23:1293, provided that the operational safety plan may be subpoenaed from the employer who shall certify under oath that it is a duplicate of the plan submitted to the director.

B. In order to ensure adequate safety resources for Louisiana employers and employees, the director shall maintain a list of safety professionals/engineers from the private sector, which shall be available upon request by any Louisiana employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291 and Acts 1083 and 1085 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, Office of Workers' Compensation Administration, LR 17: (February 1991)

§903. Definitions

A. *Operational Safety Plan.* A document of undetermined length that will present simply and succinctly the program which the employer can follow to reduce accidents in the workplace and incidents of industrial and occupational disease. The safety plan shall comply with applicable local, state and federal safety and health standards or appropriate industry standards. To assist in the development of the components of the safety plan, the employer may utilize: 1) an in-house safety staff, 2) insurance carrier field safety representative or 3) private sector safety professionals/engineers as identified by a list maintained by the director. The components of a safety plan shall be outlined in §907.

B. *Professional Safety Experience.* The responsible charge of 75 percent or more of one's duties and function is for the successful accomplishment of safety objectives wherein the analysis, investigation, planning, execution of plans, feedback adjustments and the periodic reporting of progress is accomplished. Responsible charge does not imply supervisory responsibility.

*C. *Safety Professional/Engineer.* An active safety practitioner who possesses one or a combination of the following criteria:

1. graduation from an accredited college or university with a Bachelor's degree in engineering of science, plus five years or more of professional safety experience, of which two or more years shall have been in responsible charge. A Master's degree will be accepted in lieu of one year of the practitioner's professional safety experience. An earned Doctoral degree will be accepted in lieu of two years of the practitioner's professional safety experience.

2. an earned Associate degree from an accredited college or university in engineering or science plus eight years or more professional safety experience.

3. 10 years of professional safety experience in lieu of an engineering or science degree.

4. professional certifications:

- a. certified safety professional;

- b. certified hazard control manager;

- c. certified industrial hygienist;

- d. safety professional/engineers, insuring adequate safety resources, shall provide the following consultation services which will consist of, but not be limited to the following:

1. a review of the safety performance of the employer, its organization and activities;

2. an appraisal of the mechanical hazards, power transmission apparatus, material handling, unsafe work methods and hazardous processes;

3. advice and assistance in the detection of occupational health hazards and exposure;

4. provide assistance to the employer with the employee safety training programs;

5. make recommendations for appropriate safety corrective actions to be taken;

6. assists in the development of an employer's safety plan in compliance with LWC-15.

*Applies to individuals making application to the di-

rector for placement on the list of private sector safety professionals/engineers for safety services.

§905. Availability of Safety Services

A. A list shall be maintained by the director of safety practitioners from the private sectors, who (A) meet criteria as set forth in the definition of a "Safety Professional/Engineer" in §903. This list shall be made available to any Louisiana employer upon request.

B. In-house safety staff shall be a full-time employee(s) whose primary function within the organization includes work of progressive importance and achievement towards accident prevention.

C. Insurance carrier safety staffs are full-time employees whose primary functions include safety engineering services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291 and Acts 1083 and 1085 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, Office of Workers' Compensation Administration, LR 17: (February 1991)

§907. Components of a Safety Plan

Operating Safety Plan - Minimum requirement Class "A" and Class "B" Programs.

Class "A" - Workers' Compensation rate of over \$5 premium per \$100 of payroll for major classification or classification with highest amount of payroll.

Class "B" - Workers' Compensation rate of \$5 premium or less per \$100 of payroll of classification with highest amount of payroll.

A. Class A Plan

1. Management policy statement - signed by top executive acknowledging management responsibility and the desire for a plan and the intention to comply with all applicable local, state and federal safety requirements or appropriate industry standards. Management should commit resources, responsibility and accountability for the safety program.

2. Responsibility for safety - Be defined in writing for executive and operating management, supervision, safety coordinator and employees.

3. Inspections be made of all areas of the work place at least monthly by a supervisor at the site. A written report (check list or narrative) is to be completed for each inspection, with this report to be retained for a period of one year. The report will be designed to cover the identification of recognized unsafe conditions, unsafe acts and any other items inherent in a particular job. The form will include a space to indicate any corrective action. Responsibility for correction of defects is to be designated.

4. An accident investigation will be made on each injury requiring a visit to a clinic or physician and a report will be completed. The report will include information on the person injured, his or her job, what happened, what was the basic cause, what corrective action is required and the time frame the action is taken. The investigation is to be made and the report completed by the immediate supervisor of the injured person and/or an individual with specific investigative responsibility with follow-up to ensure recommended corrective measures are complete.

5. Safety meetings will be held by a supervisor with all of his/her employees on a monthly basis. A record will be

kept showing the topics discussed, date and the names of the persons attending the meeting.

6. Safety rules - Management will develop specific safety rules that would apply to the operation being performed. The rules should be short, concise, simple, enforceable and stated in a positive manner. The safety rules are to be followed and adhered to by all management personnel and all employees. The rules will be written with a copy provided to each employee and documented.

7. Training - Management shall implement a training program that will provide for training of each new employee, existing employees on a new job or when new jobs, equipment or work is initiated. The training provided will consist of, but not be limited to, the correct work procedures to follow, correct use of personal safety equipment required and where to get assistance when needed. This training should be accomplished by the job supervisor but may be done by a training specialist or an outside consultant such as a vendor or safety consultant. Training shall be provided to all persons in operating supervisory positions in: conducting safety meetings, conducting safety inspections, accident investigation, job planning, employee training methods, job analysis and leadership skills.

8. Record keeping - In addition to OSHA logs which are retained for five years (federal requirement), each firm will maintain other safety records for a period of one year from the end of the year for which the records are maintained (state requirement). These will include inspection reports, accident investigation reports, minutes of safety meetings, training records and the LDET-WC-1017A Form.

9. First aid - Management will adopt and implement a first aid program which will provide for a trained first aid person at each job site on each shift. A first aid kit with proper supplies for the job exposures will be maintained and restocked as needed. Emergency phone numbers for medical services and key company personnel must also be maintained.

B. Class "B" Plan

1. Management policy statement - Same as Class "A".

2. Definition of responsibility - Same as Class "A".

3. Inspections - Same as Class "A" except inspections are required to be conducted quarterly.

4. Accident investigation - Same as for Class "A".

5. Safety meetings - Same as for Class "A" except safety meetings are required to be conducted quarterly.

6. Safety rules - Same as for Class "A".

7. Training - Same as for Class "A".

8. Record keeping - Same as Class "A".

9. First aid - Same as Class "A".

Note the above items listed for Class "A" and Class "B" plans are considered as a minimum and should be referred to as such. Obviously, such items as planning, setting of objectives, performance evaluations, incentive programs, etc. should be included.

The minimum requirements are in no way intended to require the revision of existing company safety plans that have demonstrated proven performance in the past. Any company that has a plan which meets or exceeds these minimum requirements may submit its plan to the director for review and acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291 and Acts 1083 and 1085 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, Office of Workers' Compensation Administration, LR 17: (February 1991)

§909. Submission of Safety Plan

Safety plan shall be submitted to the director upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291 and Acts 1083 and 1085 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, Office of Workers' Compensation Administration, LR 17: (February 1991)

§911. Employee Notice

It shall be in the employer's duty to advise employees and keep posted at some convenient and conspicuous point in this place of business a notice reading substantially as follows:

LOUISIANA DEPARTMENT OF
EMPLOYMENT AND TRAINING
OFFICE OF WORKERS'
COMPENSATION ADMINISTRATION
POST OFFICE BOX 94040
BATON ROUGE, LOUISIANA 70804-9040

A. Notice of Compliance to Employees

1. You should report to your employer any occupational disease or personal injury that is work related, even if you deem it to be minor.

2. In case of occupational disease, all claims are barred unless the employee files a claim with his employer within six months of the date that:

a. the disease manifests itself.

b. the employee is disabled as a result of the disease.

c. the employee knows or has reasonable grounds to believe that the disease is occupationally related.

In case of death arising from an occupational disease, all claims are barred unless the dependent(s) files a claim with the deceased employee's employer within six months of:

a. the date of death.

b. the date the claimant has reasonable grounds to believe that the death resulted from an occupational disease.

3. In case of personal injury or death arising out of and in the course of employment, an injured employee, or any person claiming to be entitled to compensation either as a claimant or as a representative of a person claiming to be entitled to compensation, must give notice to the employers within 30 days of the injury. If notice is not given within 30 days, no payments will be made under the law for such injury or death.

4. The above mentioned claims should be filed with the employer at the address shown below.

5. In the event you are injured, you are entitled to select a physician of your choice for treatment. The employer may choose another physician and arrange an examination which you would be required to attend.

6. In order to preserve your right to benefits under the Louisiana Workers' Compensation Law, you must file a formal claim with the Office of Workers' Compensation Administration within one year after the accident if payments have

not been made or within one year after the last payment of weekly benefits.

7. This notice shall be given by delivering it or sending it by certified mail or return receipt requested to:

Employer Representative		

Employer Name		

Address		
_____	_____	_____
City	State	Zip

Inaccuracies in this notice of disease, injury, or death regarding the time, place, nature, or the cause of injury or otherwise will not be held against the employee unless the employer can show harm from being misled about the facts.

Failure to give notice may not harm the employee if the employer knew of the accident or if the employer was not prejudiced by the delay or failure to give notice. (Refer to Section 1304 and Section 1305 of Title 23 of the Louisiana Revised Statutes for the exact wording.)

8. If you desire any information regarding your rights and entitlement to benefits as prescribed by law, you may call or write to the Office of Workers' Compensation Administration at the above address, or telephone (504) 342-7555 or toll-free (800) 824-4592.

9. This notice should be posted conspicuously in and about employer's place(s) of business.

10. If the employer is insured, then include the name and address of insurance company.

11. If the employer fails to keep such a notice posted, the time in which the notice of injury shall be given shall be extended to 12 months from the date of the injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291 and Acts 1083 and 1085 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, Office of Workers' Compensation Administration, LR 17: (February 1991)

§913. Lost Time Injury Reports

Within 10 days of actual knowledge of injury to an employee which results in death or in lost time in excess of one week after the injury, the employer shall report same to the carrier, if any, and to the office on form LDET-WC-1007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291 and Acts 1083 and 1085 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, Office of Workers' Compensation Administration, LR 17: (February 1991)

Phyllis Coleman Mouton
Secretary

RULE

Department of Employment and Training Workers' Compensation Second Injury Board

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 23:1376 A, the Workers' Compensation Second Injury Board has amended and repromulgated rules and regulations.

These rules and regulations provide for the Workers' Compensation Second Injury Board to process claims, including the time limit to file the claim, disposition of the claim, hearing procedures, and appeals from a decision of the board.

Title 40

LABOR AND EMPLOYMENT

Part III. Workers' Compensation Second Injury Board

Chapter 1. General Provisions

§101. Authority

These rules of practice and procedure are promulgated by the authority of R.S. 49:950 et seq., as amended, the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:145 (February 1975), amended LR 3:48 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§103. Domicile of Board, Time of Meeting, Special Meetings

The board shall be domiciled in Baton Rouge, Louisiana. It shall hold its regular meeting on the first Thursday of each month. Special meetings may be called upon giving three days' advance notice thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1372.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:145 (February 1975), amended LR 3:48 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§105. Definitions

A. By reference, all of the definitions set forth and contained in R.S. 49:950 through 49:966, inclusive, are incorporated herein, and for the purpose of hearings to be held hereunder, the following definitions shall prevail.

1. *Board* shall mean the Louisiana Workers' Compensation Second Injury Board.

2. *Hearing* shall mean a hearing called by the board under the authority of R.S. 23:1378, Subsection C.

3. *Hearing Officer* shall be the chairman or vice chairman or any other person determined by the board to be qualified to conduct hearings on its behalf.

4. *Applicant* shall mean the employer or insurer making claim for reimbursement from the Workers' Compensation Second Injury Fund.

5. *Insurer* shall mean the workers' compensation insurance carrier of an employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

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

tion, Second Injury Board, LR 1:145 (February 1975), amended LR 3:48 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§107. Presentation of Claim for Reimbursement from Second Injury Fund, Timely Filing Thereof

Within one year after the first payment of any compensation or medical benefits, the employer or his insurer, whichever of them makes the payments or becomes liable therefor, shall notify the board in writing of such facts and furnish such other information as may be required for the board to determine if the employer or his insurer is entitled to reimbursement from the Workers' Compensation Second Injury Fund. No employer, insurer, servicing agent or self-insured association shall be reimbursed unless the board is notified within one year from the date of the first payment of any compensation or medical benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§109. Disposition of Claim

A. The board shall conduct such investigations, order such hearings and take such other actions as it finds necessary to make an intelligent decision on the claim. At least 30 days prior to the date of the board meeting at which a decision on the claim is to be made, all interested parties shall be notified of the following:

1. the date, time, place and purpose of the meeting;
2. that a formal hearing on the claim pursuant to the provisions of R.S. 49:955, may be requested provided such request is made in writing and is received in the office of the board at least 10 days prior to the date of said meeting;
3. that unless a formal hearing is requested as provided in (2) above, the board will render its decision on the claim at said meeting.

B. Where no hearing is requested, the board shall issue a written decision as soon after said meeting as the facts and circumstances will allow. Parties shall be notified by mail of such decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§111. Commencement of Hearings

As authorized by R.S. 23:1378C and these rules of practice and procedure, hearings may be instituted by the board on timely request by the applicant or, at any time, on the board's own motion. No request by the applicant for a hearing shall be effective unless it is made in writing and received in the office of the board at least 10 days prior to the date of the board meeting at which a decision on the claim is to be made as set forth in Section 5 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975),

amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§115. Notice

The board shall notify the applicant at least 15 days prior to the hearing and such notice shall conform to the requirements of R.S. 49:955.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§117. Answer or Appearance

The applicant may file an answer or otherwise make an appearance on or before the date fixed for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§119. Leave to Intervene Necessary

Persons, other than the original parties to any proceedings, whose interests are to be directly and immediately affected by the proceedings, shall secure an order from the board or hearing officer appointed by it granting leave to intervene before being allowed to participate; provided that the granting of leave to intervene in any matter or proceeding shall not be construed to be a finding or determination of the board or hearing officer for purposes of court review or appeal.

Petitions for leave to intervene must be in writing and must clearly identify the proceeding in which it is sought to intervene. Such petition must set forth the name and address of the petitioner and contain a clear and concise statement of the direct and immediate interest of the petitioner in such proceedings, stating the manner in which such petitioner will be affected by such proceedings, outlining the matters and things relied upon by such petitioner as a basis for his request to intervene in such cause, and, if affirmative relief is sought, the petition must contain a clear and concise statement of relief sought and the basis thereof, together with a statement as to the nature and quality of evidence petitioner will present if such petition is granted.

Petitions to intervene and proof of service of copies thereof on all other parties of record shall be filed not less than two days prior to the commencement of the hearing. Thereafter, such petition shall state a substantial reason for such delay; otherwise, such petition will not be considered.

If a petition to intervene shows direct and immediate interest in the subject matter of the proceeding or any part thereof and does not unduly broaden the issues, the board may grant leave to intervene or otherwise appear in the proceeding with respect to the matters set out in the intervening petition, subject to such reasonable conditions as may be prescribed. If it appears during the course of a proceeding that an intervenor has no direct or immediate interest in the proceeding, and the public interest does not require his participation therein, the board may dismiss him from the proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§121. Default in Answering or Appearing

In the event of the failure of any respondent to answer or otherwise appear within the time allowed, and provided that the foregoing rules as to service have been complied with, the respondent or respondents so failing to answer or otherwise plead to or to appear, shall be deemed to be in default, and the allegations of the complaint, petition or order to show cause, as the case may be, together with the evidence to support the same, shall be entered into the record and may be taken as true and the order of the board entered accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§123. Hearing Procedure

A. Hearing held under these rules and regulations shall be conducted by the board, or by its designated hearing officer, in accordance with the rules and procedures set forth in R.S. 49:956.

1. The chairman of the board or the vice chairman in the absence of the chairman or the hearing officer assigned to the matter shall announce the title and docket number of the proceedings before the board and direct a reading into the record of the notice of hearing together with the written appearances of the applicant and shall note the subpoenas issued and returns thereon. Attorneys and/or other representatives of the applicant shall be recognized along with the representatives of the board and other proper parties.

2. The applicant shall then present his evidence subject to cross examination by the board and other proper parties in those cases where the applicant requested the hearing be held.

3. The board shall then present its evidence subject to cross examination by the applicant and other proper parties.

4. Where the board has called the hearing on its own motion, the order of presentation of evidence shall be reversed.

5. The board may make an informal disposition of the case by stipulation, agreed settlement, consent order or default.

6. The board shall render its final decision and order in accordance with R.S. 49:958.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§125. Finality of Board's Decision

The decision of the board shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§127. Appeal

An appeal from an adverse final decision of the board, as to liability under the act or the amount of such liability or both, may be taken by the aggrieved party provided such appeal is filed, pursuant to the provisions of R.S. 23:1378E, within 30 days after the date shown on the written notice of said final decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§129. Stenographic Record of Hearing

At the expense of and at the written request made not less than five days prior to the date set for the hearing by any person affected by the hearing, the board or the person designated by it to hold the hearing shall cause a full stenographic record of the proceedings to be made by a competent stenographic reporter and, if transcribed, such records shall be made a part of the record of the board of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

§131. Docket

When a hearing is instituted, it shall be assigned a number and entered with the date of its filing on a separate page of docket provided for such purpose. The board shall establish a separate file for each such docketed case, in which shall be systematically placed all papers, pleadings, documents, transcripts, evidence and exhibits pertaining thereto, and all such items shall have noted thereon the docket number assigned and the date of filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), LR 3:497 (December 1977), LR 17: (February 1991).

James E. Campbell
Director

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection**

Under the authority of the Louisiana Environmental Quality Act, LA R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, LA R.S.

49:950, et seq., the secretary has amended the Louisiana Air Quality Regulations, LAC 33:III.3131.

These regulations will incorporate federal regulations into the general provisions of the Air Quality Regulations and include general provisions for flares when used as control devices to limit emissions from facilities. The corresponding federal regulations are found in the *Federal Register* published January 21, 1986 (51 FR 2701, Number 13).

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 31. Standards of Performance for New Stationary Sources

Subchapter A. General Provisions and Modifications

§3131. General Control Device Requirements

A. Introduction. This Section contains requirements for control devices used to comply with applicable Subchapters in Chapters 31 and 51. These requirements apply only to facilities covered by subchapters referencing this Section.

B. Flares

1. Flares shall be designed and operated as follows.

a. Flares shall be designed for and operated with no visible emissions as determined by the methods specified in Subsection B.4 of this Section, except for periods not to exceed a total of five minutes during any two consecutive hours.

b. Flares shall be operated with a flame present at all times, as determined by the methods specified in Subsection B.4 of this Section.

c. Flares shall be used only if the net heating value of the gas being combusted is 11.2 Megajoules/scm (300 Btu/scf) or greater for steam-assisted or air-assisted flares, or if the net heating value of the combusted gas is 7.45 Megajoules/scm (200 Btu/scf) or greater for nonassisted flares. The net heating value of the gas being combusted shall be determined by the methods specified in Subsection B.4 of this Section.

d. The following exit velocity limitations apply to steam-assisted and nonassisted flares.

i. Steam-assisted and nonassisted flares shall be designed for and operated with an exit velocity, as determined by the methods specified in Subsection B.4.d of this Section, of less than 18.3 m/sec (60 ft/sec), except as provided in Clauses B.1.d.ii and iii of this Section.

ii. Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in Subsection B.4.d of this Section, equal to or greater than 18.3 m/sec (60 ft/sec), but less than 122 m/sec (400 ft/sec), are allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf).

iii. Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in Subsection B.4.d of this Section, less than the velocity, V_{max} , as determined by the method specified in Subsection B.4.e of this Section, and less than 122 m/sec (400 ft/sec) are allowed.

e. Air-assisted flares shall be designed and operated with an exit velocity less than the velocity, V_{max} , as determined by the method specified in Subsection B.4.f of this Section.

f. Flares used to comply with this Section shall be steam-assisted, air-assisted, or nonassisted.

2. Owners or operators of flares used to comply with the provision of this Section shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs. Applicable Subchapters will contain provisions stating how owners or operators of flares shall monitor these control devices.

3. Flares used to comply with provisions of this Section shall be operated at all times when emissions may be vented to them.

4. The following requirements for compliance monitoring shall be met.

a. Reference Method 22 (LAC 33:III.6079) shall be used to determine the compliance of flares with the visible emission provisions of this Section. The observation period is two hours and shall be used according to Method 22.

b. The presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.

c. The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

$$H_T = K \sum_{i=1}^n C_i H_i$$

where:

H_T = Net heating value of the sample, MJ/scm, where the net enthalpy per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°C;

K = Constant, 1.740×10^{-7} (1/ppm) (g mole/scm) (MJ/kcal), where the standard temperature for (g mole/scm) is 20°C;

C_i = Concentration of sample component i in ppm on a wet basis, as measured for organics by Reference Method 18 (LAC 33:III.6071) and measured for hydrocarbon and carbon monoxide by ASTM D1946-77; and

H_i = Net heat of combustion of sample component i , kcal/g mole at 25°C and 760 mm Hg. The heats of combustion may be determined using ASTM D2382-76 if published values are not available or cannot be calculated.

d. The actual exit velocity of a flare shall be determined by dividing the volumetric flow rate in units of standard temperature and pressure, as prescribed by Reference Methods 2, 2A, 2C, or 2D (LAC 33:III.Chapter 60), as appropriate, and by the unobstructed (free) cross-sectional area of the flare tip.

e. The maximum permitted velocity, V_{max} , for flares in compliance with Clause B.1.d.iii of this Section shall be determined by the following equation:

$$\text{Log}_{10}(V_{max}) = (H_T + 28.8)/31.7$$

where: V_{max} = Maximum permitted velocity, sec;

28.8 = Constant;

31.7 = Constant; and

H_T = The net heating value as determined in Subparagraph B.4.c of this Section.

f. The maximum permitted velocity, V_{max} , for air-assisted flares shall be determined by the following equation:

$$V_{max} = 8.706 + 0.7084 (H_T)$$

where:

V_{max} = Maximum permitted velocity, m/sec;

8.706 = Constant;

0.7084 = Constant; and

H_T = The net heating value as determined in Subparagraph B.4.c of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17: (February 1991).

Paul H. Templet, Ph.D.
Secretary

RULE

**Office of the Governor
Division of Administration
Community Development Section**

**Louisiana Community Development Block Grant
(LCDBG) Program
FY 1991 Final Statement**

I. Program Goals and Objectives

The LCDBG Program, as its primary objective, provides grants to units of general local government in nonentitlement areas for the development of viable communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this objective, not less than 60 percent of the aggregate of fund expenditures shall be for activities that benefit low and moderate income persons.

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

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

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

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

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

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

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

B. benefit low and moderate income persons;

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

or

D. provide for other community development needs

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

II. General

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

The state shall establish deadlines for submitting applications and notify all eligible applicants through a direct mailing. The applications submitted for FY 1990 funds for housing and public facilities were rated and ranked and funded to the extent that monies were available. The ranking under the FY 1990 program will also be used to determine the grants selected for funding under the FY 1991 LCDBG Program. In other words, the top ranked applications, to the extent that monies are available, were funded under the FY 1990 program; the next highest ranked applications will be funded in FY 1991 to the extent that monies are available. Only one application for housing or public facilities could be submitted for FY 1990 funds; that same application will be considered for FY 1991 funds. No new applications for housing and public facilities will be accepted in FY 1991. Only new applications for economic development and demonstrated needs funds will be accepted for FY 1991.

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

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

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

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

2. If the proposed project will serve beneficiaries that reside in more than one unit of general local government and no more than 51 percent of the beneficiaries are located within the jurisdiction of one of those units, this state will consider this as a joint or multi-jurisdictional application. Such an application will require a meeting with this office prior to submitting the application. The purpose of that meeting will be to determine the appropriate applicant and to explain all of the steps that must be taken by all units of local government involved in the application. All local governing

bodies involved in this application must be eligible according to the threshold criteria. The designated applicant (one unit of government) would apply for the grant and act as the representative for the other participating units. Although each jurisdiction would have to make the required certifications, the designated applicant would be responsible for ensuring that the approved activities would be carried out in accordance with all applicable state and federal requirements. To meet the citizen participation requirements for a multi-jurisdictional application, *each* unit of government involved would have to hold the public hearings and publish the notices required for an application. The application would also have to contain individual sets of assurances signed by each local governing body involved. The designated applicant would also have to enter into a legally binding cooperation agreement with each local governing body stating that all appropriate requirements of the Housing and Community Development Act of 1974, as amended, will be complied with; those specific requirements will be discussed during the pre-application meeting with this office. A copy of the cooperation agreement must be included in the application.

C. Eligible Activities. An activity may be assisted in whole or in part with LCDBG funds if the activity meets the provisions of Title 24 of the U. S. Code of Federal Regulations, Subpart C, as provided in Appendix 2. For application purposes, eligible activities are grouped into the program areas of housing, public facilities, economic development or demonstrated need.

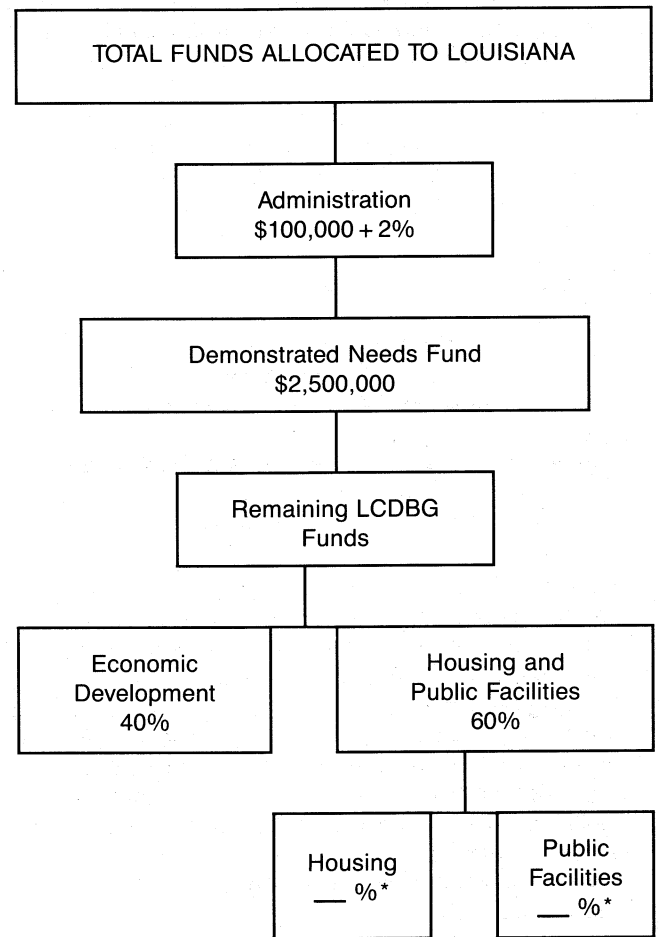
D. Types of Grants. The state will only accept applications for single purpose grants. A single purpose grant provides funds for one need (water or sewer or housing, etc.) consisting of an activity which may be supported by auxiliary activities. Single purpose economic development grants are for one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

E. Distribution of Funds. Approximately \$23,000,000 (subject to federal allocation) in funds will be available for the FY 1991 LCDBG Program. Figure 1 shows how the total funds will be allocated among the various program categories.

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

In addition, \$2,500,000 will be set aside for the Demonstrated Needs Fund. Since the creation and retention of permanent jobs is so critical to the economy of the state of Louisiana, up to 40 percent of the remaining LCDBG funds will be allocated specifically for economic development type projects. Only economic development applications will compete for these funds. Economic development applications and demonstrated needs applications will be accepted on a continual basis within the timeframe designated by the state. Public facilities and housing applications will be funded with the remaining LCDBG funds. This fund will be divided into two program categories as identified in Figure 1; the exact distribution of these funds will be based upon the number of applications received and amount of funds requested in each program category as established under the FY 1990 LCDBG Program. Half of the money will be allocated based on the number of applications received in each category and half based on the amount of funds requested in each category with a maximum of 15 percent of the funds allocated to housing. Within the maximum 15 percent allocated for housing, an award of up to \$500,000 will

FIGURE 1



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

be made for an "innovative housing" program. The public facilities category will be allocated in the same manner, by number and dollar amount of applications for sewer, water (potable water and fire protection), and other type projects.

Six months following the date of the state's executed grant agreement with HUD, the status of the monies originally allocated (40 percent) for economic development will be evaluated. At that time, any monies in excess of half of the original allocation which have not yet been applied for under the economic development category will then be transferred to the current program year's public facilities category to fund the project(s) with the highest score that was not initially funded. Twelve months following the date of the state's executed grant agreement with HUD, all monies not yet applied for which remain in the original allocation for economic development will be transferred to the current program year's public facilities category to continue to fund the highest ranked project(s) not already funded. In this lat-

ter instance, if a determination is made that a particular application for economic development funds will not be funded, the funds reserved for that application will be immediately transferred to the current program year's public facilities category.

F. Size of Grants

1. Ceilings. The state has established a funding ceiling of \$550,000 for housing grants, \$500,000 for an innovative housing grant, \$600,000 for public facilities grants with the exception of sewer grants which have a funding ceiling of \$750,000, and \$225,000 for demonstrated needs grants. The state has established a funding ceiling of \$600,000 for economic development projects involving a loan for the creation of a new business, and a funding ceiling of \$1,000,000 for economic development projects involving a grant to the local governing body for infrastructure improvements, and a funding ceiling of \$300,000 for the acquisition, construction or rehabilitation of buildings and improvements (including parking lots) by the local governing body when necessary for the creation/retention of jobs. Projects involving infrastructure improvements and the acquisition, construction, or rehabilitation of buildings and improvements shall have a total combined funding ceiling of \$1,000,000. No funding ceiling is imposed for economic development projects involving a loan for the expansion of an existing business.

Within the ceiling amounts the state allows applicants to request funds for administrative costs with the following limitations. Administrative funds for housing programs cannot exceed 12 percent of the estimated housing costs. Each local governing body will be allowed a maximum of \$35,000 in LCDBG funds for administrative costs on public facilities, demonstrated needs, and economic development projects; within the \$35,000 maximum, the local governing body may utilize no more than \$30,000 for administrative consulting services. In all instances (including those where the local governing body requests less than the maximum allowed for administrative costs), the local governing body must retain sufficient LCDBG administrative funds to cover its costs of administering the LCDBG Program; such costs on the local governmental level include but are not limited to audit fees, advertising and publication fees, staff time, workshop expenses, et cetera. In addition to the general administrative funds on economic development programs involving a loan to a new business, the state will provide an additional two percent of the estimated economic development project costs or \$3,000 whichever is greater, up to a maximum of \$5,000. These additional funds are specifically dedicated for the grantee to contract with a Small Business Development Center. If, after a project has been funded, the scope of the project changes significantly, the state will make a determination as to the actual amount which will be allowed for administrative costs; this determination will be made on a case-by-case basis.

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

2. Individual Grant Amounts. Grants will be provided in amounts commensurate with the applicant's program. In

determining appropriate grant amounts for each application, the state shall consider an applicant's program. In determining appropriate grant amounts for each application, the state shall consider an applicant's need, proposed activities, and ability to carry out the proposed program.

G. Restrictions on Applying for Grants

1. With the exception of parishes which have an unincorporated population of more than 25,000, each eligible applicant could apply for one housing or public facilities grant under the FY 1990 LCDBG Program; that application will also be considered for funding under the FY 1991 LCDBG Program. Those parishes which had an unincorporated population of more than 25,000 were allowed to submit a maximum of two single purpose applications for housing or public facilities with a combined maximum request of \$1.5 million; the individual amounts requested per application could not exceed the funding ceiling amount for that particular type of application as identified in Section II.F.1. Those parishes as identified by the U.S. Bureau of the Census, Current Population Reports, Series P-26, No. 86-S-Sc, *South-1986 Population and 1985 Per Capita Income Estimates for Counties and Incorporated Places* included: Acadia, Ascension, Bossier, Caddo, Calcasieu, Lafayette, Lafourche, Livingston, Ouachita, Plaquemines, Rapides, St. Bernard, St. Charles, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Vermilion, Vernon, and Washington.

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

2. Capacity and Performance: Threshold Considerations for Grant Approval. No grant will be made to an applicant that lacks the capacity to undertake the proposed program. In addition, applicants which have previously participated in the Community Development Block Grant Program must have performed adequately. Performance and capacity determinations for FY 1991 will be made as of the date the state receives its executed grant agreement from HUD. In determining whether an applicant has performed adequately, the state will examine the applicant's performance as follows.

In order to be eligible for a grant award in FY 1991, the following thresholds must have been met.

(a) Units of general local government will not be eligible to receive funding unless past CDBG programs awarded by HUD have been closed out.

(b) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1983, FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989 and FY 1990) awarded by the state have been conditionally closed-out with the following exceptions.

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

Those parishes with an unincorporated population of more than 25,000 (identified in Section II. G. 1) that may have received a grant award under the FY 1990 LCDBG Program will also be eligible for an FY 1991 award if the state makes the determination that the recipient has thus far performed adequately.

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

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

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

All applications were rated upon receipt. Any applications that were determined to be ineligible for FY 1990 funding will be re-evaluated for eligibility for FY 1991 funding.

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

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

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

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

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

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

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

5. *Division* refers to the Division of Administration.

III. Method of Selecting Grantees

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

A. Data

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

(a) *Census Data.* If an applicant in a non-metropolitan area chooses to utilize census data rather than conducting a local survey, the higher of either 80 percent of the 1980

median income of the parish or 80 percent of the median income of the entire non-metropolitan area of the state will be utilized to determine the low/moderate income levels. The 1980 annual income limits for low/moderate income persons for each parish is shown in Appendix 4. The FY 1979 median income for non-metropolitan Louisiana was \$15,011; therefore, the non-metropolitan low/moderate income level would amount to \$12,009. The low and moderate income levels for applicants in Metropolitan Statistical Areas (MSAs) will be determined on the basis of the entire MSA.

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

(b) *Local Survey.* If the applicant chooses to conduct a local survey, the survey sheet in the FY 1990 application package must be used. Local surveys must be conducted for all housing activities.

When conducting a local survey rather than using 1980 census data, an applicant in a non-metropolitan area will determine the low and moderate income level based on the higher of either 80 percent of the median income of the parish or 80 percent of the median income of the entire non-metropolitan area of the state. The annual income limits for low/moderate income persons for each parish are provided in Appendix 3. The FY 1990 median income for non-metropolitan Louisiana was \$24,600; therefore, the non-metropolitan state low/moderate income level would amount to \$19,700 and the low income limit would be \$12,300. The low and moderate income levels for applicants in Metropolitan Statistical Areas (MSAs) will be determined on the basis of the entire MSA.

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

# OF PERSONS IN HOUSEHOLD	% OF PARISH/MSA* MEDIAN INCOME
1	50
2	64
3	72
4	80
5	85
6	90
7	95
8 or more	100

*MSA = Metropolitan Statistical Area

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

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

Where n = required number of households in sample
Where N = total number of occupied households in target area. If the situation arises where it must be determined as to whether or not the sample taken was indeed random,

then standard statistical tests at the appropriate geographical level will be used.

B. Program Objectives

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

C. Rating Systems

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

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

1. Housing (Total of 100 points)

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

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

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

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

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

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

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

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

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

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

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

The raw scores were arrayed and the top ranked applicant(s) received 25 points.

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

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

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

2. Innovative Housing

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

3. Public Facilities (Total of 81 Points)

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

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

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

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

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

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

- 85% or more - 5 points
- at least 70% but less than 85% - 4 points
- at least 60% but less than 70% - 3 points

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

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

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

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

Cost estimates per person benefitting were carefully evaluated. The cost per person benefitting was calculated for all projects. All applicants for the same type project (sewer, potable water, water for fire protection, and other) were grouped and each of these groups was then grouped by whether the project was for a new system, improvements

to an existing system, or both. Once all of these separate groups were established, they were separated into categories based on the number of persons benefitted. An average cost per person benefitting was then determined for each of these categories. Each applicant in a given category was scored relative to that average cost per person figure determined for that given category. An average cost project will receive 10 points, a project with a lower than average cost per person benefitting will receive more than 10 points (a maximum of 20), and a project with higher than average cost per person will receive fewer than 10 points. The following formula was used to determine the cost effectiveness points for each applicant in each grouping:

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

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

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

This was rated based upon the severity of the problem and extent of the effect upon the health and welfare of the community. Priority was given to sewer and water systems addressing potable water and fire protection.

In assigning points for project severity, the following general criteria were critiqued for the type of project proposed.

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

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

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

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

Those applicants which injected local funds into project construction received one bonus point. This point was

only assigned when the amount of local funds met or exceeded 10 percent of the total construction costs (including contingencies but excluding administrative and engineering services costs). The 10 percent calculation did not include any local funds which were used to pay for any engineering and/or administrative services but did include any local funds which will be used to pay off loans received from other state, federal, or private sources.

4. Economic Development

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

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

An application for LCDBG-ED funds may be submitted at any time during the year.

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

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

In some instances it may be necessary and appropriate for a local unit of government to receive a grant for infrastructure improvements or the acquisition, construction, or rehabilitation of a building needed by a specific developer before his proposed job creation project can be fully implemented. This economic development grant could be used by the local unit of government to provide sewer, water, and street/road access on public property to the industrial/business site. It cannot be used to acquire, construct, or rehabilitate a building or to create a general industrial park project with the hope that a business client will then be attracted. It

must be tied to a specific developer creating a specific number of jobs for low to moderate income people. Although the grant will be tied to a specific developer, all/any other developments that occur within the life of the program as a result of the infrastructure improvements must also be considered to fall under LCDBG requirements. Therefore, when preparing the closeout documents, the job creation/retention and low/moderate income figures would be the total of all of the benefitting businesses in aggregate. It must be a "but for" situation, where the business cannot locate or expand at that site unless the particular infrastructure is provided. The developer must show why this location, which lacks proper infrastructure, must be used instead of another site which already has proper infrastructure. The developer must provide sufficient financial and other statements, projections, etc. to establish that the business is likely to be successful, and will create the appropriate number of jobs at the site in a specified timeframe. Certain assurances by the developer, related to the timing of his development on the site, will be required. Other agreements between the local governing body and the developer/property holder, relative to public rights of way, et cetera will be required as needed on an individual project basis.

The maximum amount available to the local governing body for an infrastructure or building acquisition, construction, or rehabilitation type project grant is \$10,000 per job created or retained, with a \$1,000,000 limit for infrastructure improvements on any single project (including a building and improvements) or a \$300,000 limit for the acquisition, construction, or rehabilitation of a building and improvements, including parking lots.

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

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

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

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

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

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

Personal endorsement from all principals of corporations, partnerships, or sole proprietorships shall be required

on the LCDBG loan documents. The principals shall: 1) endorse the LCDBG loan to the corporation and 2) guarantee the payment and fulfillment of any obligation of the corporation. These endorsements will be made jointly to the local government and state of Louisiana.

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

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

(c). A minimum of 10 jobs created or retained is required for LCDBG-ED assistance.

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

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

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

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

The state shall look to the local governing body for repayment of all funds disbursed under this contract and default by the developer shall not be considered as just cause for non-payment by the local governing body. In case

of a default by the local governing body in the repayment of contract funds to the state, in accordance with the terms and conditions of the contract, the full sum remitted to the local governing body shall become due and payable to the state upon demand, without the need of putting the local governing body in default.

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

D. Demonstrated Needs Fund

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

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

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

1. General Eligibility

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

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

2. Critical/Urgent Need - Project Severity

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

The project evaluation request will be submitted to the appropriate cognizant agency by the applicant. In addition to the stipulation that the critical/urgent need must have developed within six months prior to submittal, the cognizant agency will rate the severity or urgency of the project on a scale of 1 to 10 based upon the same criteria established by the cognizant agency for determining program severity for public facilities projects. Only those projects receiving a rating of 9 or 10 from the cognizant agency will be fundable.

3. Application Requirements

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

E. Submission Requirements

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

(1) Program narrative statement. This shall consist of:

- i. identification of the national objective(s) that the activity will address.
- ii. detailed description of each activity to be carried out with LCDBG assistance. The description of each activity must clearly identify the target area or areas by street names, highway names or numbers for each street serving as a boundary of the target area. The written description must clearly and exactly conform to the designated area or areas on the map(s). A detailed cost estimate is also re-

quired for each activity. If the proposed activity is dependent on other funds for completion, the source of funds and the status of the commitment must also be indicated. If the applicant is applying for a public facilities project, the description must specifically describe what means will be taken by the applicant to ensure that adequate revenues will be available to operate and maintain the proposed project; the description must identify the source of and estimated amount of funds that will be generated for this purpose.

iii. A statement describing the impact the activity will have on the problem area selected and on the needs of low and moderate income persons, including information necessary for considering the program impact.

iv. A statement on the percent of funds requested that will benefit low and moderate income persons. The statement should indicate the total number of persons to be served and the number of such persons that meet the definition of low and moderate income.

(2) Map. A map of the local jurisdiction which identifies by project area:

i. census tracts and/or enumeration districts by number;

ii. location of concentrations of minorities, showing number and percent by census tracts and/or enumeration districts;

iii. location of concentrations of low and moderate income persons, showing number and percent by census tracts and/or enumeration districts;

iv. boundaries of areas in which the activities will be concentrated;

v. specific locations of each activity.

(3) Program schedule. Each applicant shall submit, in a format prescribed by the state, a listing of dates for major milestones for each activity to be funded.

(4) Title VI compliance. All applicants shall submit, in a form prescribed by the state, evidence of compliance with Title VI of the Civil Rights Act of 1964. This enables the state to determine whether the benefits will be provided on a nondiscriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(5) Certification of assurances. The certificate of assurances required by the state, relative to federal and state statutory requirements, shall be submitted by all applicants; this certificate includes, but is not limited to, Title VI, Title VIII, and affirmatively furthering fair housing. In addition, each recipient should target at least 15 percent of all grant monies for minority enterprises. All assurances must be strictly adhered to; otherwise, the grant award will be subject to penalty.

(6) Certification to minimize displacement. The applicant must certify that it will minimize displacement as a result of activities assisted with LCDBG funds. In addition to minimizing displacement, the applicant must certify that when displacement occurs reasonable benefits will be provided to persons involuntarily and permanently displaced as a result of the LCDBG assistance to acquire or substantially rehabilitate property. This provision applies to all displacement with respect to residential and nonresidential property not governed by the Uniform Relocation Act.

(7) Certification of residential antidisplacement and relocation assistance plan. The applicant must certify that it has developed and is following a residential antidisplacement

ment and relocation assistance plan. The plan must include two components - a requirement to replace all low/moderate income dwelling units that are demolished or converted to a use other than low/moderate income housing as a direct result of the use of CDBG assistance and a relocation assistance component.

(8) Certification to promote fair housing opportunities. Applicants are required to certify that they will make every effort to further fair housing opportunities in their respective jurisdictions.

(9) Certification prohibiting special assessments. The applicant must submit a certification prohibiting the recovery of capital costs for public improvements financed, in whole or in part, with LCDBG funds through assessments against properties owned and occupied by low and moderate income persons. The prohibition applies also to any fees charged or assessed as a condition of obtaining access to the public improvements.

(10) Certification of citizen participation. Applicants shall provide adequate information to citizens about the Community Development Block Grant Program. Applicants shall provide citizens with an opportunity to participate in the planning and assessment of the application for Community Development Block Grant Program funds. At least one public hearing must be held prior to application preparation in order to obtain the citizens' views on community development and housing needs. A notice must be published informing the populace of the forthcoming public hearing; a minimum of five calendar days is required for this notice. The notice must inform the citizens that accommodations will be provided for individuals with handicaps and non-English speaking persons. Citizens must be provided with the following information at the hearing:

- i. the amount of funds available for proposed community development and housing activities;
- ii. the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income;
- iii. the plans of the applicant for minimizing displacement of persons as a result of activities assisted with such funds and the benefits to be provided to persons actually displaced as a result of such activities;
- iv. if applicable, the applicant must provide citizens with information regarding the applicant's performance on prior LCDBG programs funded by the state.

A second notice must be published after the first public hearing has been held but before the application is submitted. The second notice must inform citizens of the proposed objectives, proposed activities, the location of the proposed activities and the amounts to be used for each activity. Citizens must be given the opportunity to submit comments on the proposed application. The notice must further provide the location at which and hours when the application is available for review. The notice must state the proposed submittal date of the application. In order to provide a forum for citizen participation relative to the proposed activities, a second hearing must be held to receive comments and discuss the proposed application. The details on this second hearing should be included in the second public notice. The notice must inform the citizens that accommodations will be made for individuals with handicaps and non-English speaking persons.

Applicants must submit a notarized proof of publica-

tion of each public notice.

Each applicant shall provide citizens with adequate opportunity to participate in the planning, implementation, and assessment of the CDBG program. The applicant shall provide adequate information to citizens, hold public hearings at the initial stage of the planning process to obtain views and proposals of citizens, and provide opportunity to comment on the applicant's community development performance. In order to achieve these goals each applicant shall prepare and follow a written citizen participation plan that incorporates procedures for complying with the following regulations (a-g). The plan must be made available to the public at the beginning of the planning stage, i.e., the first public hearing.

The written plan must:

(a) provide for and encourage citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;

(b) provide citizens with reasonable and timely access to local meetings, information, and records relating to the state's proposed method of distribution, as required by regulations of the secretary, and relating to the actual use of funds under Title I of the Housing and Community Development Act of 1974, as amended;

(c) provide for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

(d) provide for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodations for the handicapped and non-English speaking persons.

(e) provide for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

(f) identify how the needs of non-English speaking and handicapped residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

(g) establish procedures and policies to ensure non-discrimination based on handicap in programs and activities receiving federal financial assistance as required by Section 504 of the Rehabilitation Act of 1973, as amended.

(11) Certification Regarding Lead-Based Paint. The applicant must certify that its notification, inspection, testing, and abatement procedures concerning lead-based paint are in compliance with Section 570.608 of the Housing and Community Development Act of 1974, as amended.

(12) Certification on Excessive Use of Force. This certification will require each unit of general local government to be distributed Title I funds to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent Civil Rights demonstrations in accordance with Section 519 of Public Law 101-144 (the 1990

HUD Appropriations Act).

(13) Certification Regarding Government-Wide Restrictions on Lobbying. The applicant must certify that no federally appropriated funds have been paid for any lobbying purposes regardless of the level of government.

(14) The state may require additional certifications from applicants/recipients whenever so required by federal regulations.

(15) Local survey data. Those applicants who conduct a local survey to determine specific data required for the application must include one copy of all completed survey forms.

(16) Submission of additional data. Only that data received by the deadline established for applications will be considered in the selection process unless additional data is specifically requested by the state. Material received after the deadline will not be considered as part of the application, unless requested by the state.

F. Application Review Procedure.

(1) The application must be mailed or delivered prior to any deadline dates established by the division. The applicant must obtain a "certificate of mailing" from the post office, certifying the date mailed. The division may require the applicant to submit this certificate of mailing to document compliance with the deadline, if necessary.

(2) The application submission requirements must be complete.

(3) The funds requested must not exceed the ceiling amounts established by the division.

(4) Review and Notification. Following the review of all applications, the division will promptly notify the applicant of the actions taken with regard to its application.

(5) Criteria for Conditional Approval. The division may make a conditional approval, in which case the grant will be approved, but the obligation and utilization of funds is restricted. The reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a termination of the grant. Conditional approval may be made:

i. where local environmental reviews have not yet been completed;

ii. where the requirements regarding the provision of flood or drainage facilities have not yet been satisfied;

iii. to ensure the project can be completed within estimated costs.

iv. to ensure that actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time.

(6) Criteria for disapproval of an application. The division may disapprove an application for any of the following reasons.

i. Based on a field review of the applicant's proposal or other information received, it is found that the information was incorrect; the division will exercise administrative discretion in this area.

ii. The Division of Administration determines that the applicant's description of needs and objectives is plainly inconsistent with facts and data generally available. The data to be considered must be published and accessible to both the applicant and state such as census data, or recent local, area wide, or state comprehensive planning data;

iii. Other resources necessary for the completion of the proposed activity are no longer available or will not be

available within a reasonable period of time.

iv. The activities cannot be completed within the estimated costs or resources available to the applicant;

v. The proposed activity is not eligible for funding or one of the two national objectives is not being met.

G. Program Amendments for LCDBG Program

The division may consider amendments if they are necessitated by actions beyond the control of the applicant. Recipients shall request prior division approval for all program amendments involving new activities or alteration of existing activities that will change the scope, location, or objectives of the approved activities or beneficiaries.

1. New or altered activities are considered in accordance with the criteria for selection applicable at the time the original application was reviewed and the policy, current at that time, regarding amendments.

2. All amended activities must receive environmental clearance prior to construction.

3. The state will ascertain as to whether or not the proposed activity is an integral part of the originally approved project and is necessary to complete the project as originally approved. The state will also review the site location of the proposed activity in relation to the originally approved target area. As a general rule, activities which are not an integral part of the originally approved project and which are not located within the boundaries of the originally approved target area will not be approved.

IV. Administration

Rule for Policy Determination. In administering the program, while the division is cognizant of the intent of the program, certain unforeseeable circumstances may arise which may require the exercise of administrative discretion. The division reserves the right to exercise this discretion in either interpreting or establishing new policies.

V. Redistribution of Funds

Any monies awarded by the state that are later recaptured by or returned to the state will be reallocated in accordance with the division's policy then in effect. The sources of these funds may include, but not be limited to, program income, questioned costs, disallowed expenses, recaptured funds from loans, unallocated monies, previously awarded funds not spent by grant recipients, et cetera.

With the following exceptions and the stipulations identified in Section II.E., the monies as defined above will be placed in the current program year's public facilities category and will be used to fund the project(s) with the highest score that was not initially funded. This policy will govern all such agencies as defined herein from the FY 1982, FY 1983, FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, FY 1990 and FY 1991 LCDBG program years as well as subsequent funding cycles, until later amended. One exception to this rule is that funds recaptured from economic development grants/loans which were not spent by the grant recipients will initially be transferred to the current economic development program category. Those monies remaining in the economic development program category at the end of the FY 1991 program year will be transferred to the public facilities category for distribution as described in Section II. E. Another exception is that all funds recaptured by the state from the payback of economic development loans will be placed in an economic development revolving loan fund which will be used to supplement funding for economic de-

velopment projects. These funds will be subject to the federal regulations regarding use of program income.

These regulations are to become effective January 20, 1991, and are to remain in force until they are amended or rescinded.

APPENDIX 1

Act 590 of the 1970 Parish Redevelopment Act Section Q-8

(8) *Slum area* means an area in which there is a predominance of buildings or improvements, whether residential or non-residential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open space, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or an area of open land which, because of its location and/or platting and planning development, for predominantly residential uses, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

(i) *Blighted area* means an area which by reason of the presence of a substantial number of slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors which substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use; but if the area consists of any disaster area referred to in Subsection C (5), it shall constitute a "blighted area."

APPENDIX 2

Eligible Activities

Sec. 105.(a) Activities assisted under this Title may include only—

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this Title; or (E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation

that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;

(3) code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation of privately owned properties and including the renovation of closed school buildings);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this Title;

(7) disposition (through sale, lease, donation or otherwise) of any real property acquired pursuant to this Title or its retention for public purposes;

(8) provisions of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by the such unit, or received by such unit from the state in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this Title, and which are to be used for such services, unless the secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 percentum of the amount of any assistance to a unit of general local government under this Title may be used for activities under this Paragraph unless such unit of general local government used more than 15 percent of the assistance received under this Title for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculations yields the higher amount;

(9) payment of the non-federal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under this Title;

(10) payment of the cost of completing a project funded under Title 1 of the Housing Act of 1949;

(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this Title may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives,

and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provisions of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in Section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing and Community Development Amendments of 1981;

(14) activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;

(15) assistance to neighborhood-based nonprofit organizations, local development corporations, or entities organized under Section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of Section 101(c), and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in Section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;

(16) activities necessary to the development of energy use strategies related to recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities.

(17) provisions of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project;

(18) the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of

1937; and

(19) (a) provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low- and moderate-income persons (A) where the need for reconstruction was not determinable until after rehabilitation under this Section had already commenced, or (B) where the reconstruction is part of a neighborhood rehabilitation effort and the grantee (i) determines the housing is not suitable for rehabilitation, and (ii) demonstrates to the satisfaction of the secretary that the cost of substantial reconstruction is significantly less than the cost of new construction and less than the fair market value of the property after substantial reconstruction.

(b) upon the request of the recipient of assistance under this Title, the secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under Subsection (a)(4).

(c)(1) In any case in which an assisted activity described in Paragraph (14) or (17) of Subsection (a) is identified as principally benefitting persons of low and moderate income, such activity shall—

(A) be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or

(B) involve facilities designed for use predominately by persons of low and moderate income; or

(C) involve employment of persons, a majority of whom are persons of low and moderate income.

(2)(A) in any case in which an assisted activity described in Subsection (a) is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if (i) not less than 51 percent of the residents of such area are persons of low and moderate income; (ii) in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income; or (iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(B) the requirements of Subparagraph (A) do not prevent the use of assistance under this Title for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the secretary determines that—

(i) such system will contribute substantially to the safety of the residents of the area served by such system;

(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

(iii) other federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee. The percentage of the cost of the development, establishment, and operation of such a system that may be paid from assistance under this Title and that is considered to benefit low- and moderate-income persons is the percentage of the

population to be served that is made up of persons of low and moderate income.

(3) Any assisted activity under this Title that involves the acquisition or rehabilitation of property to provide hous-

ing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.

APPENDIX 3

1990 Median Family Income
By Parish and MSA

<u>Parish</u>	<u>1990 Median Family Income</u>	<u>Low/Mod Income* Limit</u>	<u>Low Income* Limit</u>
Acadia	\$ 22,300	\$ 19,700	\$ 12,300
Allen	24,700	19,750	12,300
Ascension	See MSA - Baton Rouge		
Assumption	28,000	22,400	13,600
Avoyelles	18,900	19,700	12,300
Beauregard	27,400	21,900	12,300
Bienville	24,000	19,700	12,300
Bossier	See MSA - Shreveport		
Caddo	See MSA - Shreveport		
Calcasieu	See MSA - Lake Charles		
Caldwell	21,500	19,700	12,300
Cameron	32,400	25,900	13,900
Catahoula	20,100	19,700	12,300
Claiborne	25,200	20,150	12,600
Concordia	24,000	19,700	12,300
Desoto	25,800	20,650	12,900
East Baton Rouge	See MSA - Baton Rouge		
East Carroll	17,700	19,700	12,300
East Feliciana	31,600	25,300	12,600
Evangeline	19,600	19,700	12,300
Franklin	20,300	19,700	12,300
Grant	21,700	19,700	12,300
Iberia	29,200	23,350	14,600
Iberville	33,800	27,050	12,600
Jackson	23,700	19,700	12,300
Jefferson	See MSA - New Orleans		
Jefferson Davis	27,800	22,250	12,300
Lafayette	See MSA - Lafayette		
Lafourche	See MSA - Houma-Thibodaux		
LaSalle	24,000	19,700	12,300
Lincoln	28,900	23,100	14,450
Livingston	See MSA - New Orleans		
Madison	18,100	19,700	12,300
Morehouse	22,000	19,700	12,300
Natchitoches	23,100	19,700	12,300
Ouachita	See MSA - Monroe		
Plaquemines	31,200	24,950	15,600
Pointe Coupee	29,100	23,300	12,600
Rapides	See MSA - Alexandria		
Red River	21,700	19,700	12,300
Richland	20,600	19,700	12,300

1990 Median Family Income
By Parish and MSA
(Continued)

<u>Parish</u>	<u>1990 Median Family Income</u>	<u>Low/Mod Income*</u> <u>Limit</u>	<u>Low Income*</u> <u>Limit</u>
Sabine	\$ 23,400	\$ 19,700	\$ 12,300
St. Bernard	See MSA - New Orleans		
St. Charles	See MSA - New Orleans		
St. Helena	22,200	19,700	12,300
St. James	34,000	27,200	15,600
St. John the Baptist	See MSA - New Orleans		
St. Landry	21,700	19,700	12,300
St. Martin	See MSA - Lafayette		
St. Mary	31,300	25,050	15,650
St. Tammany	See MSA - New Orleans		
Tangipahoa	25,100	20,100	12,550
Tensas	17,800	19,700	12,300
Terrebonne	See MSA Houma - Thibodaux		
Union	23,800	19,700	12,300
Vermilion	24,000	19,700	12,300
Vernon	19,400	19,700	12,300
Washington	23,800	19,700	12,300
Webster	23,800	19,700	12,300
West Baton Rouge	See MSA - Baton Rouge		
West Carroll	18,400	19,700	12,300
West Feliciana	27,900	22,300	12,600
Winn	19,600	19,700	12,300

*For those parishes which have a median family income less than the State nonmetropolitan median family income (\$24,600), the low/mod income and the low income limits were based on the State nonmetropolitan median family income.

MSA-Metropolitan
Statistical Areas

MSA Alexandria, LA ¹	28,400	22,700	14,200
MSA Baton Rouge, LA ²	33,400	26,700	16,700
MSA Houma-Thibodaux, LA ³	29,700	23,750	14,850
MSA Lafayette, LA ⁴	33,800	27,050	16,900
MSA Lake Charles, LA ⁵	34,300	27,450	17,150
MSA Monroe, LA ⁶	28,200	22,550	14,100
MSA New Orleans, LA ⁷	33,900	27,100	16,950
MSA Shreveport, LA ⁸	32,300	25,850	16,150

Footnotes:

¹Includes Rapides Parish only.

²Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.

³Includes Terrebonne and Lafourche Parishes.

⁴Includes St. Martin and Lafayette Parishes.

⁵Includes Calcasieu Parish only.

⁶Includes Ouachita Parish only.

⁷Includes Jefferson, Orleans, St. Tammany, St. Bernard, St. John the Baptist, and St. Charles Parishes.

⁸Includes Caddo and Bossier Parishes.

Source: Income data provided by U. S. Department of Housing and Urban Development, January 2, 1990.

APPENDIX 4

1980 Median Family Income
By Parish and MSA

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	Unrelated Individuals
Acadia	\$ 15,792	\$12,634	\$ 8,844	\$ 7,896	\$ 5,527
Allen	15,685	12,548	8,784	7,842	5,489
Ascension	21,572	17,258	12,080	10,786	7,550
Assumption	17,334	13,867	9,707	8,667	6,067
Avoyelles	11,987	9,590	6,713	5,994	4,196
Beauregard	17,417	13,934	9,754	8,709	6,096
Bienville	13,850	11,080	7,756	6,925	4,848
Bossier	See MSA-Shreveport				
Caddo	See MSA-Shreveport				
Calcasieu	See MSA-Lake Charles				
Caldwell	12,624	10,099	7,069	6,312	4,418
Cameron	20,562	16,450	11,515	10,281	7,197
Catahoula	12,770	10,216	7,151	6,385	4,470
Claiborne	14,538	11,630	8,141	7,269	5,088
Concordia	15,208	12,166	8,516	7,604	5,323
DeSoto	14,887	11,910	8,337	7,444	5,211
E. Baton Rouge	See MSA-Baton Rouge				
East Carroll	10,388	8,310	5,817	5,194	3,636
East Feliciana	16,184	12,947	9,063	8,092	5,664
Evangeline	12,540	10,032	7,022	6,270	4,389
Franklin	11,937	9,550	6,685	5,969	4,178
Grant	See MSA-Alexandria				
Iberia	19,268	15,414	10,790	9,634	6,744
Iberville	17,340	13,872	9,710	8,670	6,069
Jackson	13,919	11,135	7,795	6,960	4,872
Jefferson	See MSA-New Orleans				
Jefferson Davis	17,657	14,126	9,888	8,829	6,180
Lafayette	See MSA-Lafayette				
Lafourche	19,947	15,958	11,170	9,974	6,982
LaSalle	15,250	12,200	8,540	7,625	5,338
Lincoln	16,660	13,328	9,330	8,330	5,831
Livingston	See MSA-Baton Rouge				
Madison	10,679	8,543	5,980	5,340	3,738
Morehouse	12,949	10,359	7,251	6,475	4,533
Natchitoches	13,343	10,674	7,472	6,672	4,670
Orleans	See MSA-New Orleans				
Ouachita	See MSA-Monroe				
Plaquemines	19,884	15,907	11,135	9,942	6,959
Pointe Coupee	14,913	11,930	8,351	7,457	5,220
Rapides	See MSA-Alexandria				
Red River	12,482	9,986	6,990	6,241	4,369
Richland	12,112	9,690	6,783	6,056	4,239
Sabine	13,519	10,815	7,571	6,760	4,732

1980 Median Family Income
By Parish and MSA
(Continued)

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	Unrelated Individuals
St. Bernard	See MSA - New Orleans				
St. Charles	\$23,223	\$18,578	\$13,005	\$11,612	\$8,128
St. Helena	11,370	9,096	6,367	5,685	3,980
St. James	21,044	16,835	11,785	10,522	7,365
St. John the Baptist	21,818	17,454	12,218	10,909	7,636
St. Landry	13,893	11,114	7,780	6,947	4,863
St. Martin	16,612	13,290	9,303	8,306	5,814
St. Mary	20,688	16,550	11,585	10,344	7,241
St. Tammany	See MSA - New Orleans				
Tangipahoa	14,315	11,452	8,016	7,158	5,011
Tensas	10,447	8,358	5,850	5,224	3,657
Terrebonne	20,918	16,734	11,714	10,459	7,321
Union	14,027	11,222	7,855	7,014	4,910
Vermilion	16,951	13,561	9,493	8,476	5,933
Vernon	12,951	10,361	7,253	6,476	4,533
Washington	13,641	10,913	7,639	6,821	4,775
Webster	See MSA - Shreveport				
West Baton Rouge	See MSA - Baton Rouge				
West Carroll	10,807	8,646	6,052	5,404	3,783
West Feliciana	14,289	11,431	8,002	7,145	5,002
Winn	12,445	9,956	6,969	6,223	4,356

MSA-Metropolitan
Statistical Areas

Alexandria, LA ¹	\$15,741	\$12,593	\$8,815	\$7,871	\$5,510
Baton Rouge, LA ²	21,301	17,041	11,929	10,651	7,456
Lafayette, LA ³	21,472	17,178	12,024	10,736	7,515
Lake Charles, LA ⁴	21,316	17,053	11,937	10,658	7,461
Monroe, LA ⁵	17,140	13,712	9,598	8,570	5,999
New Orleans, LA ⁶	19,196	15,357	10,750	9,598	6,719
Shreveport, LA	18,158	14,526	10,168	9,079	6,355

Footnotes:

¹Includes Rapides and Grant Parishes.

²Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.

³Includes Lafayette Parish only.

⁴Includes Calcasieu Parish only.

⁵Includes Ouachita Parish only.

⁶Includes Jefferson, Orleans, St. Bernard, and St. Tammany Parishes.

⁷Includes Bossier, Caddo, and Webster Parishes.

Source: 1980 Census and Formula provided by U. S. Department of Housing and Urban Development.

Dennis Stine
Commissioner

RULE

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

In accordance with the notice of intent published in the October 1990 *Louisiana Register*, the Louisiana Board of Examiners for Nursing Home Administrators announces the adoption of changes of LAC 46:XLIX, Chapter 1, Paragraph 105, effective January 20, 1991.

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Nursing Home Administrators**

Chapter 1. General Provisions

§105. Notification of Change

Every licensed nursing home administrator shall immediately notify in writing the office of the Louisiana Board of Examiners of Nursing Home Administrators any and all changes in name, address, position, and other information originally submitted on their application. Failure to comply within 10 days of the change will result in a \$25 penalty.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Services, Board of Examiners for Nursing Home Administrators, April 1970, amended LR 17: (February 1990).

Winborn E. Davis
Executive Director

tem within the portion of the skull enclosing the brain, excluding brain damage due to birth trauma, or to asphyxia or intoxications in the absence of trauma; and

2. At least one of the following clinical results:

a. death in the emergency room or during hospitalization;

b. coma for a duration of at least six hours during the first week after injury (not including unconsciousness due to anesthesia);

c. moderate disability (independent, but restricted in work and/or social activity) or more severe disability at hospital discharge or three months post-injury, whichever comes first;

d. surgical opening of the cranium.

D. The report form entitled "Confidential Report of Severe Traumatic Head Injury" shall be used for all reports. Reports can be obtained from and are to be sent to: Disability Prevention Program, 325 Loyola Avenue, Room 307, New Orleans, LA 70112.

E. Confidentiality will be strictly maintained.

AUTHORITY NOTE: Promulgated in accordance with Act 215 of the 1990 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of Public Health, LR 17: (February 1991)

David L. Ramsey
Secretary

RULE

**Department of Health and Hospitals
Office of Public Health
Disability Prevention Program**

Notice is hereby given that the Department of Health and Hospitals, Office of Public Health Disability Prevention Program adopted the following rule as mandated by R.S. 40:1299.151-1299.154.

Title 48

PUBLIC HEALTH

Part V. Preventive Health Services

Subpart XVIII (18) - Disability Prevention Program

Chapter 60 - Severe Head Injuries

§6001. Mandatory reporting requirement

A. The purpose of this rule is to provide for the mandatory reporting of severe head injuries to the central registry for such injuries, located within the Disability Prevention Program of the Office of Public Health. The central registry will provide for the analysis and dissemination of collected data in an effort to develop appropriate prevention, care and support strategies for persons with severe head injuries.

B. Each licensed hospital or licensed physician in the course of his or her medical practice is required to report any case of severe head injury to the Office of Public Health.

C. The criteria for required reporting of a case of "severe head injury" are as follows:

1. Acute, traumatic injury to the central nervous sys-

RULE

**Department of Health and Hospitals
Office of Public Health**

In accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Office of Public Health has amended Chapters IX, XXII, XXIII, and XXIII A of the State Sanitary Code, as follows:

**CHAPTER IX
SEAFOOD**

Add to 9:001:

SEAFOOD includes but is not limited to fish, shellfish, edible crustaceans, marine and freshwater animal food products.

Change 9:045 to read:

All establishments that sell or serve raw oysters must display signs, menu warnings, table tents, or other clearly visible warnings at point of sale with the following wording:

"WARNING: CONSUMPTION OF RAW OYSTERS CAN CAUSE SERIOUS ILLNESS IN PERSONS WITH LIVER, STOMACH, BLOOD, OR IMMUNE SYSTEM DISORDERS. FOR MORE INFORMATION, READ THE INFORMATIONAL BROCHURE OR CONSULT YOUR PHYSICIAN."

The establishment has an option to use the signs furnished by the Office of Public Health (OPH) of the Department of Health and Hospitals. The following modifications of the warning may be made without prior OPH approval:

1. The words "molluskan shellfish (oysters, clams, and mussels)" may be substituted for the word "oysters."

2. The words "read the informational brochure" may be deleted, if the words "consult your physician" remain.

3. The words "consult your physician" may be deleted if the words "read the informational brochure" remain.

4. Other modifications of the wording can be used if approved in writing, in advance, by OPH.

In addition, this warning must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

Change 9:045 to 9:046

Change 9:046 to 9:047

Change 9:047 to 9:048

Change 9:048 to 9:049

Change 9:049 to 9:050

Change 9:050 to 9:051

Change 9:050-1 to 9:051-1

Add to 9:051-1:

In addition, the following warning must appear on the tag of each sack or other container of unshucked raw oysters:

"WARNING: CONSUMPTION OF RAW OYSTERS CAN CAUSE SERIOUS ILLNESS IN PERSONS WITH LIVER, STOMACH, BLOOD, OR IMMUNE SYSTEM DISORDERS. FOR MORE INFORMATION, CONSULT YOUR PHYSICIAN."

The oyster tag warning may be modified according to the guidelines for point of sale warnings.

Change 9:050-2 to 9:051-2

Change 9:051 to 9:052

CHAPTER XXII

RETAIL FOOD ESTABLISHMENTS: MARKETS

Add to 22:001:

SEAFOOD includes but is not limited to fish, shellfish, edible crustaceans, marine and freshwater animal food products.

Change 22:018 to read LABELING:

Renumber existing 22:018 to 22:018-1.

Add 22:018-2 All establishments that sell or serve raw oysters must display signs, menu warnings, table tents, or other clearly visible warnings at point of sale with the following wording:

"WARNING: CONSUMPTION OF RAW OYSTERS CAN CAUSE SERIOUS ILLNESS IN PERSONS WITH LIVER, STOMACH, BLOOD, OR IMMUNE SYSTEM DISORDERS. FOR MORE INFORMATION, READ THE INFORMATIONAL BROCHURE OR CONSULT YOUR PHYSICIAN."

The establishment has an option to use the signs furnished by the Office of Public Health (OPH) of the Department of Health and Hospitals. The following modifications of the warning may be made without prior OPH approval:

1. The words "molluscan shellfish (oysters, clams, and mussels)" may be substituted for the word "oysters."
2. The words "read the informational brochure" may be deleted, if the words "consult your physician" remain.
3. The words "consult your physician" may be deleted if the words "read the informational brochure" remain.
4. Other modifications of the wording can be used if approved in writing, in advance, by OPH.

In addition, this warning must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

In addition, the following warning must appear on the tag of each sack or other container of unshucked raw oysters:

"WARNING: CONSUMPTION OF RAW OYSTERS CAN CAUSE SERIOUS ILLNESS IN PERSONS WITH LIVER, STOMACH, BLOOD, OR IMMUNE SYSTEM DISORDERS. FOR MORE INFORMATION, CONSULT YOUR PHYSICIAN."

The oyster tag warning may be modified according to the guidelines for point of sale warnings.

CHAPTER XXIII

EATING AND DRINKING ESTABLISHMENTS

Add to 23:001:

SEAFOOD includes but is not limited to fish, shellfish, edible crustaceans, marine and freshwater animal food products.

Add 23:006-4

All establishments that sell or serve raw oysters must display signs, menu warnings, table tents, or other clearly visible warnings at point of sale with the following wording:

"WARNING: CONSUMPTION OF RAW OYSTERS CAN CAUSE SERIOUS ILLNESS IN PERSONS WITH LIVER, STOMACH, BLOOD, OR IMMUNE SYSTEM DISORDERS. FOR MORE INFORMATION, READ THE INFORMATIONAL BROCHURE OR CONSULT YOUR PHYSICIAN."

The establishment has the option to use signs furnished by the Office of Public Health (OPH) of the Department of Health and Hospitals. The following modifications of the warning may be made without prior OPH approval:

1. The words "molluscan shellfish (oysters, clams, and mussels)" may be substituted for the word "oysters."
2. The words "read the informational brochure" may be deleted, if the words "consult your physician" remain.
3. The words "consult your physician" may be deleted if the words "read the informational brochure" remain.
4. Other modifications of the wording can be used if approved in writing, in advance, by OPH.

In addition, this warning must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

In addition, the following warning must appear on the tag of each sack or other container of unshucked raw oysters:

"WARNING: CONSUMPTION OF RAW OYSTERS CAN CAUSE SERIOUS ILLNESS IN PERSONS WITH LIVER, STOMACH, BLOOD, OR IMMUNE SYSTEM DISORDERS. FOR MORE INFORMATION, CONSULT YOUR PHYSICIAN."

The oyster tag warning may be modified according to the guidelines for point of sale warnings.

The use of "table tents" on all tables may be used in lieu of the menu warning. Oyster bars may use "table tents" in lieu of the menu warning at the rate of one "table tent" for every four customer spaces.

CHAPTER XXIII A

TEMPORARY FOOD SERVICE

Add to 23A:001:

SEAFOOD includes but is not limited to fish, shellfish, edible crustaceans, marine and freshwater animal food products.

Add 23A:005-4

All establishments that sell or serve raw oysters must display signs, menu warnings, table tents, or other clearly visible warnings at point of sale with the following wording:

"WARNING: CONSUMPTION OF RAW OYSTERS CAN CAUSE SERIOUS ILLNESS IN PERSONS WITH

LIVER, STOMACH, BLOOD, OR IMMUNE SYSTEM DISORDERS. FOR MORE INFORMATION, READ THE INFORMATIONAL BROCHURE OR CONSULT YOUR PHYSICIAN."

The establishment has an option to use the signs furnished by the Office of Public Health (OPH) of the Department of Health and Hospitals. The following modifications of the warning may be made without prior OPH approval:

1. The words "molluskan shellfish (oysters, clams, and mussels)" may be substituted for the word "oysters."
2. The words "read the informational brochure" may be deleted, if the words "consult your physician" remain.
3. The words "consult your physician" may be deleted if the words "read the informational brochure" remain.
4. Other modifications of the wording can be used if approved in writing, in advance, by OPH.

In addition, this warning must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

In addition, the following warning must appear on the tag of each sack or other container of unshucked raw oysters:

"WARNING: CONSUMPTION OF RAW OYSTERS CAN CAUSE SERIOUS ILLNESS IN PERSONS WITH LIVER, STOMACH, BLOOD, OR IMMUNE SYSTEM DISORDERS. FOR MORE INFORMATION, CONSULT YOUR PHYSICIAN."

The oyster tag warning may be modified according to the guidelines for point of sale warnings.

The use of "table tents" on *all* tables may be used in lieu of the menu warning only. Oyster bars may use "table tents" in lieu of the menu warning at the rate of one "table tent" for every four customer spaces.

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

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of Public Health

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Chapter XIII of the State Sanitary Code as follows:

CHAPTER XIII

SEWAGE AND REFUSE DISPOSAL

Insert before the last sentence of 13:012-3:

With systems that use electrical power, the installer shall have a licensed electrician complete and sign an "Individual Sewerage Electrical Inspection Form" certifying that the installation complies with the National Electrical Code and local codes. All forms will be furnished by the Office of Public Health and are obtainable from each parish health unit, free of charge.

Authority Note: Promulgated in accordance with R.S. 40:4.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on November 20, 1990 (Volume 16, No. 11, page 1011).

RULE

When the state Medicaid agency has to recover a negative balance (overpayment) from the provider, the negative balance will be tracked wherever the provider goes in his enrollment status. This includes situations in which the provider joins a group with that group as a payee of Medicaid reimbursements. The system will automatically track the negative balance to the income the overpaid provider is generating within the group or facility. The state Medicaid agency will collect from the group as long as the overpaid provider generates money under his attending provider number in the group. If the overpaid provider belongs to more than one group, the state Medicaid agency will prorate the collections among the numbers in proportion to the amount of money the provider generates in each group. The system will generate correspondence to the overpaid provider on a periodic basis if payment is not received (recouped) within a specified time frame.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on November 20, 1990 (Volume 16, No. 11, page 1010).

Reimbursement for certain nursing facility expenses may be accomplished by lump-sum payment of one-time expenses. Lump-sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay and is mandated by federal requirements, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to BHSF review and approval of costs prior to reimbursement.

David L. Ramsey
Secretary

RULE

Department of Insurance Commissioner of Insurance

The Department of Insurance hereby repeals Regulation 73 regarding the Notice to Insurers, Medical Service Plan Corporations, Hospital Service Corporations, and Hospital and Service Corporations in the state of Louisiana, regarding the handling of claims for reimbursement of Chiropractic charges.

Douglas D. "Doug" Green
Commissioner

RULE

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, amends the rules and regulations relative to the death penalty and the policy for implementation and regulation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§103. Death Penalty

A. Purpose

The purpose of this regulation is to set forth procedures to be followed for the electrocution of individuals sentenced to death prior to January 1, 1991 and for the lethal injection of those sentenced to death after January 1, 1991.

B. Responsibility

The secretary, assistant secretary for the Office of Adult Services and the wardens of Louisiana State Penitentiary and Louisiana Correctional Institute for Women are responsible for ensuring implementation of this regulation.

C. Incarceration Prior to Execution

Male offenders sentenced to death shall be incarcerated at Louisiana State Penitentiary at Angola, Louisiana. Female offenders sentenced to death shall be incarcerated at Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the offender in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female offenders shall be transported to Louisiana State Penitentiary after 6 p.m. on the day immediately prior to the execution date.

D. Visits

1. Offenders sentenced to death shall be afforded the same visiting privileges as other offenders in the same institution. In addition, during the final 72 hours before the scheduled execution, the warden will approve special visits for the following:

a. Clergy

b. Family member(s) and friend(s) on approved visiting

list

c. Attorney

2. Except for a priest, minister, religious advisor, or attorney, visits will terminate by 6 p.m. on the day immediately prior to the execution date.

E. Media Access

1. Properly credentialed reporters may contact the office of the warden to request interviews. If the warden, offender, and (if represented by counsel) his/her attorney consent, the interview shall be scheduled for a time convenient to the institution.

2. Should the demand for interviews be great, the warden may set a day and time for all interviews to be conducted and may specify whether interviews will be done individually or in "press conference" fashion.

F. Pre-Execution Activities

1. The warden shall select any appropriate area to serve as a press room and for any mobile press units. Press representatives, except those selected as witnesses, will not be permitted in other areas of the penitentiary from 8 a.m. on the day preceding the execution until such time after the execution as the warden deems appropriate.

2. The execution room shall be off-limits to unauthorized offenders and employees from 8 a.m. on the day of the execution until such time after the execution as the warden deems appropriate. The execution room shall also be off-limits to the public and press from 15 days before the execution until such time after the execution as the warden deems appropriate.

3. All persons selected as witnesses will sign copies of the witness agreement prior to being transported to the execution room.

G. Execution

1. Time and Place

a. The execution shall take place at Louisiana State Penitentiary, Angola, Louisiana, between 12 midnight and 1 a.m., barring unforeseen delays. In no event may the execution be conducted after 3 a.m. (R.S. 15:569.1).

b. At 11:45 p.m., the witnesses shall be escorted to the execution room.

2. Witnesses

a. The following are the only persons, other than the condemned, who will be admitted to the execution room during the execution:

*i. the warden of Louisiana State Penitentiary or his designee;

*ii. the coroner of West Feliciana Parish or his deputy;

*iii. a physician chosen by the warden;

*iv. the operator of the electric chair, or a competent person selected by the warden to administer the lethal injection;

*v. a priest or minister, or religious advisor, if the offender so requests.

vi. three members of the news media, as follows: one qualified Louisiana representative from the Associated Press or United Press International (alternately), one representative selected by lot from Louisiana media persons from the parish where the crime was committed and one representative selected by lot from all other Louisiana media persons requesting to be present. Those so designated must agree to act as pool reporters for the remainder of the media present and meet with all media representatives present immediately after the execution; and

vii. a minimum of two and a maximum of four addi-

tional witnesses selected by the secretary of the Department of Public Safety and Corrections from persons who, in the secretary's discretion, have a legitimate interest. The secretary may designate the warden of the Louisiana Correctional Institute for Women to serve as a witness in the event a female offender is executed.

b. All witnesses must be residents of the State of Louisiana, over 18 years of age and all must agree to sign the report of the execution (R.S. 15:570 - 571).

c. No cameras or recording devices, either audio or video, will be permitted in the execution room (R.S. 15:569).

3. All arrangements for carrying out the execution shall be completed by 12 midnight. At that time, the warden shall order the offender brought into the execution room. He shall then allow the offender to make any last statement he/she may have. Upon completion of the statement, the warden shall order the operator of the electric chair, or the person selected to administer the lethal injection, to proceed with the execution.

4. The operator of the electric chair will then pass through the body of the offender electricity of sufficient intensity and duration to cause death swiftly. In the case of lethal injection, the person designated by the warden will administer by intravenous injection a substance(s) in a lethal quantity into the body of the offender until such person is dead.

5. At the conclusion of the execution, the coroner or his deputy shall pronounce the offender dead. The offender shall then be immediately taken to a waiting ambulance for transportation to a place designated by the next of kin or in accordance with other arrangements made prior to the execution.

6. The warden will then make a written report reciting the manner and date of the execution. The warden and all witnesses shall sign the report and it shall be filed with the clerk of court in the parish where the sentence was originally imposed.

7. No employee, including employee witnesses to the execution, except the warden or his designated representative, shall communicate with the press regarding any aspect of the execution, except as required by law.

H. The effective date of this regulation is February 20, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:567-15:571 (as amended by Act No. 717 of the 1990 Regular Session of the Louisiana Legislature), *Garret v. Estelle*, 556 F.2d 1274 (5th Cir., 1977).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981) and by the Department of Public Safety and Corrections, Corrections Services, LR 17: (February 1991).

*These and no less than five and no more than seven additional witnesses are required, by law, to be present (R.S. 15:570).

Bruce N. Lynn
Secretary

RULE

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby amends the rules and regulations relative to the selection of inmates for work release and the policy for implementation and regulation:

Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT Part I. Corrections

Chapter 3. Adult and Juvenile Services

§309. Work Release: Selection of Inmates

A. Purpose

The purpose of this regulation is to establish the secretary's policy regarding the assignment of inmates to work release status.

B. Responsibility

It is the responsibility of the assistant secretary of the Office of Adult Services, all wardens, sheriffs, and community rehabilitation center directors to implement this regulation and convey its contents to the inmate population and all affected employees.

C. General

Selection of inmates to participate in work release programs must be made with the greatest of care. Selected inmates should be able to benefit from the program and should have demonstrated their ability to conform to the rigid standards of conduct expected of those who associate with the general public.

D. Procedures

1. Inmates at state correctional facilities will be screened for work release pending parole or pending discharge. Screenings will be eight months prior to parole and 13 months prior to discharge. Those inmates who are deemed to be appropriate for placement in a work release program shall be recommended to the assistant secretary of the Office of Adult Services for consideration. This recommendation shall indicate that the inmate meets all criteria set forth in this regulation.

2. A three-member committee appointed by the assistant secretary of the Office of Adult Services will review each recommendation and a recorded vote shall be taken and kept in the inmate's file. Any member of the committee voting against approval shall explain his vote on the voting form. A majority of votes shall constitute approval. Parole cases shall be forwarded to the Parole Board for a hearing and final approval.

3. Inmates sentenced to the Department of Public Safety and Corrections and who are in the custody of a sheriff shall not be eligible for a sheriff's work release program unless he/she would be eligible under the terms of this regulation. The written approval of the secretary of the Department of Public Safety and Corrections is required before any state prisoner housed in a parish jail can be placed on work release. For this to occur, the sheriff must certify, in writing, to the secretary of the Department of Public Safety and Corrections that he/she is recommended for work release, and that he/she meets all statutory and regulatory requirements

for work release participation. In this letter, the sheriff must also acknowledge that the inmates' wages will be collected and disbursed in accordance with state law. The Office of Adult Services will verify that the inmate(s) meets all statutory requirements for work release participation. Upon written approval of the secretary, the inmate(s) can be placed on work release.

4. Inmates assigned to work release may not be employed in an occupation requiring out-of-state travel.

5. All incidents of new crimes or disciplinary infractions resulting in removal from work release shall be reported to the Office of Adult Services which shall compile statistical data on the incidence of work release violations. The data shall include the nature of the incident, the age of the offender, his original offense, the length of his sentence, his prior criminal record, and any other characteristic found to be predictive of success or failure. This information shall be used by the department to formulate program policies and eligibility standards and shall be available to the legislature upon request.

E. Selection Criteria

1. Only inmates within 12 months of their discharge date or six months of their parole date are eligible.

2. Inmates must be approved by the Parole Board where eligibility is based on the parole date.

3. Inmates must be recommended by the warden or sheriff.

4. Inmates convicted of the following crimes are not eligible except in the last six months of their sentence:

a. first or second degree murder;

b. aggravated or attempted aggravated rape;

c. forcible rape;

d. aggravated kidnapping;

e. aggravated arson;

f. armed robbery;

g. producing, manufacturing, distributing, dispensing, or possession with intent to produce, manufacture, distribute or dispense a controlled dangerous substance classified in Schedule I or Schedule II of R.S. 40:964 and persons sentenced as habitual offenders under R.S. 15:529.1.

5. Inmates with arrest or institutional records which reveal habitual or compulsive use of violence against persons are not eligible.

6. Inmates requiring extensive medical treatment are not eligible.

7. Inmates undergoing mental health treatment are not eligible.

8. Inmates found guilty by a court or institutional disciplinary board of escape or attempted escape within the last seven years are not eligible.

9. Inmates who have demonstrated an overt-aggressive pattern of homosexual behavior to the extent that it would disrupt the smooth daily operation of the program are not eligible.

10. Inmates whose institutional records reflect consistent signs of bad work habits, lack of cooperation or good faith, or other undesirable behavior are not eligible.

11. Inmates with pending felony charges or detainers are not eligible.

12. First offenders will have priority for work release. Should vacancies exceed the pool of first offenders, selection should be made from second offenders, and so on.

F. The effective date of this regulation is February 20, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:711, 15:833, 15:893.1(B), and 15:1111.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 4:486 (December 1978) and by the Department of Public Safety and Corrections, Corrections Services, LR 17: (February 1991).

Bruce N. Lynn
Secretary

RULE

Department of Transportation and Development

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Department of Transportation and Development has adopted a rule entitled "Policy for Roadside Vegetation Management," in accordance with the provisions of Act 682 of the 1989 Regular Session of the Louisiana Legislature.

The rule, LAC 70:III.Chapter 5, includes guidelines and categories of roadside vegetative maintenance, herbicides, wildflowers and landscaping, and can be obtained from the Office of the State Register, 900 Riverside North, Baton Rouge, LA.

Joseph L. Wax
Deputy Secretary

RULE

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

Title 76

WILDLIFE AND FISHERIES

Part V: Wild Quadrupeds and Wild Birds

Chapter 1: Wild Quadrupeds

§111. Rules and Regulations for Participation in the Deer Management Assistance Program

The following rules and regulations shall govern the Deer Management Assistance Program:

A. Application Procedure

1. Application for enrollment in Deer Management Assistance Program (DMAP) must be submitted to the Department of Wildlife and Fisheries annually by September 1.

2. Each application must be accompanied by a legal description of lands to be enrolled and a map of the property. The applicant must have under lease or otherwise control a minimum of 500 acres of contiguous deer habitat of which up to 250 acres may be agricultural lands, provided the remainder is in forest and/or marsh. This information will remain on file in the appropriate district office.

3. Each cooperator will be assessed a \$25.00 enrollment fee and \$.05/acre for participation in the program.

4. An agreement must be completed and signed by the official representative of the cooperator and submitted to the appropriate district game supervisor for his approval.

This agreement must be completed and signed annually.

5. Boundaries of lands enrolled in DMAP shall be clearly marked and identifiable; however, legal posting is not required.

6. By enrolling in the DMAP, cooperators agree to allow department personnel access to their lands for management surveys, investigation of violations and other inspections deemed appropriate.

B. Tags

1. A fixed number of special tags will be provided by the department to each cooperator in DMAP to affix to deer taken as authorized by the program. These tags shall be used only on DMAP lands for which the tags were issued.

2. All antlerless deer taken shall be tagged, including those taken during archery season and on either-sex days of gun season.

3. Immediately upon kill, a tag shall be attached through the ear or hock in such a manner that it cannot be removed before the deer is transported from the site of the kill.

4. All unused tags shall be returned by February 15 to the district office which issued the tags.

C. Records

1. Cooperators are responsible for keeping accurate records on forms provided by the department for all deer harvested on lands enrolled in the program. Mandatory information includes tag number, sex of deer and name of person taking the deer. Additional information may be requested depending on management goals of the cooperator.

2. Information on deer harvested shall be submitted by February 15 to the district game supervisor handling the particular cooperator.

D. Failure of the cooperator to follow these rules and regulations will result in immediate cancellation of the program on those lands involved. Cancellation of the program will be for a minimum of one hunting season immediately following the infraction. Failure to follow harvest recommendations may result in the cooperator being dropped from the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

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

James H. Jenkins
Chairman

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter I. Wild Quadrupeds

§113. Fox/Coyote Hunting Preserves, Purchase and Sale of Live Foxes and Coyotes, Permitting Year-Round Coyote Trapping Regulations

A. Purpose

These regulations are to govern the purchasing, sell-

ing and holding in captivity of live foxes and coyotes for chasing with hounds. These emergency regulations will prohibit the importation and exportation of any species of foxes or coyotes to or from Louisiana in an effort to prevent possible disease and parasite contamination of native wild canids. Humans are subject to infection with the liver being the most common site of larval growth. The infection is termed alveolar hydatid disease (AHD). The number of deaths per number of infected individuals has been 50-75 percent. These regulations are also enacted to allow the sport of fox/coyote hunting with dogs within enclosed areas. The regulations provide general rules including licensing, permits, fees, live trapping, sale and purchase of animals, holding cage requirements, enclosure requirements, acclimation requirements and report requirements.

B. Definitions

1. *Acclimation Pen* - an area which is built within or adjacent to fox/coyote hunting preserves which will contain game and exclude hounds and which will allow game to become acclimated to an enclosed environment.

2. *Bill of Sale* - receipt showing the amount of game purchased, the date of purchase, and the person from whom the game was purchased.

3. *Bona Fide Resident* - any person who has resided in the state of Louisiana continuously during the 12 months immediately prior to the date on which he applies for any license and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile as demonstrated with all of the following, as applicable:

a. If registered to vote, he is registered to vote in Louisiana.

b. If licensed to drive a motor vehicle, he is in possession of a Louisiana registration for that vehicle.

c. If owning a motor vehicle located within Louisiana, he is in possession of a Louisiana registration for that vehicle.

d. If earning an income, he has filed a Louisiana state income tax return and has complied with state income tax laws and regulations.

e. As to a corporation or other legal entity, a resident shall be any which is incorporated or otherwise organized under and subject to the laws of Louisiana, and as to which the principal place of business and more than 50 percent of the offices, partners, or employees are domiciled in Louisiana.

4. *Box Trap* - a drop-door type of trap that upon the game's entry into the device encloses and detains the game.

5. *Closed Season* - that period of time of the calendar year not specifically included in the open season.

6. *Department* - the Louisiana Department of Wildlife and Fisheries.

7. *Enclosure* - (See "Fox/Coyote Hunting Preserve").

8. *Fox/Coyote Hunting Preserve* - an area which is completely enclosed by adequate fencing to contain game and hounds which is built and maintained for the purpose of training or chasing game with hounds.

9. *Fox/Coyote Hunting Preserve Operator* - anyone acting as an agent of the owner in caring for or managing the maintenance and/or business of the preserve.

10. *Hunting Preserve Owner* - anyone who legally has possession or has legally leased property on which the enclosure is established.

11. *Game* - any red fox or grey fox or coyote stocked in

a fox/coyote hunting preserve for the purpose of dog training and/or chasing with hounds.

12. *LDWF Approved Applicant* - a person who has had no major wildlife or fish violations during the past three years, who has a minimum of two years of trapping experience and who is at least 15 years old.

13. *Landowner* - any person who owns land on which traps are set.

14. *Licensee* - any resident or nonresident lawful holder of an effective license duly issued under the authority of the department.

15. *Non-game quadruped* - alligators, beavers, bobcats, coyotes, grey foxes, minks, muskrats, nutrias, opossums, otters, raccoons, red foxes, skunks and other wild quadrupeds valuable for their furs or skins.

16. *Non-game quadruped breeder* - any person properly licensed to engage in the business of raising, exhibiting and selling non-game quadrupeds.

17. *Non-game quadruped exhibitor* - any person properly licensed to engage in the business of raising and/or exhibiting non-game quadrupeds.

18. *Non-target animal* - any animal other than red fox, grey fox or coyote.

19. *Permittee* - any person who has obtained a valid permit from the department for trapping coyotes during the closed season.

20. *Person* - includes any individual person, association, corporation, partnership, or other legal entity recognized by law.

21. *Possess* - In its different tenses, the act of having in possession or control, keeping, detaining, restraining, holding as owner, or as agent, bailee, or custodian for another.

22. *Raising* - the production of red fox, grey fox, or coyotes in controlled environmental conditions or in outside facilities.

23. *Rearing* - (See "Raising").

24. *Relaxing Lock* - locking device on a snare that loosens and tightens in response to the game's action.

25. *Resident* - (See "Bona Fide Resident").

26. *Snare* - wire device used for taking non-game quadrupeds.

27. *Soft Catch™* - trap (manufactured by Woodstream Corporation), no modifications.

28. *Take* - in its different tenses, the attempt or act of hooking, pursuing, netting, capturing, snaring, trapping, shooting, hunting, wounding, or killing by any means or device.

29. *Transport* - in its different tenses, the act of shipping, attempting to ship, receiving or delivering for shipment, transporting, conveying, carrying, or exporting by air, land, or water, or by any means whatsoever.

30. *Trap* - any device used in the capture of birds, quadrupeds or fish.

31. *Trapper* - any person properly licensed by the department engaged in the trapping of nongame quadrupeds.

C. Licenses, Permits and Fees

The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56, or as prescribed in these regulations, and are:

1. \$10 for a resident nongame quadruped exhibitors' license.

2. \$25 for a resident nongame quadruped breeder license.

3. \$25 for a resident trappers' license.

4. \$25 for an annual special permit which may be issued to a Louisiana Department of Wildlife and Fisheries approved applicant (authority granted by Louisiana Laws pertaining to Wildlife and Fisheries R.S. 56:123 (C) for the trapping of coyotes only, outside of the annual trapping season. In order for the permittee to sell live coyotes he must also possess a nongame quadruped breeder's license (\$25) (R.S. 56:262.1) and a valid trapping license.

5. Upon payment of \$10 a nongame quadruped exhibitor's license may be issued permitting the applicant to breed and/or exhibit such animals provided he meets the rules and regulations of the department.

6. Upon payment of \$25 a nongame quadruped breeder license may be issued permitting the applicant to breed, propagate, exhibit, and sell such animals alive.

D. General Rules

1. No person shall take, possess, purchase or sell live foxes or coyotes, except as provided in these regulations and Louisiana R.S. Title 56.

2. No person shall hold in captivity any live foxes or coyotes, except as provided in these regulations and Louisiana R.S. Title 56.

3. Fox/Coyote hunting preserves shall be of a type and construction such that it will insure the normal containment of foxes, coyotes and hounds.

4. Fox/Coyote hunting preserves shall contain an adequate number of escape areas which are houndproof. These may be provided by maintaining thickets, brush piles, windrows, or where natural cover is insufficient, by providing manmade escapes such as culverts or houndproof feeding stations.

5. The owners of fox/coyote hunting preserves shall be required to make available to the game:

a. Food that is palatable, uncontaminated and nutritionally adequate to ensure normal growth and maintenance.

b. Water which is fresh, uncontaminated and available at all times.

6. No person shall transport, possess, purchase or sell any live foxes or coyotes taken outside the state of Louisiana. Live foxes and coyotes obtained from outside the state of Louisiana prior to the enacted date of these regulations and in the possession of properly licensed persons shall be exempt.

7. No person shall transport from the state or offer for sale out of state any live foxes or coyotes.

8. Acclimation pens shall be constructed adjacent to or within an enclosure to insure the containment of foxes and coyotes and the exclusion of hounds. This requirement may be waived for "training enclosures" or in enclosures where running is discontinued for a minimum of two weeks while foxes/coyotes adjust to the enclosure environment.

9. No person may engage in the business of raising or exhibiting or otherwise possessing fox or coyotes for the purpose of operating a fox/coyote hunting preserve unless he or she has acquired and possesses a valid nongame quadruped breeder or exhibitor license.

10. A licensed trapper may offer for sale such live animals to any licensed nongame quadruped breeder or exhibitor during the open trapping season. During any such transactions, a bill of sale must be provided by the trapper to the nongame breeder or exhibitor and retained for a period of one year.

11. Permittees (trapping coyotes during the closed trapping season) will be required to use only the "soft catch" type trap not to exceed a size number 1 1/2, or a box-type trap, or a snare with a relaxing lock.

12. Permittees trapping coyotes during the closed trapping season and licensed as a nongame quadruped breeder may offer for sale such coyotes. During any such transaction, a bill of sale must be provided by the seller to the purchaser and retained for a period of one year by the purchaser.

13. It shall be unlawful to trap coyotes during the closed trapping season without a permit issued by the department.

14. Permittees will be required to check traps daily.

15. Permittees will be required to have in possession written permission from the landowners or lessee where traps are set.

16. Permittees shall release all nontarget species in a manner so as to keep stress or injury minimal.

17. It shall be unlawful to sell native wild foxes or coyotes outside the state of Louisiana.

18. Trappers and permittees who hold game for more than one day for sale shall confine animals at a rate of no more than one fox per nine square feet and one coyote per 17 square feet. The cage must be high enough for each animal to easily sit or stand. The cage must be escape-proof and offer protection from adverse weather.

19. Fox/Coyote hunting preserves shall be exempt from the commission action which prohibits the running of coyotes during the open turkey season.

20. The Department of Wildlife and Fisheries has the authority to conduct disease investigations at any time and pending the results of the disease investigations has the authority to quarantine fox/coyote hunting preserves if deemed necessary. The department also has the authority to prohibit the release of animals that are diseased or have been exposed to diseased animals.

21. The owners of fox/coyote hunting preserves shall be required to immediately report to the department the occurrence of any disease contracted by captive fox or coyotes. These diseases include but are not limited to rabies, canine distemper, sarcoptic mange or *Echinococcus* infections.

E. Report Requirements

1. Report forms provided by the department must be completed and filed with the department by all persons who have been issued a nongame quadruped breeder or exhibitor license or who have been issued a special permit allowing the trapping of coyotes only in the closed season in accordance with this Subsection. Reports shall include but not be limited to the information specified in R.S. 56:262.1(d). Failure to complete these forms properly and completely will result in non-renewal of the nongame quadruped breeder or exhibitor license.

2. All licensed nongame quadruped exhibitors will be required to include information regarding numbers of animals by species in captivity, number of known losses (death or escape), number of animals by species purchased and the sources of game purchases.

3. All licensed nongame quadruped breeders will be required to include information regarding numbers of animals by species in captivity, numbers of losses, numbers of animals by species purchased and the sources of game purchases, and number of sales by species and the person who bought the game.

F. Penalty for Violation

Violation of these regulations will be a Class II violation with the following exceptions:

1. Violation of the license requirements for nongame quadruped breeders and nongame quadruped exhibitors shall be a Class III violation (See Subsections C.1, C.2 and D.2).

2. Violation of the reporting requirements shall be a Class III violation (See Subsections E.1, E.2, and E.3).

3. Violation of the regulations pertaining to import of foxes and/or coyotes into the state or export of foxes and/or coyotes from the state shall be a Class IV violation (See Subsections D.6 and D.7).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:123(C) and R.S. 56:262.1.

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

James H. Jenkins
Chairman

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission hereby adopts rules and regulations establishing size limits and recreational bag limits for king mackerel, Spanish mackerel and cobia.

The proposed size and bag limits are as follows:

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§323. Size Limits of King and Spanish Mackerel and Cobia

The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations establishing size limits:

The minimum legal size for possession of Spanish mackerel (*Scomberomorus maculatus*) and king mackerel (*Scomberomorus cavalla*) whether caught within or without the territorial waters of Louisiana shall be 14 inches total length.

The minimum legal size for possession of cobia (*Rachycentron canadum*) whether caught within or without the territorial waters of Louisiana shall be 37 inches total length.

AUTHORITY NOTE: Promulgated in accordance with R.S.56:326.1 and R.S.56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:868 (October 1989), amended LR 17: (February 1991).

§327. Daily Take and Possession Limits of King and Spanish Mackerel and Cobia

The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations establishing bag limits:

The recreational bag limit for possession of Spanish mackerel (*Scomberomorus maculatus*) whether caught

within or without the territorial waters of Louisiana shall be 10 fish per person, per day.

The recreational bag limit for possession of king mackerel (*Scomberomorus cavalla*) whether caught within or without the territorial waters of Louisiana shall be two fish per person, per day for private vessels. For charter vessels the recreational bag limit for possession of king mackerel whether caught within or without the territorial waters of Louisiana shall be either three fish per person per day, excluding captain and crew, or two fish per person, per day, including captain and crew, whichever is greater. For the purposes of this rule, charter vessel shall be defined as vessel permitted by the National Marine Fisheries Service to fish as a charter vessel under the Federal Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic.

The recreational and commercial bag limit for possession of cobia (*Rachycentron canadum*) whether caught within or without the territorial waters of Louisiana shall be two fish per person, per day.

AUTHORITY NOTE: Promulgated in accordance with R.S.56:325.1 and R.S.56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission. LR 13:502 (September 1987) amended LR 17: (February 1991).

James H. Jenkins
Chairman

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Title 76 WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries Chapter 3. Particular Game and Fish Preserves and Commissions

§320. Orleans Parish Closure

The Wildlife and Fisheries Commission does hereby adopt the rule closing that portion of Orleans Parish East of the Jefferson-Orleans Parish line, northward to the southern shoreline of Lake Pontchartrain, northeast along the southern shoreline of Lake Pontchartrain to South Point, east-southeast along the southern shoreline of Lake Pontchartrain to Chef Pass, the southern shoreline of Chef Pass eastward to the western shoreline of the Intra-Coastal Waterway, the western shoreline of the Intra-Coastal Waterway southward to the Industrial Canal, the Industrial Canal south to the Mississippi River, and the Mississippi River to the Orleans-Jefferson Parish line to all hunting or shooting by any means or device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 and 115.

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

James H. Jenkins
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the adoption of LAC 46:I.1117 pertaining to continuing education and accreditation therefor.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part I. Architects

Chapter 11. Administration

§1117. Continuing Education Accreditation

A. The Louisiana State Board of Architectural Examiners at the time of granting a new license, or upon renewal of a license, shall issue a certificate of Board Continuing Education Accreditation to every architect who has furnished evidence of having achieved the board's requirements for such continuing education accreditation.

B. The term, "Louisiana Board Continuing Education Accredited" followed by the current year, when used after the name of an architect licensed to practice in Louisiana, shall mean that the architect is recognized by the board as having attained continuing education credits currently required by rules of the board.

C. Continuing Education Credits

For each hour of verified credit and in a Group I Program the candidate for continuing education credits will receive credit for .1 Continuing Education Unit (CEU). For each hour of non-verified credit in Group I or Group II Programs the candidate for continuing education credits will receive credit for .1 CEU. To qualify for Board Continuing Education Accreditation as provided in this part an architect, currently in good standing with the board, must furnish proof of not less than one verified CEU from Group I Mandatory Subject Programs and not less than one verified or non-verified CEU from either Group I Mandatory Subject Program or Group II Elective Subject Programs. Only CEUs earned within the 12 months prior to application for license renewal will be recognized.

The term "verified credit" applies to continuing education units earned by the successful completion of a board approved continuing education program where a board approved program sponsor verifies participation.

The term "non-verified credit" applies to continuing education units earned by the successful completion of a continuing education program other than those which have received prior board approval.

One CEU is the equivalent of ten contact hours of instruction. CEUs may be expressed in tenths, e.g., 16 contact

hours = 1.6 CEUs. A contact hour consists of at least 50 minutes of instruction. Contact refers to time learners spend with an instructor or with learning materials such as with self-study programs or computer assisted instruction.

D. Continuing Education Programs

Continuing education programs shall consist of Group I Mandatory Subjects including issues of life safety, construction technology and law and Group II Elective Subjects including subjects dealing with professional practice enhancement and areas of specialized interest.

The board shall annually promulgate an official Summary of Continuing Education Program Subjects to accomplish its continuing education objectives. Copies of the board's current Summary of Continuing Education Program Subjects are available upon request.

1. Verified Credit Programs

Course sponsors who propose to offer continuing education for verified credits shall submit the following information on forms provided by the board for approval by the board.

- a. Course sponsor: Name, address, phone number;
- b. Course description: Detailed description of subject matter and course offering; length of instructional period; instruction format (lecture, seminar, conference, workshop, homestudy); presentation method (electronic, visuals, printed materials).
- c. Course instructor/leader/participant: Names, addresses and phone numbers of instructor/leader/participants; educational and professional credentials for each; professional references.
- d. Time, place and cost: Date, time and location of course offerings; attendance fees and cost of course materials.
- e. Course completion verification: Sponsor's method for verifying attendance, participation and achievement of program learning objective.
- f. Course information dissemination: Method for informing architects of program offering.

2. Non-verified Credit Programs

An architect who wishes to receive credit for non-verified credits for continuing education activities under Group I or Group II programs, shall furnish the following information to the board on the program description forms provided by the board.

- a. Architect applicant: Name, address, phone number.
- b. Course description: Detailed description of subject matter and course offering; length of instructional period; instruction format (lecture, seminar, conference, workshop, homestudy); presentation method (electronic, visuals, printed materials).
- c. Course instructor/leader/participant: Names, addresses, and phone numbers of instructor/leader/participants; educational and professional credentials for each; professional references.
- d. Time, place and cost: Date, time and location of course offerings
- e. Course completion verification: When available.

E. Board Approval

The board shall have the authority to approve or disapprove verified and non-verified credit program offerings based on the appropriateness of the proposed program, the length of actual instruction time provided and on the degree to which they improve the architect's abilities in dealing with

issues of safety of life, health and property and of public welfare.

The board shall not have the authority to disapprove earned CEUs of a verified credit program.

Special consideration will be given to programs which help to remedy problems in connection with newly discovered risks and risks for which there are few or no available courses in existing architectural curricula in Louisiana.

F. Recording of Continuing Education Credits

The board shall provide forms for the recordation of continuing education credits and candidates for board continuing education accreditation shall submit the complete form along with credit verification for verified credit programs or program description form for non-verified credit programs either at the time of initial registration or annually along with the license renewal application. The board will not accept partial submittals from candidates at other times during the year and will not accumulate a record of CEUs for candidates as they are accrued.

The board shall maintain the record of CEUs of architects who are awarded the board continuing education accreditation for a period of five years provided, however, the board may dispose of the files of any architect whose license has expired for longer than one year.

To cover the actual cost of administering the voluntary Board Continuing Education Accreditation Program, candidates shall be required to pay to the board a fee of \$25 per year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:

Interested persons may submit written comments on this proposed rule to Mary "Teeny" Simmons, executive director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: LAC 46:I.1117 - Continuing Education Accreditation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

If an architect desires to participate in the voluntary Board Continuing Education Accreditation Program, the architect shall be required to pay to the board a fee of \$25 per year. This fee will cover the board's cost of promulgating an official summary of continuing education subjects, approving or disapproving verified and non-verified credit program offerings, providing forms for recording continuing education credits, maintaining the record of credits of architects who are awarded the Board Continuing Education Accreditation, and otherwise administering the program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The total revenues collected will be determined by the number of architects who decide to participate in the

Board Continuing Education Accreditation Program. Since the fee charged per architect is intended to cover the board's cost of administering this voluntary program, the revenue collections will be offset by the board's anticipated expenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Architects who decide to participate in the Board Continuing Education Accreditation Program will be required to pay to the board a fee of \$25 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated since this new rule merely establishes a voluntary continuing education accreditation program.

Mary "Teeny" Simmons
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the adoption of LAC 46:I.1115 pertaining to the board's interpretation of R.S. 37:152(B).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1115. Interpretation of R.S. 37:152(B)

Specifications, drawings, or other related documents will be deemed to have been prepared either by the architect or under the architect's responsible supervision only when:

1. The client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the architect, or the architect's employee as long as the employee works in the architect's place(s) of business;

2. The architect supervises the preparation of the plans, specifications, drawings, reports or other documents and has input into their preparation prior to their completion;

3. The architect reviews the final plans, specifications, drawings, reports or other documents; and

4. The architect has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:

Interested persons may submit written comments on this proposed rule to Mary "Teeny" Simmons, executive director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: LAC 46:I.1115 - Interpretation of R.S. 37:152(B)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on costs (savings) to state or local governmental units through this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections since this rule change merely clarifies an existing Louisiana statute, La. R.S. 37:152(B).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated since this new rule merely clarifies an existing Louisiana statute, La. R.S. 37:152(B).

Mary "Teeny" Simmons
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that it intends to amend LAC 46:I.Chapter 13 in its entirety.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part 1. Architects

Chapter 13. Titles, Firm Names, and Assumed Names §1301. Misleading and Confusing Names Prohibited

The statutory authorization for architects to offer to the public the practice of architecture and the rendering of architectural services is not an authorization to hold out as an architect any person who is not registered by the board. An architect shall not practice architecture under an assumed, fictitious or corporate name that is misleading as to the identity, responsibility, or status of those practicing thereunder or is otherwise false, fraudulent, misleading, or confusing. For example, a firm whose name contains only the real name or names of individuals who are not licensed to practice architecture is considered misleading if it holds itself out as practicing architecture or renders architectural services, even if said firm employs a licensed architect or architects.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:144 and R.S. 37:145.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), LR

10:739 (October 1984); amended in its entirety by the Department of Economic Development, Board of Architectural Examiners LR 17:

§1303. Architects' Responsibility

As a licensed professional, it is the responsibility of the architect to select and use a name which is neither misleading nor confusing. In case of doubt, an architect should first consult the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:144 and R.S. 37:145.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), LR 10:739 (October 1984); amended in its entirety by the Department of Economic Development, Board of Architectural Examiners LR 17:

§1305. Use of Term "Architect", "Architecture", or "Architectural"

Except as set forth in §1309, whenever the term "architect", "architecture", or "architectural" is used in a firm name, or whenever a firm includes its name in any listing of architects or of firms rendering architectural services, the name of a licensed architect followed by the title "architect" must be included either as a part of the firm title itself or a licensed architect must be identified in the listing, publication, announcement, letterhead or sign.

<p>Allowed: Smith & Jones, Architecture & Planning John Smith, Architect</p> <p>Smith & Jones, Architecture & Engineering John Smith, Architect</p> <p>Design Professionals Architecture & Planning John Smith, Architect</p> <p>Heritage Architectural Services John Smith, Architect John Smith, Architect, and Associates</p>	<p>Not Allowed: Smith & Jones, Architecture & Planning (unless Smith and Jones are both licensed architects engaged in the active practice of architecture) Smith & Jones, Architecture & Engineering (unless Smith and Jones are both licensed architects engaged in the active practice of architecture) Design Professionals Architecture & Planning</p> <p>Heritage Architectural Services</p>
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AUTHORITY NOTE: Adopted in accordance with R.S. 37:144 and R.S. 37:145.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), LR 10:739 (October 1984); amended in its entirety by the Department of Economic Development, Board of Architectural Examiners LR 17:

§1307. Use of the Plural Term "Architects"

Except as set forth in §1309, if the firm title indicates that the firm contains two or more architects, the names of at least two licensed architects followed by the title "architect" must be included either as a part of the firm title itself or at least two licensed architects must be identified in the listing, publication, announcement, letterhead, or sign.

<p>Allowed: Communications Architects John Smith, Architect Jack Jones, Architect Smith & Jones, Architectural Services John Smith, Architect</p>	<p>Not Allowed: Communications Architects</p>
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AUTHORITY NOTE: Adopted in accordance with R.S. 37:144 and R.S. 37:145.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), LR 10:739 (October 1984); amended in its entirety by the Department of Economic Development, Board of Architectural Examiners LR 17:

§1309. Firm Name Which Includes Names of Licensed Architects Only

A firm name which includes only the name or names of licensed architects engaged in the active practice of architecture is not required to include the name of a licensed architect followed by the title "architect" as a part of the firm title in any listing, publication, announcement, letterhead, or sign.

<p>Allowed: John Smith & Associates, Architects (if John Smith is a licensed architect engaged in the active practice of architecture) Smith & Jones, Architects (if Smith and Jones are both licensed architects engaged in the active practice of architecture) Smith & Jones Architecture (if Smith and Jones are both licensed architects engaged in the active practice of architecture) John Smith & Associates, Architecture & Planning (if Smith is a licensed architect engaged in the active practice of architecture)</p>	<p>Not Allowed: John Smith & Associates, Architects (unless John Smith is a licensed architect engaged in the active practice of architecture) Smith & Jones, Architects (if Jones is deceased, retired, or not licensed by this board) Smith & Jones Architecture (if Jones is deceased, retired, or not licensed by this board)</p>
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AUTHORITY NOTE: Adopted in accordance with R.S. 37:144 and R.S. 37:145.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), LR 10:739 (October 1984); amended in its entirety by the Department of Economic Development, Board of Architectural Examiners LR 17:

§1311. Use of "AIA"

The use of "AIA", in and of itself, is not an acceptable substitution for the required title "architect" on every listing, publication, announcement, letterhead, business card, and sign used by an individual practicing architecture in connection with his practice.

<p>Allowed: John Smith, Architect John Smith, Architect, AIA</p>	<p>Not Allowed: John Smith, AIA</p>
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AUTHORITY NOTE: Adopted in accordance with R.S. 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners LR 17:

§1313. Use of the Term "Associate"

An architect may only use the word "associate" in the firm title to describe a full-time officer or employee of the firm. The plural form may be used only when justified by the number of associates who are full-time firm employees. An architectural firm using the plural form, but which loses an associate or associates so that it is no longer able to do so, is not required to change its name for a period of two years from the departure of the associate. Identification of the associate in the firm title, listing, publication, letterhead, or announcement is not required.

Allowed:
 John Smith & Associates, Architecture
 & Planning John Smith, Architect
 John Smith & Associates, Architect
 John Smith, Architect

Not Allowed:
 John Smith & Associates, Architects
 (if the firm employs only one associate
 as defined herein)

AUTHORITY NOTE: Adopted in accordance with R.S.
 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department
 of Economic Development, Board of Architectural Examiners
 LR 17:

§1315. Sole Proprietorship, Partnership, Group, or Association

The firm name of any form of individual, partnership,
 corporation, group, or associate practice must comply with
 all of the rules set forth in this Chapter.

Allowed:
 John Smith, Architect
 John Smith, AIA, Architect
 John Smith, Architect, AIA
 John Smith & Associates,
 John Smith, Architect
 Smith & Jones, Architect & Engineer
 John Smith, Architect

Not Allowed:
 John Smith
 John Smith, AIA

Smith & Jones, Architect & Engineer (if
 Smith and Jones are both licensed
 architects engaged in the active
 practice of architecture)

Smith & Jones, Architects & Engineer
 (if either Smith or Jones are not li-
 censed architects engaged in the
 active practice of architecture)
 Smith & Jones, Architects (if either
 Smith or Jones are not licensed ar-
 chitects engaged in the active prac-
 tice of architecture)

AUTHORITY NOTE: Adopted in accordance with R.S.
 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department
 of Economic Development, Board of Architectural Examiners
 LR 17:

§1317. Professional Architectural Corporation

The corporate name of a professional architectural
 corporation registered with this board must comply with R.S.
 12:1088.

Allowed:
 Smith & Jones, A Professional Archi-
 tectural Corporation
 Smith & Jones, Architects, A Profes-
 sional Architectural Corporation
 Heritage Architects, A Professional Ar-
 chitectural Corporation

Not Allowed:
 Smith & Jones, Inc.
 Smith & Jones, A Professional Interior
 Architectural Corporation

AUTHORITY NOTE: Adopted in accordance with R.S.
 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department
 of Economic Development, Board of Architectural Examiners
 LR 17:

§1319. Architectural-engineering Corporation

The corporate name of an architectural-engineering
 corporation registered with this board must comply with R.S.
 12:1172.

Allowed:
 Smith & Jones, An Architectural-
 Engineering Corporation
 Smith & Jones, Inc.
 Heritage Architects, Ltd.

Not Allowed:
 Smith & Jones

AUTHORITY NOTE: Adopted in accordance with R.S.
 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department
 of Economic Development, Board of Architectural Examiners
 LR 17:

§1321. Fictitious Name

For the purposes of these rules, a fictitious name is
 any name other than the real name or names of an individ-
 ual. Any individual, partnership, corporation, group, or asso-

ciation may practice architecture under a fictitious name
 provided the name complies with all of the rules of this Chap-
 ter.

Allowed:
 Heritage Architecture
 John Smith, Architect
 Architectural Design
 John Smith, Architect
 Architectural Design Consultants
 John Smith, Architect
 Jack Jones, Architect
 Heritage Architects, A Professional
 Corporation
 John Smith, Architect

Not Allowed:
 Heritage Architecture
 Architectural Design
 Architectural Design Consultants
 John Smith, Architect

AUTHORITY NOTE: Adopted in accordance with R.S.
 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department
 of Economic Development, Board of Architectural Examiners
 LR 17:

§1323. Practicing in a Firm with Other Professionals

An architect who practices in a firm with one or more
 engineers, land surveyors, landscape architects, interior de-
 signers, or other professionals in an allied profession is per-
 mitted to use in the firm title a phrase describing the
 professions involved such as "Architect and Engineer", "Ar-
 chitects, Engineers, and Surveyors", etc. provided: (1) the
 title does not hold out to the public as an architect any per-
 son who is not registered by the board; (2) the name of any
 allied professional in the firm title is practicing in accordance
 with the applicable statutes and regulations that govern the
 practice of that allied profession; and (3) the title complies
 with all the rules of this Chapter.

Allowed:
 Smith & Jones, Architect & Engineer
 John Smith, Architect
 Smith & Jones, Architects & Engineers
 John Smith, Architect
 Jack Jones, Architect

Not Allowed:
 Smith & Jones, Architect & Engineer

AUTHORITY NOTE: Adopted in accordance with R.S.
 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department
 of Economic Development, Board of Architectural Examiners
 LR 17:

§1325. Deceased or Retired Member; Predecessor Firms

An architect may include in the firm name the real
 name or names of one or more living, deceased, or retired
 members of the firm, or the name of a predecessor firm in a
 continuing line of succession. If a firm chooses to include in
 any listing of architects a deceased or retired member, a de-
 ceased or retired member should be so identified.

AUTHORITY NOTE: Adopted in accordance with R.S.
 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department
 of Economic Development, Board of Architectural Examiners
 LR 17:

§1327. Unlicensed Persons

Unlicensed persons cannot use the term "architect",
 "architectural", "architecture" or anything confusingly simi-
 lar to indicate that such person practices or offers to practice
 architecture, or is rendering architectural services. A person
 who has obtained a degree in architecture may not use the
 title "graduate architect".

Allowed:
 Designer
 Draftsman
 Building Designer Products

Not Allowed:
 Architectural Designer
 Architectural Draftsman
 Architectural Building Designer

AUTHORITY NOTE: Adopted in accordance with R.S. 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners LR 17:

§1329. Intern Architect

A person who: (1) has completed the education requirements set forth in NCARB Circular of Information No. 1; (2) is participating in or who has successfully completed the Intern Development Program ("IDP"); and (3) is employed by a firm which is lawfully engaged in the practice of architecture in this state may use the title "intern architect" but only in connection with that person's employment with such firm. The title may not be used to advertise or offer to the public that such person is performing or offering to perform architectural services, and accordingly such person may not include himself in any listing of architects or in any listing of persons performing architectural services. Such person may use a business card identifying himself as an "intern architect", provided such business card also includes the name of the architectural firm employing such person.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners LR 17:

§1331. Business Cards

The business card of an architect should comply with all of these rules including that the user thereof is identified an "architect".

AUTHORITY NOTE: Adopted in accordance with R.S. 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners LR 17:

§1333. Effective Date

The effective date of these rules shall be two years after publication of the adoption thereof in the *Louisiana Register*. In the interim, all architects shall take any necessary steps to conform their business cards, stationery, listings, signs, etc. to these rules.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:144 and R.S. 37:145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners LR 17:

Interested persons may submit written comments on these proposed rules to Mary "Teeny" Simmons, executive director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: LAC 46.I.Chapter 13 - Titles, Firm Names,
and Assumed Names**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule change will not impact costs (savings) to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule change will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Some architects and architectural firms who are in violation of this proposed rule will be required to incur some expense so that their firm name and title and their listings, publications, announcements, letterheads, and signs will be in compliance with this proposed rule. Anticipated expense should be minimal since the effective date of these proposed rules is two years after publication of the adoption thereof in the *Louisiana Register*, and in the interim all architects should take all necessary steps to conform their firm name and title and their listings, publications, announcements, letterheads, and signs to these rules.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

No effect on competition and employment is anticipated, since these proposed rules merely clarify the name and title an architect and an architectural firm may use.

Mary "Teeny" Simmons
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Economic Development, Office of Commerce and Industry intends to adopt the following rule, LAC 13:I.2101-2111:

**Title 13
DEPARTMENT OF ECONOMIC DEVELOPMENT
Part I.**

Subpart 1. Finance

Chapter 21. Environmental Criteria for Rating Tax Exemptions

§2101. Introduction

A. The following rules will be used as the formula to evaluate the environmental compliance of applicants for tax exemptions. The information required to apply the formula will be provided by the applicant as a part of the application. All statistics regarding payroll, manhours, and percentage of capital investment on pollution control equipment are understood to be provided as confidential information and may not be released by an agency except as an aggregate part of a larger number not associated with the applicant's name. These rules, when applying to a renewal of a five year Industrial Tax Exemption contract, will use a data history, gathered in the six-month period just prior to the beginning date of a renewal contract. This new data will be used to compute a new score which will determine the percentage of tax exemption to be considered for the renewal contract.

B. The formula starts at 50 points and adds the number of points from the environmental compliance record (maximum 25 points) and emissions-per-job categories (maximum 25 points). Bonus points are available and may be used to offset any scores totaling less than 100 points. The total tax relief will be the same as the total score, with a maximum of 100 points. (i.e., If a company receives 100 points, it will be considered for 100 percent of the tax relief applied for. If it gets 60 points, it will be considered only for 60 percent of the tax relief applied for.) The environmental review score will be available to the applicant at any time, after compilation, by written request.

C. For the installation of a Department of Environmental Quality (DEQ) approved pollution control project, these rules do not apply.

D. The Jobs Tax Credit, in the Enterprise Zone Program, will not be affected by these rules.

E. Definition of terms used in these rules:

1. *Site* - a continuous piece of land over which a company's ownership extends.

2. *Plant* - a production unit (i.e., an ethylene production unit = an ethylene plant)

3. *Facility* - all production unit and support units on a site belonging to an applicant.

4. *Support unit* - equipment that is used on the site other than a plant. (i.e., instrument air unit, control house, maintenance unit)

5. Criteria air pollutants are NO_x, SO₂, CO, VOCs, Lead, and Particulates under 10 microns.

6. Toxic Release Inventory published by the United States Environmental Protection Agency lists the substances defined as TRIs.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S.47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division, LR 17:

§2103. Compliance Records

A. The environmental compliance record considered (25 points maximum) will be facility specific federal and state final penalties, except in extenuating circumstances when the Board of Commerce and Industry and the Governor consider it to be in the state's best interest to use a company's complete environmental record.

B. An environmental compliance history, starting July 1, 1988, will be used. The environmental history will increase in one-year increments on July 1 of each year until a maximum of a five-year history is implemented on July 1, 1993. After July 1, 1993 a five-year compliance history will be utilized on all applications.

C. Point deductions for first year environmental violations which go through adjudication will be as follows:

1. five point deduction for violations with fines under \$10,000;

2. ten point deduction for violations with fines between \$10,000 to \$25,000;

3. fifteen point deduction for violations with fines in excess of \$25,000;

4. twenty point deduction for criminal felony violations;
5. the age of a violation will be calculated from the date of the final action. The older the violation the lower the deduction. Deductions will be weighted as follows:

a. Year 1: 100%

b. Year 2: 80%

c. Year 3: 60%

d. Year 4: 40%

e. Year 5: 20%

f. Year 6: 0%

D. Equivalent violations, voluntarily settled with the DEQ, will incur one half of the point deductions in Section 2103.C.

E. Violations which are "technical" (paperwork) and are not the result of any pollution to the environment will not be counted in scoring the compliance record of a company.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S.47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division, LR 17:

§2105. Emissions-per-job

A. This is a category using total emissions divided by the total jobs (The jobs data will consist of three types of jobs: permanent full-time jobs, full-time construction equivalents, and full-time contract equivalents.) It creates a ratio between the total number of jobs existing at a facility and a composite emissions number which combine the total TRI data, criteria air pollutants (added in at 10 percent of the total except for lead which is added in at 100 percent), and accidental toxic releases. Criteria air emissions from co-generation facilities will not be added to the emissions total used in this calculation. The following point schedule will apply:

POUNDS OF EMISSIONS PER JOB	POINTS RECEIVED
0 - 500	25
501-1,000	20
1,001 - 2,500	15
2,501 - 5,000	10
5,001 - 10,000	5
OVER - 10,001	0

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S.47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division, LR 17:

§2107. Bonus Point Categories

A. There are five bonus categories, which have a possible combined total of 55 points, that can be applied to final scores of less than 100. Bonus points are used as an incentive to reduce emissions, develop recycling systems and/or

use recycled materials, diversify the state's economic base and locate facilities in parishes with high unemployment rates.

1. Emission Reductions: (15 points maximum) Fifteen bonus points can be given, for the entire project, if the facility has a DEQ approved emissions reduction plan. To be eligible for emission reduction bonus points, a facility must reduce its overall emissions by an average of five percent per year, measured over the prior five-year period. One bonus point will be given for each acceptable two percent reduction in regulated emissions resulting from the project as compared to the year preceding the application.

2. Recycling: (5 points maximum) Bonus points will be available to companies which install a closed loop recycling system or use recycled materials. One bonus point will be given for every one percent of recycled hazardous waste material substituted in the input throughput by a closed loop recycling system, or one bonus point will be given for each five percent of recycled total throughput material used by a company, or any combination thereof.

3. Recycling Companies or Manufactured Consumer Products Bonus: (10 points maximum) Ten bonus points will be available to companies whose predominant activity is recycling, or using bulk materials produced in Louisiana for manufacturing "end use" products such as plastic bags. One bonus point will be given for each ten percent of gross income generated by recycled materials or "end use" products which are made of bulk materials manufactured in the state.

4. New Jobs for High Unemployment Areas: (15 points maximum) Fifteen bonus points will be given to projects which create at least one new job per \$30,000 in tax relief in parishes that have an unemployment rate one or more percent above the state's average.

5. Diversification: (10 points maximum) Bonus points will be available to industries which diversify the state's economy. In this category the Department of Economic Development may recommend bonus points based upon SIC code distribution within the state. Preference will be given to industries not heavily represented in Louisiana which are low or non-polluting and/or labor intensive (i.e., clothing manufacturers, automobile manufacturers, airplane maintenance facilities, and computer manufacturers).

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S.47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division, LR 17:

§2109. Restrictions

A. Tax exemptions will be reduced by 50 percent for any facility whose total product includes more than 20 percent banned materials or materials designated to be banned, by the United States Environmental Protection Agency.

B. No tax exemption will be given to a facility if it imports, from out-of-state, 15 percent more hazardous waste, bound for incineration or disposal, than it exports.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F); Acts 1985/1008 R.S.

33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S.47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division, LR 17:

§2111. Exceptions

A. The governor and the Board of Commerce and Industry shall have an unfettered discretion to grant, deny or modify any tax exemption application.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S.47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry; Financial Incentives Division, LR 17:

Inquiries and comments will be accepted through close of business on March 21, 1991. Written comments should be addressed to: Paul Adams, Financial Incentives Director, Department of Economic Development, Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804.

Paul Adams
Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: LAC: 13-I. Chapter 21

Environmental Criteria for Rating Tax Exemptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs will include numerous meetings with the Department of Environmental Quality, the Department of Revenue and Taxation, and the Louisiana Tax Commission, to work out details of implementation. New application forms, contracts, etc. must be drafted and printed. Additional staff will be necessary, both by the Department of Economic Development and the Department of Environmental Quality, to administer the proposed rules. The Department of Revenue and Taxation will have to keep additional records of partial tax exemptions granted for state sales taxes. Local tax assessors will also be required to maintain additional records of percentages of ad valorem tax exemptions granted by the Industrial Tax Exemption. Parishes and municipalities will be required to keep additional records of partial tax exemptions which impact local sales taxes. No estimate is available of the dollar cost of implementation for all state and local agencies. Impact to the Department of Economic Development will be \$40,728 for Fiscal Year 1990-91; \$69,173 for Fiscal Year 1991-92; and \$71,328 for Fiscal Year 1992-93.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A formula has been conceived which will grant a per-

centage of tax exemptions applied for according to environmental history and an emissions-per-job ratio. The proposed rules should impact state and local governments. State and local sales tax revenues, and local ad valorem property tax revenues should increase as a result of these proposed rules. No estimate is available on what the dollar impacts to state and local governments will be.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Companies will not receive 100 percent of the tax exemptions applied for. Some companies applying for financial incentives/tax exemptions from the state of Louisiana will be impacted. Sales and use tax and ad valorem property tax liabilities may be increased when a company's environmental score is less than 100. Companies should also incur additional labor costs to prepare applications and questionnaires regarding environmental activities, violations, etc. when applying for tax exemptions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies with poor environmental records will receive less in tax exemptions and therefore will pay more in taxes which may make them less competitive. Companies with good environmental records may pay less taxes and therefore be more competitive. A company with a poor environmental record, considering a site in Louisiana or a site in a competing state, may choose not to locate in Louisiana as a result of these rules.

Robert Paul Adams
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Office of Financial Institutions**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and under the provisions of R.S. 9:3554 (B) notice is hereby given that the Office of Financial Institutions intends to adopt a rule to better provide for information pertaining to the financial responsibility, character and fitness that shall be required of an applicant for a license to engage in the business of making supervised loans under the provisions of the Louisiana Consumer Credit Law.

Interested parties may request copies of the proposed rule, submit written comments or make written inquires concerning the rule until 4:30 p.m., March 10, 1991, at the following address: Ann Wise, Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095.

She is the person responsible for responding to inquiries concerning the proposed rule.

A. Bridger Eglin
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Licensed Lender Application**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Costs to revise the application form include personnel costs of \$2,300 and annual xeroxing costs of \$270. Additionally, the costs of obtaining criminal records is estimated to be \$1,800 annually.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a reduction in revenues from new applications as a result of new requirements (20 x 400) = (8,000).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Costs to affected persons will be increased as a result of the additional information required by the application process. The exact costs cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Slightly fewer lenders entering the market will reduce employment potential with no adverse effect on competition.

Lynda A. Drake
Deputy Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Office of Financial Institutions**

In accordance with LA R.S. 49:950 et seq., the Administrative Procedure Act, and as provided for by LA R.S. 9:3554 (B), notice is hereby given that the Office of Financial Institutions intends to adopt a rule to establish minimum records that must be maintained by a licensed lender for the purpose of determining compliance with the provisions of the Louisiana Consumer Credit Law during annual examination.

RECORDS RETENTION RULE

The following documents are to be maintained by all licensed lenders at the location where the loan is made in compliance with the provisions of LA R.S. 9:3554(h) and LA R.S. 9:3561(a) of the Louisiana Consumer Credit Law.

1. The original or a copy of all documentation signed by the consumer, including, but not limited to:

- a. note;
- b. disclosure statement;
- c. financing statement (or equivalent).

2. Individual account of the borrower (ledger card or printable computer screen) showing the following:

- a. amount of loan;
- b. origination date;
- c. repayment terms;
- d. insurance charges, whether sold in connection with the loan or not;
- e. total finance charge;
- f. annual contractual percentage rate;

- g. date, amount and application of each payment;
 - h. date and amount of late charges assessed;
 - i. date and amount of deferral charges;
 - j. remaining unpaid balance;
 - k. due date of first payment;
 - l. all changes in due date of payment.
3. All paid out accounts (including those paid out by renewal) must be filed separately and contain the following:
- a. interest rebate;
 - b. itemized rebate of all insurance premiums.
4. Accounts turned over to an attorney for collection:
- a. amount paid to attorney, including court costs and attorney fees shown as separate charges;
 - b. receipt from Clerk of Court, evidencing court costs.
5. Accounts reduced to judgment:
- a. same documents as for attorney accounts;
 - b. receipt from Clerk of Court, evidencing any additional court costs;
 - c. copy of signed judgment.
6. Death claims:
- a. copy of death certificate;
 - b. copy of all checks received from insurance company in payment of claim;
 - c. copy of check evidencing payment to secondary beneficiary, where applicable.
7. Insurance records:
- a. copy of master policy for each type of insurance sold to consumers;
 - b. copy of rates approved by the Insurance Rating Commission, except for those established by the Louisiana Consumer Credit Law;
 - c. lenders will be expected to provide proof of compliance with the licensing provisions as set out by the commissioner of insurance;
 - d. proof of remittance of premiums to the insurance underwriter.
8. Paid out accounts containing errors cited at the previous examination:
- a. must be filed separately
 - b. must contain proof of correction of error, including copies of refund checks issued to consumers.
9. Evidence of indebtedness or investment: Provide a complete list of the holders of all notes, debentures, or other evidence of indebtedness or investments by the licensee, including the following:
- a. name and address of each holder;
 - b. amount of debt held by each;
 - c. date of obligation;
 - d. due date;
 - e. interest rate;
 - f. amount of delinquent interest;
 - g. amount of interest added back to obligation.
10. Any other records that may be deemed necessary by the Office of Financial Institutions to determine compliance with the provisions of the Louisiana Consumer Credit Law.

All records must be retained for at least three years after account is paid in full unless required by law to be retained for a longer period.

Interested parties may request copies of the proposed rule, submit written comments or make written inquiries concerning the rule until 4:30 p.m., March 10, 1991, at the following address: Ann Wise, Attorney, Office of Financial

Institutions, Box 94095, Baton Rouge, LA 70804-9095.

She is the person responsible for responding to inquiries concerning the proposed rule.

A. Bridger Eglin
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Records Retention Rule

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Costs of \$800 are estimated to be expended in the preparation of the rule by Office of Financial Institutions personnel.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This rule will have no economic effect on lenders or the consumers.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Lynda A. Drake
Deputy Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule:

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLI. Horseracing Occupations
Chapter 7. Jockeys and Apprentice Jockeys
§705. Apprentice's Contract**

Any person over the age of 16...

A.-B. ...

C. Where all parties to the contract agree an apprentice jockey contract can be terminated by mutual agreement and an apprentice jockey certificate issued, providing all wins and dates of wins are recorded on the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 148 and 150.

HISTORICAL NOTE: Promulgated by Department of Commerce, Racing Commission, LR 2:431 (December 1976), repromulgated LR 3:27 (January 1977), LR 4:276 (August 1978), amended by Department of Economic Development, Racing Commission, LR 17:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administra-

tive Services Assistant, at (504) 483-4000 or LINC 635-4000, holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, March 8, 1991 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5111.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 46:XLI.705 "Apprentice's Contract"**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule change adds Paragraph "C", which benefits basically apprentice jockeys and commission and racing association personnel (interpreting the rules), by providing that an apprentice jockey contract may be terminated by mutual consent of the parties involved and his certificate issued, but the certificate must indicate all his wins and dates.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition nor employment.

Claude P. Williams
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Elections and Registration
Commissioner of Elections**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and under the authority of R.S. 36:662, R.S. 18:21, and R.S. 18:1371, the Department of Elections and Registration hereby proposes to adopt the rules and regulations detailed below which govern the procurement, management, and control of all voting machine storage and drayage:

**Title 31
ELECTIONS**

Part III. Procurement

Chapter 7. Procurement of Voting Machine Storage and Drayage Services

Subchapter A. General Provisions

§701. Authority and Duties of the Commissioner of Elections

A. The commissioner of elections shall have the authority and responsibility to promulgate rules and regulations

governing the procurement, management, and control of all voting machines storage and drayage required and set forth in Article IV Section 12 of the Constitution, R.S. 18:21, R.S. 18:1371, and R.S. 36:662.

B. The chief procurement officer of the Department of Elections and Registration shall be the commissioner of elections.

AUTHORITY NOTE: Promulgated in accordance with Article IV Section 12 of the Constitution, R.S. 18:21, R.S. 18:1371, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§703. Delegation of Authority

The commissioner of elections may delegate in writing certain responsibilities set forth herein, however, he shall review any action taken by his designee.

AUTHORITY NOTE: Promulgated in accordance with Article IV Section 12 of the Constitution, R.S. 18:21, R.S. 18:1371, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§705. Delegation of Signature Authority

A. The commissioner of elections or his designee shall sign all contracts for storage and drayage of voting machines.

B. This delegation of signature authority must be in writing.

AUTHORITY NOTE: Promulgated in accordance with Article IV Section 12 of the Constitution, R.S. 18:21, R.S. 18:1371, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§707. Definitions

A. *Drayage* means the transporting or cartage of voting equipment as directed by the commissioner of elections.

B. *Storage* means the depositing of voting machines and related parts and equipment for safekeeping between elections as approved by the commissioner of elections.

AUTHORITY NOTE: Promulgated in accordance with Article IV Section 12 of the Constitution, R.S. 18:21, R.S. 18:1371, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§709. Revised Statutes

A. These regulations shall be read and interpreted jointly with R.S. 39:1551 et seq.

B. A rule or regulation shall not change any explicit contract provision, commitment, right or obligation of the state, or of a contractor under a state contract in existence on the effective date of that rule or regulation. However, to the extent possible, existing contracts shall be construed in conformity with these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with Article IV Section 12 of the Constitution, R.S. 18:21, R.S. 18:1371, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

Subchapter B. Competitive Sealed Bidding

§711. Invitation for Bids, Public Notice, and Bid Opening

A. All contracts for the storage or for the drayage of voting machines shall be awarded by competitive sealed bidding on a parish-by-parish basis. For drayage, bids will be opened by voting machine district in alphabetical order by parish name on seven consecutive working days.

B. Competitive sealed bidding shall be accomplished by sending out written notices to persons known to be able to provide the department's requirements, and by advertising in accordance with R.S. 39:1594 at least 20 days prior to bid opening.

1. Written notices shall be mailed to those persons who have previously requested an Invitation for Bids for said parish within the previous four years.

2. The written notices and advertisements shall announce the type of contract; the parish for which the contract is required; the method of acquiring an Invitation for Bids; and the date, time, and place of bid opening.

3. Advertisements shall be published in the state official journal and in the official journal of the parish in which the contract is required.

C. The Invitation for Bids shall contain:

1. complete description of the space or transportation required;
2. all applicable terms, conditions, and other requirements;
3. types and limits of insurance required;
4. bid and performance bonding requirements; and
5. factors which will be used to determine responsibility of bidders.

D. Bids shall be publicly opened and read as specified in the Invitation for Bids in the presence of one or more witnesses. Bidders and the public may be present at any bid opening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21, R.S. 18:1371, R.S. 39:1594, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§713. Bid Evaluation

Bids shall be evaluated based on adherence to the specifications, terms, and conditions listed in the Invitation for Bids. The vendor must list any deviations from these specifications, terms, or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1594(E) and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§715. Responsibility of Bidders

A. The commissioner of elections or his designee may make reasonable inquiries to determine the responsibility of prospective contractors. In making his determination, the following factors will be considered:

1. has available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability to meet all contractual requirements;
2. has a satisfactory record of performance on previous state contracts and with other persons;
3. has a satisfactory record of integrity and compliance with the law;

4. is qualified legally to contract with the state of Louisiana (Prior to award of any contract, the successful bidder shall affirm by affidavit that he/she and/or the principal officers of a corporation are not currently under any felony conviction.); and

5. has not unreasonably failed to supply any information requested by the commissioner of elections in establishing responsibility.

6. the commissioner of elections may establish other standards provided that they are set forth in the Invitation for Bids.

B. Each bidder who is determined to be nonresponsible shall be notified in writing. Such notification shall state all reasons for disqualification, and give each bidder who is proposed to be disqualified, a reasonable opportunity to refute the reasons for disqualification at an informal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1601 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§717. Correction or Withdrawal of Bids

A. Obvious errors or errors supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders and such actions may be taken only to the extent permitted under regulations.

1. Any bid may be withdrawn prior to bid opening.

2. Minor informalities or insignificant mistakes may be waived or corrected if such will not prejudice other bidders (i.e. the effect on price, quantity, quality, delivery, or contractual conditions is not significant). The commissioner of elections may waive any informalities or allow corrections by bidders if it is in the best interest of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1594(F) and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§719. Bid Guaranty and Bond

A. If specified in the Invitation for Bids, a bond, certified check, or money order payable to the Department of Elections and Registration in the amount of five percent of the bid must accompany each bid submitted.

B. If a bidder withdraws his bid after bid opening, without complying with LAC 31:III.717 above, or fails to execute a contract within 10 days of request, the bid bond or other security shall be forfeited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§721. Performance Bond

A. If specified in the Invitation for Bids, the bidder awarded the contract must submit a performance bond or letter of credit in the penal sum of one and one-half times the contract price made payable to the Department of Elections and Registration.

B. The performance bond shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Service list of approved

bonding companies which is published annually in the *Federal Register*.

C. If a contractor fails to perform in accordance with contractual obligations, the contractor forfeits the performance bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2219, R.S. 39:1581, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§723. Forfeiture of Bonds

Actions by bidders causing forfeiture of bonds as stated in §719 and §721 above shall be cause for removing said bidders from the department's bid list and will support a determination of nonresponsibility for the bidder and its principals for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§725. General Guaranty

Contractor agrees:

A. to maintain all insurance required in the Invitation for Bids during the term of the contract;

B. to pay all taxes, permits, licenses and fees; to give all notices and comply with all laws, ordinances, rules, and regulations of each city and/or town in the parish in which the contractor is performing his duties, and of the state of Louisiana;

C. to protect the state from loss in case of an accident or mishandling by contractor's employees; and

D. to make available the equipment, labor, insurance, etc. for drayage of voting machines at times other than for elections. Such prices to be determined by competitive bidding in accordance with small purchase provisions of the procurement code and subsequent applicable executive orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§727. Award

A. All contracts shall be awarded to the lowest responsive and responsible bidder within 30 days of bid opening.

1. A responsive bidder means a person who has submitted a bid which conforms in all substantive respects to the Invitation for Bids, including the specifications set forth in the invitation.

2. The award shall be made by unconditional acceptance of a bid without alteration or correction, except as authorized in LAC 31:III.717.

B. If a bidder who is the lowest responsive and responsible bidder declines to accept the contract, the award may be made to the next lowest bidder or the solicitation may be cancelled and re-advertised if it is determined that resolicitation is in the best interest of the state. Any bidder who has declined to accept the contract previously offered shall be ineligible to bid on the subsequent solicitation. A bidder who declines a contract or fails to produce an acceptable performance bond may also be debarred from future bidding.

C. In the case of "Tie Bids", award shall be made in a

manner that will discourage future "Tie Bids". A written justification for the determination of award must be made by the commissioner of elections.

D. In-state bidders shall be preferred to out-of-state bidders on a reciprocal basis when there is a tie bid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1594, R.S. 39:1595(I), and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§729. Rejection of Bids; Cancellation of Solicitations

A. The commissioner of elections reserves the right to reject any and all bids when it is in the best interest of the state of Louisiana.

1. Reasons for rejecting a bid include, but are not limited to:

a. A determination of nonresponsibility has been made against a bidder.

b. The bid is not responsive (i.e. it did not meet specifications or comply with terms and conditions).

2. Reasons for cancelling a solicitation include, but are not limited to:

a. The department no longer requires the space or service.

b. Bids received exceeded budgeted funds or were unreasonable.

c. The solicitation was flawed (i.e. specifications were not complete or were ambiguous).

d. There is reason to believe that the bids received may have been collusive.

e. There is inadequate competition indicated by low response to the solicitation.

B. When bids are rejected, or a solicitation is cancelled, written notices shall be given to the bidders, giving the reasons for the rejection or cancellation.

C. When a solicitation is cancelled, where appropriate, bidders will be given the opportunity to bid on the new solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581, R.S. 39:1599, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§731. Emergency Procurements

A. The commissioner of elections or his designee may declare that an emergency situation exists when:

1. Property is subject to loss or destruction as a result of an accident or natural disaster within 10 days of an election.

2. The functioning of the department will be threatened.

3. The health and safety of any person is threatened.

B. Every effort shall be made to obtain bids from three or more bidders. Bids shall be solicited from bonded, insured draymen or lessors currently under contract with the department.

1. If time permits, written quotations shall be solicited.

2. If time does not permit, telephone quotations shall be solicited.

C. The commissioner of elections shall make a written determination stating the basis for the declaration of an emergency, the procedure used prior to selecting a contractor, and the basis for awarding to a particular contractor.

D. The commissioner of elections shall keep all records relating to emergency procurements at least six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1598 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§733. Collusive Bidding or Negotiations

A. The attorney general shall be notified in writing whenever collusion is suspected among bidders. Such notice shall contain all known facts.

B. All documents involved in a procurement in which collusion is suspected shall be retained for six years or until the attorney general notifies the department that they may be destroyed, whichever is longer. These documents shall be made available to the attorney general or his designee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1626 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§735. Specifications

A. All specifications shall be written so as to promote as much competition as possible. Proprietary specifications may be used only to convey the general style, type, character, and quality desired. The department will accept equals.

B. Specifications issued by the department may include an escalation or de-escalation clause in accordance with the Consumer Price Index.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§737. Warehouse Specifications

A. All specifications are subject to applicable building codes; weather and soil conditions; and conditions imposed by the building's use.

B. All aspects of the construction of the building must be complete and sufficient for our purposes. Failure by the agency to specify those items commonly found in this type construction shall not relieve the bidder from providing those items.

C. The term of the lease, and any subsequent renewal, shall be determined by:

1. the condition of the building;
2. the projected growth of parish and future needs;
3. the probability of change in type and size of voting machines;

4. the conditions in the local economy; and
5. any other applicable conditions.

D. The lease will be provided by the department, and no lease shall extend beyond a period of 10 years, inclusive of all option renewals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21, R.S. 39:1581, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§739. Lease Amendments

A. Should alterations or modifications of space currently under lease, as provided in R.S. 18:21(B), be required

to meet changed operating requirements, a lease may be amended.

1. The commissioner of elections may approve an adjustment in monthly lease payments not to exceed 25 percent of the original annual lease price per square foot, sufficient to reimburse the lessor for expenses incurred in providing the improvements.

2. Such adjustments in rental shall also be approved by the Joint Legislative Committee on the Budget.

3. The continuance of adjustments in excess of the current lease shall be contingent on the appropriation of funds in subsequent fiscal years.

B. If the holder of multiple warehouse contracts fails to perform in accordance with the provisions of any of his contracts, the commissioner of elections may cancel any and all contracts with that contractor. In addition, the contractor may be suspended from future bidding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21(B), R.S. 39:1644, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§741. Drayage Specifications

A. A contract cannot be transferred, subcontracted, or assigned prior to execution of said contract. After execution of the contract, a contractor may assign or subcontract his obligations under the contract only with the written consent of the commissioner of elections, which consent shall not be unreasonably withheld.

B. To the extent that a prospective contractor proposes to utilize subcontractors in performing the contract, the prospective prime contractor shall not be considered to be responsible unless recent performance history indicates an acceptable subcontracting system determined by the commissioner of elections. All subcontractors must meet the same standards for responsibility, bonds, and insurance as the prime contractor.

C. If a bidder is the lowest responsible and responsive bidder in more than one parish, bidders will be limited to contracting for parishes with an aggregate total of not more than 1,000 voting machines or four parishes. In the event that those numbers are exceeded, the contracts will be awarded in the order in which bids were taken.

D. The term of the contract shall be one year with an option to renew for two additional one-year terms.

E. If the holder of multiple drayage contracts fails to perform in accordance with the provisions of any of his contracts, the commissioner of elections may cancel any and all contracts with that contractor. In addition, the contractor may be suspended from future bidding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371, R.S. 39:1581, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§743. Right to Protest

A. All proceedings herewith shall be carried out in accordance with the Conduct of Hearing Rules set forth in LAC 34:I. Chapter 31.

B. Any bidder may protest a solicitation or award of a contract to the commissioner of elections.

C. In regard to the solicitation of a drayage contract,

the protest must be made in writing at least two days prior to the opening of bids.

D. In regard to the solicitation of a lease to store voting machines, the protest must be made in writing at least 10 days prior to the opening of bids.

E. In regard to the award of any contract, a written protest must be made within 14 days after the contract is awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1671 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§745. Legal and Contractual Remedies

A. The commissioner of elections or his designee is authorized to settle and resolve any protest prior to court action. If a protest is not resolved by mutual agreement, the commissioner of elections or his designee shall, within 14 days, issue a decision in writing. The decision shall:

1. state the reasons for the action taken; and
2. inform the protestant of its right to administrative and judicial review as provided in Part VI of the Procurement Code.

B. Notice of decision shall be furnished immediately to the protestant and any other party intervening.

C. The decision of the commissioner of elections or his designee shall be final unless:

1. the decision is fraudulent; or
2. the person has appealed to the commissioner of administration in accordance with R.S. 39:1683 and R.S. 39:1685.

D. If a protest is lodged as provided for in these regulations, the department shall not proceed with the solicitation or award, unless the commissioner of elections declares in writing that proceeding is necessary to protect the substantial interest of the state. Upon such determination, no court shall enjoin progress under award except after notice and hearing.

E. When a protest is sustained and the protesting bidder should have been awarded the contract but is not, the bidder shall be reimbursed for reasonable costs associated with the solicitation, including bid preparation costs other than attorney's fees. Any administrative determination of such costs shall require approval of the attorney general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1671, R.S. 39:1673, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

§747. Suspension and Debarment

A. A bidder and its principal officers and agents may be debarred or suspended from consideration for award of contracts during an investigation for probable cause if it is in the best interests of the state.

B. The commissioner of elections may suspend or debar a person for cause after notice to the bidder has been given, and the bidder has had a reasonable opportunity to respond. A bidder may be suspended if the commissioner of elections determines that there is probable cause to believe that the bidder has engaged in any activity to lead to debarment.

1. The period of time for the suspension shall be:
 - a. for drayage contracts - one complete cycle of bid-

ding in all parishes; and

b. for warehouse contracts - five years.

2. The period of time for debarment shall be:

a. for drayage contracts - two complete cycles of bidding in all parishes; and

b. for warehouse contracts - ten years.

C. Causes for debarment shall be in accordance with R.S. 39:1672(C).

1. In addition to the provisions of R.S. 39:1672(C), the commissioner of elections may debar a bidder for the following reasons:

a. The bidder has withdrawn a bid after award, for whatever reason, more than once.

b. The commissioner of elections may declare other specific reasons for suspension or debarment which are in the best interests of the state.

D. The commissioner of elections shall notify the debarred or suspended bidder in writing of the decision stating the reasons for the action taken. Such notification shall also inform the debarred or suspended bidder's rights to administrative and judicial review.

E. The decision of the commissioner of elections or his designee shall be final unless:

1. the decision is fraudulent; or

2. the person has appealed to the commissioner of administration in accordance with R.S. 39:1684.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1672 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 17: (February 1991).

Interested persons may submit written comments on the proposed regulations until 4:30 p.m. on March 13, 1991 to: Jerry M. Fowler, Commissioner, Department of Elections and Registration, Box 14179, Baton Rouge, LA 70898-4179. All interested persons will be afforded an opportunity to present their views in writing.

Jerry M. Fowler
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Procurement of Voting Machine Storage and Drayage Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated costs or savings to state or local governmental units to implement the proposed rules and regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rules and regulations would have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There would be no costs and/or economic benefits to directly affect persons or non-governmental groups if the proposed rules and regulations were approved.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There would be no effect on competition and employment.

Carol H. Guidry
Asst. Commissioner of
Management and Finance

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Air Quality and Radiation Protection**

Under the authority of the Louisiana Environmental Quality Act, LA R.S. 30:2001, et seq., particularly LA R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, LA R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.6103, (Log Number AQ30).

These amendments will establish the criteria and procedure for ensuring continuous emission monitors and to assure that the systems supporting them are operating properly. See *Federal Register* published March 30, 1983, 48 FR 13327, number 62.

These proposed regulations are to become effective on May 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on March 28, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, April 1, 1991, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804 or to 333 Laurel Street, 6th floor, Suite 620, Baton Rouge, LA, 70801. Commentors should reference this proposed regulation by the Log Number AQ30. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, Commerce Building, 6th Floor, 333 Laurel Street, Suite 620, Baton Rouge, LA 70801

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601

Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505

J. Terry Ryder
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: LAC 33:III.6103, Quality Test Procedures for
Continuous Emission Monitors (CEMs) in Stationary
Sources**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no significant impact in cost, or savings, to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no significant impact to state or local government unit revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The suppliers of continuous air monitors normally install and initially test the equipment to the standards to ensure the units are properly operating. This is part of the cost of the equipment supplied. The costs to affected persons and non-governmental groups would be approximately \$2,500 per contracted performance of the testing procedure to retest the units after installation. The cost is already required by the Code of Federal Regulations, 40 CFR 61, Appendix B, Specification 1, from which this proposed rule was developed.

The benefit to affected persons and non-governmental groups would be more reliable monitoring equipment for plant decisions and control and monitoring of effluents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant impact on competition or employment from this rule.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Air Quality and Radiation Protection**

Under the authority of the Louisiana Environmental Quality LA R.S. 30:2001, et seq., particularly LA R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, LA R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III. Chapter 5, (Log Number AQ37).

These proposed regulations will correct citations in the LAC that were in use prior to the recodification of the Revised Statutes. These changes will also correct references used in the LAC and will clarify the meaning of certain text.

These proposed regulations are to become effective on May 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on March 28, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, LA. Interested persons are invited to attend and sub-

mit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, April 1, 1991, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804 or to 333 Laurel Street, 6th floor, Suite 620, Baton Rouge, LA 70801. Commentors should reference this proposed regulation by the Log Number AQ37.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Authority

Pursuant to the provisions of LA R.S. 30:2054 concerning the administrative authority's power to develop facts consistent with the purposes of the Louisiana Environmental Quality Act, LA R.S. 30:2001 et seq.:

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division LR 13:741 (December 1987), amended LR 17:

* * *

§509. Prevention of Significant Deterioration

* * *

E. Ambient Air Ceilings. No concentration of a pollutant shall exceed:

1. The concentration permitted under the secondary ambient air quality standard (Table 1a-Chapter 7); or

* * *

I. Review of Major Stationary Sources and Major Modifications Applicability and Exemptions.

* * *

3. The requirements of LAC 33:III.509.J through R apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassifiable as specified in LAC 33:III.509.B "Baseline Area".

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division LR 13:741 (December 1987), amended LR 17:

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 33:III.Chapter 5 Permit Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected cost or savings to state or local governmental units from the promulgation of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected effect on revenue collections for state or local governmental units from the promulgation of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no expected cost or economic benefits to directly affected persons or nongovernmental units from the promulgation of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition or employment for directly affected persons or nongovernmental units from the promulgation of the proposed rule.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality
Office of Air Quality and Radiation Protection

Under the authority of the Louisiana Environmental Quality Act, LA R.S. 30:2001, et seq., particularly LA R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, LA R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.3153, (Log Number AQ17).

These regulations define the standards for operation and emissions of steam generating facilities used by industrial, commercial, and institutional groups. See *Federal Register* published December 16, 1987, 52 FR 47842, number 241.

These proposed regulations are to become effective on May 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on March 28, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, April 1, 1991, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804 or to 333 Laurel Street, 6th floor, Suite 620, Baton Rouge, LA 70801. Commentors should reference this proposed regulation by the Log Number AQ17. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, Commerce Building, 6th Floor, 333 Laurel Street, Suite 620, Baton Rouge, LA 70801

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101
Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601
Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002
Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505

J. Terry Ryder
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: LAC 33:III.3153 Db-Standards of Performance for Industrial Commercial Institutional Steam Generating Units

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no expected changes to costs, or savings, to state or local government units from the implementation of this proposed rule unless those units own or operate steam generators governed by this regulation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected impact on revenue collections for state or local government units from the implementation of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no economic cost or benefit to the affected persons or non-governmental groups from the promulgation of this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected impact on competition or employment from the implementation of the proposed rule.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Legal Affairs and Enforcement**

Under the authority of the Louisiana Environmental Quality Act, LA R.S. 30:2001, et seq., particularly LA R.S. 30:2022.B, and in accordance with the provisions of the Administrative Procedure Act, LA R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt regulations that will be cited as LAC 33:I.Subpart I, (Log Number OS08).

In accordance with Act 686 of the 1990 Regular Legislative Session this proposed rule will establish processing procedures and time frames for permit application completeness reviews, technical reviews, and permit final decisions. Provisions for extensions of time frames will also be established.

These proposed regulations are to become effective on May 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on March 27, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, April 1, 1991, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804 or to 333 Laurel Street, 6th floor, Suite 620, Baton Rouge, LA 70801. Commentors should reference this proposed regulation by the Log Number OS08.

**Title 33
ENVIRONMENTAL QUALITY**

Part I. Office of the Secretary

**Subpart 1. Department of Environmental Quality
Departmental Administrative Procedures**

Chapter 15. Permit Completeness Review

§1501. Permit Applications

A. Completeness Review

1. Within 110 days from the date a permit application is submitted, the department shall perform a completeness review and submit written notification to the applicant of any deficiencies.

2. The applicant shall respond to the notice of deficiency within the time specified in the notice. This response shall be deemed complete only if it contains all of the information required by the department to complete the application review.

3. After resubmission of the permit application in response to the notice of deficiency, the department will perform a completeness review as provided in Subsection A.1 of this Section.

4. When the department determines that the application is complete, the department will provide written notification to the applicant.

B. Technical Review

1. If at any time during the application process the application is found to contain technical deficiencies, the department shall provide written notice to the applicant and require a response within a specified time.

2. The applicant shall respond to the notice of deficiency within the time specified in the notice. This response shall be deemed adequate only if it contains all of the information required by the department to complete the technical review of the application.

3. Applications undergoing technical review shall not be subject to rule changes that occur during the technical review unless such changes are made in accordance with R.S. 49:953(B)(1) or are required by federal law or regulation to be incorporated prior to permit issuance. However, such a rule change made prior to the issuance of the permit may constitute grounds for a modification of the final permit.

C. Final Decision

1. The department shall issue a final decision within 410 days from the submission date of the application that was deemed to be complete.

2. The department may extend the time for a final de-

cision for up to a total of 45 days for the following purposes:

a. to provide additional time for the applicant to revise or supplement the application to address technical deficiencies in the application;

b. to allow for adjudicatory or judicial proceedings under R.S. 30:2024; or

c. to consider comments received at a public hearing in the case of an extraordinary public response. An extraordinary public response would include such things as the presentation of new issues or new information, the submission of extensive comments, the continuation of the public hearing, etc.

D. Extensions

The deadlines established by this Section may be extended if a written agreement is signed by both the administrative authority and the applicant.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 30:2022.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division LR 17:.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Processing Procedures and Deadlines for Permit Application Completeness Reviews and Final Decisions: LAC 33:I.1501

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As this rule will require departmental permit staff to expedite permit application completeness reviews and final decisions in order to meet established deadlines, the permit sections might require additional staff to handle these expedited requirements. The department has encountered problems filling and maintaining permit processing positions. The estimated need for additional positions would thus assume that all authorized positions are filled. The need for no more than 12 additional positions is anticipated as a result of this rule; however, when all existing permit processing positions are filled, the department may be able to implement these requirements with fewer than 12 positions. Based upon obtaining 12 additional positions, additional costs to DEQ for the staff and associated costs are estimated at \$346,000 for FY 91-92 and \$323,000 for FY 92-93. Negligible impact is anticipated in FY 90-91 due to an implementation date late in the fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

As this rule will require departmental permit staff to expedite permit application completeness reviews and final decisions in order to meet established deadlines, it

should reduce in some cases the amount of time required to secure a permit. This should result in economic benefits to certain permit applicants due to shorter application processing times; however, such benefits will vary greatly from case-to-case and are extremely difficult to quantify and accurately project.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of this proposed amendment on competition and employment is anticipated.

J. Terry Ryder
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality Office of Solid and Hazardous Waste

Under the authority of the Louisiana Environmental Quality Act, LA R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, LA R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:V.Subpart 1, (Log Number HW27).

These proposed regulations will revise existing state regulations to maintain consistency with current federal regulations. These regulations contain provisions for delay of closure period for hazardous waste management facilities, mining waste exclusion, and testing and monitoring activities. See *Federal Register* published August, 14, 1989, 54 FR 33376, Number 155; September 1, 1989, 54 FR 36592, Number 169; September 29, 1989, 54 FR 40260, 188; and January 4, 1989, 54 FR 246, Number 02.

These proposed regulations are to become effective on May 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on March 27, 1991 at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, April 1, 1991, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804 or to 333 Laurel Street, 6th floor, Suite 620, Baton Rouge, LA, 70801. Commentors should reference this proposed regulation by the Log Number HW27. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, Commerce Building, 6th Floor, 333 Laurel Street, Suite 620, Baton Rouge, LA 70801

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601
Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002
Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505

J. Terry Ryder
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Non-HSWA cluster VI (Log Number HW27)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant implementation costs or savings to state or local government, as the proposed regulations will allow state regulations to conform to existing federal regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no significant effect on competition or employment.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Office of Women's Services**

The Office of Women's Services proposes to amend the following guidelines for allocation of marriage license surcharge fees from the Programs for Victims of Family Violence Fund.

**Title 4
ADMINISTRATION
Part VII. Governor's Office**

Chapter 17. Women's Services

§1737. Guideline for Application of Additional Marriage License Fees

E. Application Process

1. Notification of the availability of funds for family violence programs for each fiscal year thereafter will be given through the Office of Women's Services.

2. Application packets will be sent to all existing family violence program providers, and all persons/organizations who have made past inquiries regarding funding. Interested

potential applicants may request application packets from the Office of Women's Services, Box 94094, Baton Rouge, LA 70804-9095.

3. The application packet will be mailed within five working days of receipt of request.

4. The application must be received by the Office of Women's Services by June 1, of each year thereafter.

5. All applications will be evaluated and prioritized to the stated criteria for evaluation. During the evaluation process, applicants may be contacted by the Office of Women's Services to review and negotiate the application and proposed budget.

6. Applicants will be notified by the Office of Women's Services as to the final decision within 60 days of receipt of the application.

7. The contracts will be signed, and distribution of funds will begin within 45 days of final approval of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121.1(1), R.S. 46:2126, R.S. 46:2127 and R.S. 46:2128.

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Women's Services, LR 13:238 (April 1987), amended LR 16:302 (April 1990), LR 17:

Interested persons may submit written comments on the proposed amendment until 4:30 p.m., March 20, 1991 to Glenda K. Parks, executive director, Office of Women's Services, Box 94095, Baton Rouge, LA 70804-9095.

Glenda K. Parks
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Programs for Victims of Family Violence

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change simply changes the dates for notification of availability of funds for family violence programs and the due date for applications. There is no economic impact as a result of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change would have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule would have no economic effect on persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule would have no effect on competition and employment.

Glenda K. Parks
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to repeal in its entirety, LAC 22:1.341-403 and to promulgate new rules and regulations, all relative to the manual of Disciplinary Rules and Procedures for Adult Prisoners.

Interested persons may submit written comments to the following address: Larry Smith, Deputy Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:15 p.m., March 15, 1991. Copies of the proposed rules may be obtained from Corrections Services, 504 Mayflower St., Baton Rouge, LA 70801 or from the Office of the State Register, 900 Riverside North, Baton Rouge, LA 70804.

Bruce N. Lynn
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Disciplinary Rules for Adult Prisoners

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings to state or local governmental units associated with this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units associated with this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no effect on competition and employment.

Bruce N. Lynn
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby

gives notice of its intent to promulgate rules and regulations relative to the medical parole of offenders and the policy for implementation.

Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT Part I. Corrections

Chapter 3. Adult and Juvenile Services §310. Medical Parole

A. Purpose

The purpose of this regulation is to establish procedures for parole consideration of offenders determined to be permanently incapacitated or terminally ill.

B. Responsibility

The wardens, medical directors and hospital administrators, in cooperation with the Parole Board, shall be responsible for ensuring compliance with this regulation.

C. General

1. Any person sentenced to the custody of the Department of Public Safety and Corrections, upon determination that he is permanently incapacitated or terminally ill as defined below, may be considered for medical parole by the Parole Board. Medical parole consideration shall be in addition to any other parole for which an offender may be eligible, but shall not be available to any offender who is awaiting execution or has a contagious disease.

2. The authority to grant medical parole shall rest solely with the Parole Board, and this board may establish additional conditions of parole in accordance with the provisions of Act 563 of the 1990 Legislative Session.

3. In considering an offender for medical parole, the Parole Board may require that the department produce additional medical evidence or conduct additional medical examinations.

4. The parole term of an offender released on medical parole shall be for the remainder of the offender's sentence, without diminution of sentence for good behavior. Supervision of the parolee shall consist of periodic medical evaluations at intervals to be determined by the Parole Board at the time of release.

5. If it is discovered through the supervision of the medical parolee that his condition has improved such that he would not then be eligible for medical parole under the provisions of this regulation, the Parole Board may order that the offender be returned to the custody of the department to await a hearing to determine whether his parole shall be revoked. Any offender whose medical parole is revoked due to an improvement in his condition shall resume serving the balance of his sentence with credit given for the duration of the medical parole. If the offender's medical parole is revoked due to an improvement in his condition, and he would be otherwise eligible for parole, he may then be considered for parole under the provisions of R.S. 15:574.4. Medical parole may also be revoked for violation of any condition of parole established by the Parole Board.

D. Definitions

1. *Permanently Incapacitated Offender* - Any offender who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he does not constitute a danger to himself or to society.

2. *Terminally Ill Offender* - Any offender who, because of an existing medical condition, is irreversibly terminally ill,

and who by reason of the condition does not constitute a danger to himself or to society.

E. Procedures

The following procedures shall be followed to identify offenders who may be eligible for medical parole:

1. A recommendation for a medical parole shall originate with the unit medical director. If the unit medical director believes an offender meets medical parole criteria according to D.(1) or (2), he will forward a completed Residence Agreement form, a completed Recommendation for Medical Parole form, and any other supporting documentation to the warden for comments. The warden's comments should reflect whether or not, in his opinion, the offender will constitute a security risk to the public should his medical parole be granted. Specifically, these comments should address the offender's adjustment while incarcerated and the effect his medical condition has had upon his conduct with staff and other offenders, as well as his overall behavior. The warden will then promptly forward these comments to the medical consultant of the Office of Adult Services.

2. If the medical consultant concurs with the unit medical director, the case will be sent to the Parole Board for consideration for medical parole.

3. If the medical consultant and the medical director at the institution do not concur, the medical consultant and the medical director at that institution shall ask for a third opinion. The secretary or his designee will appoint a medical director at another institution to provide the third opinion. The third opinion will determine if the medical parole consideration on that offender ceases. If at any later date the medical director at the institution believes the offender's medical condition would warrant medical parole consideration, he may again submit the case to the medical consultant.

F. The effective date of this regulation is May 20, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.20, as amended by Act 563 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17:

Interested persons may submit written comments to the following address: Larry Smith, Deputy Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:15 p.m., March 15, 1991.

Bruce N. Lynn
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Medical Parole**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated savings to Corrections Services for implementation of this rule is \$21.91 per offender per day. Twelve inmates will be eligible for parole and will likely be paroled by June 1. Total FY 90-91 savings to Corrections Services are estimated as \$8,020. These savings, however, will be offset by costs incurred for Medicaid through DHH for those offenders placed in nursing homes. The

current state Medicaid match rate is approximately 25 percent. An estimated two-thirds of the offenders would enter nursing homes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units associated with this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The offender's medical costs after discharge will be borne by Medicaid or another third-party payer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment.

Bruce N. Lynn
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Public Safety
Office of State Police**

The Department of Public Safety, Office of State Police, in accordance with R.S. 36:408, R.S. 40:1485.4, and R.S. 49:950 et seq., gives notice that rulemaking procedures have been instituted to add LAC 55:I. Chapter 22 et seq. to read as follows:

**Title 55
PUBLIC SAFETY
Part I. State Police**

Chapter 22. Commercial Lessors

§2201. Licensing of Commercial Lessors

A. Any person, corporation or other legal entity desiring to act as a commercial lessor in this state shall:

1. Comply with and meet all criteria as set forth in R.S. 33:4861.1 et seq., R.S. 40:1485.1 et seq., and the administrative provisions of LAC 55:I.1701 et seq. and as subsequently amended;

2. be issued and maintain all applicable federal, state, parish and municipal licenses; and

3. apply for a license on forms prescribed by the division and submit with the application a non-refundable \$200 annual license fee.

B. Licensed commercial lessors must apply for license renewal on forms prescribed by the division no less than 30 days prior to the expiration date and submit with the renewal application a non-refundable \$200 annual license fee.

C. No person, corporation or other legal entity shall act as a commercial lessor until such license is granted by the division.

1. The licensee shall conspicuously display its commercial lessor's license issued by the division at the premises where any charitable game of chance is conducted at all times during such conduct.

§2203. Background Investigation

A. Each person serving in relation to a commercial lessor as owner, partner, shareholder holding more than five

percent ownership interest, director, manager or employee shall cooperate with the division's background investigation. Such cooperation shall include, but not be limited to, fully and truthfully completing all application forms, fully and truthfully answering investigators' pertinent questions, and supplying fingerprint samples when requested by the division.

B. If the cost of a background investigation of the applicant and his business exceeds \$200, the applicant will be given notice of these anticipated additional costs and the option to pay said costs prior to the expenditure by the division, and applicant will be responsible for said additional costs it elects to incur.

§2205. Expiration of License/Reissuance

A. All licenses for commercial lessors issued pursuant to these rules expire at midnight June 30 of each year.

B. The division will consider the same criteria for renewal of licenses as for the original issuance of licenses. Failure to satisfy licenses criteria rules may result in denial, suspension, or revocation of a license.

§2207. Gifts Prohibited

A. No commercial lessor shall directly or indirectly conduct raffles, or provide to the players, patrons, spectators or charitable organization members or workers present at the commercial lessor's premises anything of economic value in the form of a gift or a prize regardless of whether or not compensation is required for receipt of the prize or gift. This prohibition excludes nominal promotional items possessing a retail value of less than \$5 and containing prominently printed advertising which includes the name of the commercial lessor providing the item.

B. No commercial lessor shall loan money to a charitable organization.

C. Nothing shall prohibit the commercial lessor from forbearing or reducing the rent to an amount less than the amount stipulated by written lease; however, the commercial lessor shall not be allowed to reclaim the amount of any reduction or forbearance.

§2209. Prohibitions

A. No commercial lessor, employee or agent thereof shall take part in or assist with the holding, operating, or conduct of a game of chance. Prohibited participation and assistance by the commercial lessor includes, but is not limited to the following:

1. Providing input, suggestions or other involvement regarding:
 - a. the number of games per session;
 - b. the type of games of chance to be conducted;
 - c. the winning arrangement of numbers;
 - d. the payout per game;
 - e. the payout per session;
 - f. a dispute between an organization and a patron, except as necessary to prevent a disturbance or damage to persons or property;
 - g. the type of paper, pull tabs or raffle tickets to be utilized;
 - h. the distributor from which the organization purchases its supplies;
 - i. the workers the organization employs, including accounts, attorneys and workers for gaming sessions; (excluding location employees, such as concession and janitorial personnel);
 - j. the handling, counting, and depositing of gaming proceeds;

k. the dates, times, and locations an organization conducts its games of chance after having been licensed by the division.

B. No commercial lessor shall directly or indirectly sell, donate or otherwise distribute rights of participation in any game of chance regardless of whether permitted by law or licensed by the division at the premises provided in its application or where charitable games of chance are conducted.

§2211. Storage Lockers

A. A licensed commercial lessor may furnish a storage locker or cabinet to an organization for its gaming supplies; however, the locker shall be equipped with a key and constructed in such a manner that supplies cannot be removed without a key or undue effort and damage to the cabinet or lock.

B. No commercial lessor, employee, or agent thereof shall have access to a storage locker or cabinet used by an organization for storage of gaming supplies. If the lock is furnished by the commercial lessor, all keys shall be given to the organization.

C. Reasonable locksmith's fees may be assessed to any organization that loses the key or fails to return the key upon vacating the locker.

§2213. Lease Agreement

A. A commercial lessor providing premises, whether for payment or no charge, to a charitable organization for the purpose of conducting a game of chance shall provide the organization with a written lease agreement. The agreement shall contain:

1. name of location;
2. address of location;
3. name of organization;
4. amount of rent;
5. date of expiration;
6. provisions for cancellation of the lease with 30 days written notice by either party without cause;
7. signature of commercial lessor or his authorized agent;
8. signature of organization official;
9. the dates and times which the organization is licensed to conduct games of chance.

B. No lease agreement shall provide for a session less than four hours.

C. No commercial lessor shall assess a fee or charge rent to any organization which cannot honor its allotted time slot due to action taken by the division or delay in processing an application.

D. No commercial lessor shall assess fees to any charitable organization in addition to the rent stipulated by written lease or as reduced in accordance with Section 2207.C.

§2215. Combination of Interests Prohibited

A. No person licensed as a commercial lessor or his immediate family shall:

1. have a direct or indirect financial interest in any entity which manufactures or distributes supplies or equipment for charitable games of chance;
2. serve as a proprietor, employee, officer, director, shareholder or owner of more than two percent ownership interest, of any entity which manufactures or distributes supplies or equipment for charitable games of chance;
3. serve as an officer, director, or member of any charitable organization which rents, leases, or uses the commer-

cial premises; or for conducting games of chance.

4. hold, operate or assist in the holding, operating or conducting of a charitable game of chance at the commercial premises.

Interested persons may submit written comments on the proposed rule to: Frank T. Brown, Director, Division of Charitable Gaming Control, Office of State Police, Department of Public Safety and Corrections, Box 66614, Baton Rouge, LA 70896. Telephone: (504) 925-1835.

Marlin A. Flores
Deputy Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Commercial Lessor Regulations,
LAC 55:I. Chapter 22**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Annual operating expenses resulting from the proposed rules will total approximately \$168 for printing and postage.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed action will have no impact on local government units.
The State Police Gaming Division will generate approximately \$12,000 annually from license fees.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The sole cost to each commercial lessor will be an annual \$200 license fee.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no impact on competition or employment in the public or private sector.

Marlin A. Flores
Deputy Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Revenue and Taxation
Louisiana Tax Commission**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Tax Commission intends to amend the following Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations:

Real Property (LAC 61:V.303)

Miscellaneous (LAC 61:V.Chapter 35)

The action being taken is in compliance with statutory law administered by this agency as set forth in R.S. 47:1837.

The proposed amendments may be viewed at the office of the Louisiana Tax Commission, 923 Executive Park

Ave., Suite 12, Baton Rouge, LA between the hours of 8 a.m. and 4 p.m., E. W. "Ed" Leffel is the person responsible for responding to inquiries concerning the intended action.

Interested persons may submit written comments on the proposed rules until 4 p.m., March 5, 1991, at the following address: E. W. "Ed" Leffel, Property Tax Specialist, Louisiana Tax Commission, Box 66788, Baton Rouge, LA 70896.

Mary K. Zervigon
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Real Property; Miscellaneous**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs to the agency are the costs of reproduction and distribution of updated regulations. These costs are estimated at \$474.50 for the 1990-91 fiscal year.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
These revisions will have no net effect on revenue collections of local governmental units, as any net increase or decrease in real property assessed valuations are to be offset by millage roll back/forward provisions of the Louisiana Constitution, Article VII, Section 23 and La. R.S. 47:1925.4.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The effect of this new rule on assessments of individual items of equivalent real property will generally be to slightly lower such assessments in 1992 compared to 1991. Specific assessments will depend on the type, age and condition of the real property subject to assessment as well as economic trends for that area in particular in comparison to the trends in the state as a whole.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The impact on competition and employment cannot be quantified. Inasmuch as the proposed assessment changes in individual items of real property will be at least somewhat offset by millage adjustments, any impact is thought to be minimal.

Mary K. Zervigon
Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

The Department of Social Services, Office of Community Services, proposes to adopt the following rule in the Title IV-E Adoption Subsidy Program as it relates to the use of a

means test to determine the amount of the monthly maintenance payment.

This proposed rule is mandated as a result of a policy interpretation, dated October 2, 1990, from the U. S. Department of Health and Human Services, Administration for Children, Youth and Families, which clarified that the use of income guidelines is not appropriate to the process of establishing the amount of the adoption subsidy monthly maintenance. In accordance with the intent of Congress as noted in the Congressional Record--Senate--§11704, August 3, 1979, a "means test" should not be used to determine the amount of the monthly maintenance that is received for a child covered by the Title IV-E Adoption Subsidy program. Section 473 (a) (1), (2), and (3) of the Social Security Act indicates that eligibility for adoption assistance is related to the needs of the child and not the parent.

Therefore, the Office of Community Services is proposing to rescind the Rule, promulgated in the *Louisiana Register* dated February 20, 1988, which imposed a sliding scale to determine the amount of the monthly maintenance for Title IV-E Adoption Subsidy eligible children.

Regulations for Determining Amount of Monthly Maintenance for Title IV-E Adoption Subsidy Child(ren)

The amount of the monthly maintenance for a Title IV-E Adoption Subsidy eligible child shall no longer be subject to the sliding scale. The amount of the monthly maintenance shall be a negotiated rate based on the needs of the child and shall not exceed 80 percent of the foster care board rate.

Interested persons may submit comments to the following address: Brenda L. Kelley, assistant secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804-4367. She is the person responsible for responding to inquiries regarding this proposed rule.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Title IV-E Adoption Subsidy - Means Test

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Programmatic implementation costs to the state are estimated to be \$44,056.70 for FY 90-91; \$105,736.80 for FY 91-92; and, \$105,736.80 for FY 92-93. In addition, during FY 90-91, there will be a slight increase in administrative costs such as printing which are not expected to exceed \$500.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that additional federal funds will be collected due to increase of eligible expenditures. The amount of the additional federal funds is \$33,063.43 for FY 90-91, \$78,752.77 for FY 91-92, and \$78,752.77 for FY 92-93.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The ability to provide monthly maintenance payments to Title IV-E Adoption Subsidy eligible children without subjecting the family's income to a "means" test shall

reduce the amount of administrative time involved in renewing adoption subsidy requests. This action may increase the number of families willing to adopt special needs children. The precise economic benefit is not ascertainable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of the proposed amendment on competition and employment is anticipated.

Robert J. Hand
Director of
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services Office of Community Services

The Department of Social Services, Office of Community Services, proposes to adopt changes in the policy for acceptance of referrals of adults who may be in need of protective services.

PROPOSED RULE

The Department of Social Services, Office of Community Services will only accept referrals of adults age 18 and above as defined in R.S. 14:403.2. B.(2) for protective services if the adult is in an immediate, life threatening situation in his or a relative's home and there is no responsible person to care for the adult. Immediate, life threatening means in danger of death in 24 hours.

The Office of Community Services will investigate referrals of the above situations and action will be limited to reporting valid cases to the district attorney as per R.S. 14:403.2, E.(6) and referring these cases to appropriate community services, if available.

Reporters of cases of suspected abuse and/or neglect of persons in hospitals and other facilities shall be instructed to contact local law enforcement for investigation and referral to the district attorney, if necessary.

Interested persons may submit comments to the following address: Brenda L. Kelley, Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804-4367. She is the person responsible for responding to inquiries regarding this proposed rule.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Adult Protective Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule affects procedures for handling investigations of a small number of cases of adult abuse/neglect. There are no manuals to be printed. There is no budgeted program for adult protection. There is no training. There is no impact on staff.

The only costs (negligible) are for making approximately 60 xerox copies of a two-page memo (two-page memo x 60 copies at 10¢ = \$12).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units. There is no budgeted program for adult protection. There are no fees generated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups. This rule has social and psychological effects on a small number of adult clients only.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact on competition or employment. There are no transfers of funds to any governmental or private entity. There is no budgeted program for adult protection.

Robert J. Hand
Division Director

David W. Hood
Senior Fiscal Analyst

Committee Report

COMMITTEE REPORT

House of Natural Resources Subcommittee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on February 1, 1991 and reviewed certain proposed rules by the Louisiana Department of Wildlife and Fisheries to provide for amending the Joint Louisiana/Texas Toledo Bend and Caddo Lake Sportfishing Agreement to provide for black bass creel and size limits.

There was lengthy testimony both for and against the proposed rules. There was concern expressed that the existing plan was only two years old, was working well and there was no need to change the management plan. The opponents felt that the existing plan should be given a chance to work. After a motion to find the rules acceptable failed by a vote of 3 yeas - 5 nays, the proposed rule was found unacceptable without objection, 8 yeas - 0 nays.

In accordance with R.S. 49:968, copies of this report are being forwarded this date to the governor, the Department of Wildlife and Fisheries, the Louisiana Senate, and the State Register.

Randall E. Roach
Chairman

Editor's Note: The governor's response overruling the above committee report will be published in the next issue of the *Louisiana Register*.

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

The next Uniform National Examination for landscape architects will be given at the College of Design building on the L.S.U. campus, located near the intersection of Fieldhouse Drive and South Campus Drive, Baton Rouge, LA. The deadline for getting in application and fee is March 1, 1991. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be June 17, 18, and 19, 1991.

Further information concerning examinations may be obtained from Mr. Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone 504/925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

The next retail floristry examinations will be given at 9:30 a.m. daily at the Shreveport-Bossier Vo-Tech Institute, 2010 N. Market St., Shreveport, LA 71137-8527 (318) 226-7811. The deadline for getting in application and fee is April 1, 1991. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be April 23-26, 1991.

Further information concerning examinations may be obtained from Mr. Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone 504/925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

The Department of Environmental Quality is continuing to incorporate substantive changes to the Louisiana Toxic Air Pollutants Regulations (Log Number AQ12) which were proposed on November 20, 1990. Notice of a public hearing on these changes will be published in the *Louisiana Register*.

at a later date. All inquiries should be directed to David Hughes at (504) 342-9163 or Chris Roberie at (504) 342-1209.

Paul H. Temple
Secretary

POTPOURRI

**Department of Environmental Quality
Office of Water Resources
Ground Water Protection Division**

The Department of Environmental Quality (DEQ) has completed an initial draft of standards applicable to the construction of ground water monitoring wells. Once promulgated into rule, these standards will apply to the construction and maintenance of ground water monitoring well, recovery wells, and piezometers at solid and hazardous waste facilities under the regulatory authority of DEQ.

Copies of the draft may be obtained by contacting Tom Ashby at (504) 342-8950 or Box 44247, Baton Rouge, LA 70804-4091. Interested persons will be afforded an opportunity to submit written comments by March 20, 1991 to the Ground Water Protection Division at the above address.

Paul H. Temple
Secretary

POTPOURRI

**Department of Health and Hospitals
Board of Medical Examiners**

**Notice of Public Hearing
on Proposed Rule Amendments**

Notice is hereby given, in accordance with R.S. 49:953(A)(2), (3), that the State Board of Medical Examiners will conduct a public hearing to receive oral comments on the proposed amendments to its rules governing the licensure and practice of licensed midwives, at 3:00 p.m., Thursday, February 25, 1991, at the office of the Board, Suite 100, 830 Union Street, New Orleans, LA. At such hearing all interested persons may appear and present data, views, arguments, information or comments on the proposed rule amendments, which appear as a notice of intent in the January, 1991 issue of the *Louisiana Register*, page 87.

Delmar Rorison
Executive Director

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division
Notice of Hearing**

Docket Number IMD 91-7

In accordance with the laws of the state of Louisiana, and with particular reference to the provisions of R.S. 30:4, notice is hereby given that the commissioner of Conservation will conduct a public hearing at 6 p.m., Tuesday, March 26, 1991 on the second floor of the Lafourche Parish Courthouse, located on Green Street in Thibodaux, LA.

At such hearing the commissioner or his designated representative will hear testimony relative to the application of Newpark Environmental Services, Inc., Box 54024, Lafayette, LA 70505. The applicant intends to construct and operate a commercial nonhazardous oilfield waste transfer station facility in Section 14, Township 23 South, Range 22 East, Lafourche Parish, LA.

The application is available for inspection by contacting Carroll D. Wascom, Office of Conservation, Injection and Mining, Room 253 of the Natural Resources Building, 625 North 4th Street, Baton Rouge, LA, or by visiting the Lafourche Parish Council Office in Thibodaux, LA. Verbal information may be received by calling Mr. Wascom at (504) 342-5515.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 5 p.m., April 2, 1991, at the Baton Rouge office. Comments should be directed to: Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, LA 70804, Re: Docket No. IMD 91-7, Commercial Facility, Lafourche Parish.

J. Patrick Batchelor
Commissioner

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that sixty-nine claims in the amount of \$162,467.07 were received in the month of January 1991, thirty-three claims in the amount of \$64,733.91 were paid, and three claims were denied.

Loran C. coordinates of reported underwater obstructions are:

28714	47632
27894	46863
26749	47098
27046	46993
28707	46860
28539	46786

27636	46906
27550	46923
27413	46929
28257	46825
27677	46910
28264	46825
27223	46940
26723	46929
26879	46958
26885	46970
29057	46957
28674	46855
28613	46865
27877	46837

26892	46970
28335	46831
27768	46860
28870	47030
28915	47056
29046	46941
28867	46777

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

Ron Gomez
Secretary

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