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Executive Orders

EXECUTIVE ORDER BR 90 - 1

WHEREAS, Executive Order No. BR 89-35 was signed November 3, 1989, establishing The Calcasieu Estuary Environmental Task Force; and

WHEREAS, it is necessary to expand the membership of said Task Force to include one member from the state at large to be appointed by the governor;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct that Section 5 of Executive Order No. BR 89-35 be and the same is hereby amended to add Paragraph L to read as follows:

L. One member from the state at large to be appointed by 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 18th day January, 1990.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 90 - 2

WHEREAS, the Office of Facilities Corporation (the "Corporation") a non-profit corporation was incorporated in the Parish of East Baton Rouge on September 15, 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 805 of the Louisiana Legislature, Regular Session 1989 (the "Act"); and

WHEREAS, pursuant to the Act, the State of Louisiana is authorized to enter into 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 expansion of the Wooddale Towers office building facility, including the acquisition of the site therefor, to be leased to the state (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 notes 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 notes 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, 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") hereby is 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 29th day of January, 1990.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 90 - 3

WHEREAS, the State of Louisiana has recognized the need to improve its infrastructure to provide safe and efficient transportation for its citizens, visitors, and commercial users; and

WHEREAS, the citizens of Louisiana have approved a constitutional amendment to establish the Transportation Trust Fund to undertake capital improvements to our state's infrastructure for the purpose stated above; and

WHEREAS, the Legislature has already created the Highway and Drainage Priority Programs as administered by the Department of Transportation and Development which has effectively addressed the state's highway system capital improvements and state drainage needs in a fair and systematic manner; and

WHEREAS, intense competition domestically and an increasingly global economy dictate that Louisiana should position itself to attract and support businesses that can compete in the regional, national, and international marketplace which will foster economic growth in the state; and

WHEREAS, there is a need to assess the roles and interrelationships of the state's highways and bridges to its ports and waterways, airports, levees and other flood control devices, and railroads and their respective capital improvement needs in furtherance of the economic development of Louisiana; and

WHEREAS, there are economies to be realized and administrative efficiencies to be gained in developing a coordinated and comprehensive plan for reviewing and undertaking state in-

Emergency Rules

infrastructure projects which would complement the Highway and Drainage Priority Programs.

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

SECTION 1: There shall be and is hereby created a Transportation Infrastructure Evaluation Committee in the State of Louisiana.

SECTION 2: The purpose of the committee shall be:

a. to study and determine the role of the state's air, water and ground transportation infrastructure network for economic development purposes;

b. to review and assess the current physical conditions and operations of each component of the state's transportation infrastructure network exclusive of those components governed by the Highway and Drainage Priority Programs;

c. to provide a general overview of the capital improvements required to the state's transportation infrastructure network, exclusive of those covered by the Highway and Drainage Priority Programs, which will have a positive regional and state-wide impact on the state's economy; and

d. to determine and recommend an appropriate operational structure and process which will provide for the efficient and effective implementation of the capital improvements recommended by the committee.

SECTION 3: The committee shall be composed of the following members:

a. four members of the Louisiana Legislature;

b. three state departmental heads or their designee;

c. four members shall be port directors;

d. one member shall be affiliated with a levee district;

e. one member shall be affiliated with the railroad industry;

f. two members shall be airport directors;

g. two members shall be affiliated with the shipping industry;

h. one member shall be affiliated with international trade;

i. five members shall have demonstrated a commitment to interstate and international commerce; and

j. one member who shall be knowledgeable in labor relations.

SECTION 4: The governor shall appoint the co-chairmen or appoint a chairman and vice-chairman.

SECTION 5: The committee shall present preliminary recommendations to the governor not later than Friday, April 6, 1990.

SECTION 6: Each department within the executive branch of the State of Louisiana and each agency and political subdivision within the state shall cooperate fully with the committee and shall provide the committee with such data, information and statistics as are requested by the committee.

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 2nd day of February, 1990.

Buddy Roemer
Governor of Louisiana

Herbert L. Sumrall
Director

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

DECLARATION OF EMERGENCY

Department of Civil Service Civil Service Commission

At its regular meeting on January 10, 1990 the State Civil Service Commission adopted an emergency rule to be effective upon the signature of the governor on his selected date. Such adoption is according to the provisions of Civil Service Rule 2.10(f).

The emergency rule is as follows:

6.5.1 Pay Upon Appointment From a Department Preferred Reemployment List.

Subject to Rule 6.14, the pay of a person appointed from a department preferred reemployment list may be fixed no higher than his rate of pay at the time of the layoff or displacement action, or at his current rate if such rate is higher based on other provisions of these rules. In no case shall the rate of pay be higher than the range maximum for the class to which appointed.

EXPLANATION

A recent Civil Service appeal pointed out that there was a serious hiatus in the pay rules. In the absence of a specific rule governing rate of pay upon department preferred reemployment, the Civil Service Commission reluctantly concluded that in the particular situation presented in the appeal, it had to apply the rule governing rate of pay on promotion (Civil Service Rule 6.7). In its decision the commission stated that this result was not the commission's intent. *Appeal of Standiford* (DSS) #7238, rendered September 20, 1989. The rule change could have been handled on a regular basis but for the fact that the *Standiford* decision has been interpreted by the DSS and by the DSCS too broadly. Recent appeals filed by employees of the DSS indicate that the *Standiford* decision is being applied in every situation wherein an employee is demoted in lieu of layoff and is later returned to the same job from which he was displaced. This is not at all analogous to the factual situation presented in the *Standiford* case. Because of the prevalence of the misinterpretation of the *Standiford* decision, it was felt that immediate curative action was needed; therefore, the rule amendment was adopted on an emergency basis on January 10, 1990.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the director of State Civil Service at Box 94111, Baton Rouge, LA 70804-9111.

DECLARATION OF EMERGENCY

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 substance 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 order from a licensed practitioner when requested.

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 in R.S. 4:141 et seq. and/or the Rules of Racing.

C. Any person licensed by the commission who is requested to submit to a urine test shall provide the urine sample, without undue delay, to a chemical inspector of the commission. 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. It shall be the obligation of the licensed person to cooperate fully with the chemical inspector in obtaining any sample 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.

2. For a licensed person's first violation, he shall be suspended 15 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 60 days 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 six months and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. He shall be required to enroll in a residential alcohol/drug treatment facility recommended by the commission approved board certified drug evaluator or counselor.

5. For a licensed person's fourth violation, he shall be suspended 12 months and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement is contingent upon his appearing before the commission and upon furnishing proof of a drug-free lifestyle for 12 months prior to his appeal via a continuous negative urine analysis.

6. The stewards and/or the 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.

7. Unexcused absences from a drug rehabilitation program shall result in the participant being suspended for seven days from racing.

8. 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.

9. Amphetamines are not permitted except in cases of exogenous obesity. In those cases, the participant must give proof that 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 Racing Commission LR 13:289 (May 1987), amended LR 15:620 (August 1989), amended emergency 1/25/90.

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Policy for Implementing Act 465 of 1989
(pupil/teacher/ratio)

The State Board of Elementary and Secondary Education, at its meeting of January 25, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R. S. 49:953B and approved the Department of Education's policy for implementing Act 465 of 1989 (pupil/teacher/ratio) as stated below.

Procedures for Implementing Act 465

Add as Standard 1.038.03 to Bulletin 741:

The systemwide pupil-classroom-teacher-ratio in kindergarten through grade three shall be twenty pupils to one classroom teacher.

Refer to R.S. 17:151.B (1) and to the Procedures for Implementation.

This amendment to Bulletin 741 was adopted as an emergency rule to insure immediate compliance with Act 465 of 1989. During the 1989 Legislative Session, R.S. 17.151 (Act 465) was amended and reenacted to provide, effective 1989-90, that each parish and city school board have a systemwide pupil-classroom-teacher ratio in kindergarten through grade three of twenty pupils to one classroom teacher. Also included within this legislation are provisions for waivers from the Board of Elementary and Secondary Education for those systems unable to meet the required ratio. The board also approved for administrative purposes, the SDE and LEA procedures for implementation of Act 465. (Copies of those procedures may be obtained from the Department of Education or the board office.)

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Bulletin 1706

Regulations for the Implementation of the Exceptional Children's Act

The State Board of Elementary and Secondary Education, at its meeting of January 25, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R. S. 49:953B and approved an amendment to Section 103, Bulletin 1706, Regulations of the Implementation of the Exceptional Children's Act, Rev. 1983, pages 2-3 relative to the Special Education Advisory Council which will provide that members of the board will appoint the eleven persons who serve on the council.

Amend Section 130 of Bulletin 1706, pages 2-3 as follows:

1. Rewrite Paragraph A of Section 130 to read:

A. The State Board of Elementary and Secondary Education, pursuant to R.S. 17:1954, shall appoint an eleven-member Special Education Advisory Council to advise the board on the education of exceptional children, including the develop-

ment of rules and regulations governing the Louisiana Education of Exceptional Children Act (LA R.S. 17:1941-1958); to conduct fiscal reviews and to make recommendations on the allocation and expenditure of P. L. 94-142 discretionary funds only.

2. Amend Paragraphs C(2) and C(3) of Section 130 as follows:

C(2) Comment publicly and make recommendations to the state board on the State Annual Program Plan, on rules or regulations proposed for issuance by the board regarding the education of exceptional children, and on the procedures for distribution of funds under P.L. 94-142 as indicated in BESE Policy 5.00.50.f.

C(3) Assist the board and the Department of Education in developing and reporting such information and evaluations as may assist the U. S. Commissioner of Education in the performance of his responsibilities under P. L. 94-142, Section 618.

3. Amend Paragraph D(1) and D(3) of Section 130 to read:

D(1) The Advisory Council in the conduct of its business shall follow the procedures adopted by the State Board for all advisory councils. (BESE Policy 1.00.30.C) It shall meet as often as is necessary to conduct business assigned by the board.

D(3) Official minutes must be kept on all council meetings and these shall be made available for public viewing on request.

The membership on the council is currently appointed by the state superintendent with approval of the governing authority. The terms of the currently seated council will expire in April, 1990. Therefore, the board directed that this amendment be adopted as an emergency rule in order to be effective for the appointment of new members in April.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Department of Employment and Training Office of Workers' Compensation

In accordance with the emergency provision of R.S. 49:953(B) of the Louisiana Administrative Procedure Act, and the authority of R.S. 23:1081(9) of Act 454 of 1989 Regular Louisiana Legislative Session, the director of the Office of Workers' Compensation has determined that because of imminent peril to the public health, safety and welfare, it is necessary that the Office of Workers' Compensation adopt an immediate drug testing program. Additionally, Act 454 mandates the promulgation of drug testing rules by the director of the Office of Workers' Compensation to be effective January 1, 1990 for all employees in the state of Louisiana.

This rule provides guidance in collection and laboratory analysis procedures, initial and confirmatory testing procedures, as well as recording and reviewing the results of drug tests. Insofar as an employer has a right to administer drug and alcohol testing immediately after an alleged job accident, the director hereby adopts this rule which all employers must follow when requesting an employee to submit to drug or alcohol testing.

DRUG TESTING

Employer drug testing programs shall at a minimum test for marijuana and cocaine. Employers may also test for opiates,

amphetamines, and phencyclidine (PCP). When conducting reasonable suspicion testing, an employer may test for any drug identified in Schedule I or II of the Controlled Substances Act. At any time prior to the conclusion of the testing process, an employee may present any information he/she considers relevant to the test.

An employer may petition the assistant secretary of the Office of Workers' Compensation, or his designee, for approval to include any additional drugs (or classes of drugs) in its testing protocols.

Definitions

Intralaboratory Chain of Custody: Procedures used by the laboratory to maintain control and accountability from the receipt of urine specimens until testing is completed, results reported and while specimens are in storage.

Initial Test: A sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens from further consideration.

Confirmatory Test: A second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen. The confirmatory test must be different in technique and chemical principle from that of the initial test procedure to ensure reliability and accuracy (At this time gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method).

Aliquot: A portion of a specimen used for testing. An appropriate amount is transferred into a labeled test tube.

SPECIMEN COLLECTION PROCEDURES

Collection Site

The collection site is a place where individuals present themselves for the purpose of providing urine specimens to be analyzed for drug abuse. The site must possess all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and transportation (shipping) of urine specimens to a drug testing laboratory.

Procedures must provide for the collection site to be secure. Chain of custody forms must be properly executed by authorized collection site personnel upon receipt of specimens. The handling and transportation of urine specimens from one authorized individual or place to another must always be accomplished through the use of chain of custody procedures. No unauthorized personnel shall be permitted in any part of the collection site where urine specimens are collected or stored.

Collection Procedures

Procedures for providing urine specimens must allow individual privacy unless the employer has reason to believe that a particular individual may alter or substitute the specimen to be provided. Employers must take precautions to ensure that a urine specimen has not been adulterated or diluted during the collection procedure and that all information on the urine bottle and in the log book can be identified as belonging to a given individual. To ensure that unadulterated specimens are obtained, the following procedures outline the minimum precautions that shall be taken during the collection of urine specimens:

1. At the collection site, toilet bluing agents shall be placed in the toilet tanks, wherever possible, so the reservoir of water in the toilet bowl always remains blue. There should not be any other source of water (e.g. shower, sink, etc.) in the enclosure where urination occurs.

2. Upon arrival at the collection site, the collection site person shall request the individual to present some type of photo identification. If the individual does not have proper identifica-

tion, this shall be noted on the chain of custody form. If the individual fails to appear at the assigned time, collection site personnel shall contact appropriate authority to obtain guidance on action to be taken.

3. The collection site person shall ask the individual to remove any unnecessary outer garments (e.g., coat, jacket) that might conceal items or substances that could be used to tamper with or adulterate his/her urine specimen. Also, all personal belongings must remain with the outer garments; the individual may, however, retain his/her wallet. The collection site person shall note any unusual behavior or appearance.

4. The individual shall be instructed to wash and dry his/her hands prior to urination.

5. After washing hands, the individual shall remain in the presence of the collection site person and not have access to water fountains, faucets, soap dispensers, or cleaning agents.

6. The individual may provide his/her specimen in the privacy of a stall, or otherwise partitioned area that allows for individual privacy. The collection site person shall note any unusual behavior by the individual.

7. If the collection site uses a public restroom the following procedures should be followed:

Females: A female collection site person should accompany the individual into the public restroom. Toilet bluing should be placed in the toilet bowl. The individual should be asked to void into the disposable specimen container, and asked not to flush the toilet. A disposable collection container with a wider mouth may be used to collect the urine. The sample is then transferred to the collection container by the individual. The collection site person remains in the restroom but outside the stall until the urine specimen is collected and handed to the collection site person by the individual. The collection site person should flush the toilet and continue on with the chain of custody procedures.

Males: A male collection site person should accompany the individual into the public restroom. Toilet bluing should be placed into the urinal or the toilet bowl (whichever is being used). The individual should be asked to void into the disposable specimen container and asked not to flush the toilet. The collection site person remains in the restroom but outside the stall until the urine specimen is collected and handed to the collection site person by the individual. The collection site person should flush the toilet and continue on with the chain of custody procedures.

8. Upon receiving the specimen from the individual, the collection site person will determine that it contains at least 60 milliliters of urine. If there is not sufficient urine in the container, additional urine should be collected. The individual may be given reasonable amount of liquid (e.g., a glass of water). If an individual fails, for any reason, to provide the necessary specimen, collection site personnel shall contact appropriate authority to obtain guidance on action to be taken.

9. After the specimen has been provided and submitted to the collection site person the individual should be allowed to wash his/her hands.

10. Immediately after collection, collection site personnel shall measure the temperature of the specimen and conduct an inspection to determine the specimen's color, and signs of contaminants. Any unusual findings resulting from the inspection must be included on the chain of custody form. The time from urination to delivery of the sample for temperature measurement is critical and in no case should exceed four minutes. If the temperature of the specimen is outside the range of 32.5 - 37.7°C / 90.5 - 99.8°F this gives rise to reasonable suspicion of adultera-

tion/substitution, and another specimen should be collected under direct observation and both specimens forwarded to the laboratory. Any specimen suspected of being adulterated should always be forwarded for testing. When reasonable suspicion is established, the second specimen must be obtained under direct observation.

11. Both the individual being tested and the collection site person should keep the specimen in view at all times prior to the sealing and labelling of the specimen. If the specimen is transferred to a second container, the collection site person shall request the individual to observe the transfer of the specimen and the placement of the tamperproof seal over the bottle cap and down the sides of the bottle. The collection site person will place the identification label securely on the bottle.

12. The identification label should contain the date, individual's specimen number, and any other identifying information provided/required by the employer. The individual shall initial the label on the specimen bottle.

13. The collection site person will enter the identifying information in a ledger. Both the collection site person and the individual shall sign the ledger next to the identifying information.

14. The individual shall be asked to read and sign a certification statement regarding his/her urine specimen.

15. The collection site person shall complete the appropriate chain of custody form.

16. The urine specimen and chain of custody form are now ready for shipment. If the specimen is not immediately prepared for shipment, it must be appropriately secured during temporary storage.

NOTE: While performing any part of the chain of custody procedures it is essential that the urine specimen and custody documents be under the control of the involved collection site person. If the collection site person must leave his/her work station momentarily, the specimen and custody form must be taken with him/her or must be secured. After the collection site person returns to the work station the custody process will continue. If the collection site person is leaving for an extended period of time, prior to leaving the site the specimen should be packaged for mailing.

Collection Control

Collection site personnel shall always attempt to have the container or specimen bottle within sight before and after the individual has urinated. The containers shall be tightly capped, properly sealed, and labeled. An employer's as well as a laboratory's chain of custody form approved by the Office of Workers' Compensation shall be utilized for maintaining control and accountability from point of collection to final disposition of specimens. With each transfer of possession, the chain of custody form shall be dated, signed by the individual releasing the specimen, signed by the individual accepting the specimen, and the purpose for transferring possession noted. Every effort should be made to minimize the number of persons handling specimens.

Transportation to Laboratory

After collection of urine specimens, collection site personnel shall arrange to ship the specimens to the drug testing laboratory. The specimens shall be placed in appropriate containers (specimen boxes or padded mailers) that are securely sealed to eliminate the possibility of tampering. Collection site personnel shall sign and date across the tape, seal the containers and ensure that the chain of custody documentation is attached to each sealed container. An outer mailing wrapper is placed around each sealed container. Specimens may be delivered to the drug

testing laboratory using either the United States Postal Service, commercial air freight, air express, or may be hand-carried. It is not necessary to send specimens by registered mail.

Receiving/Preparation

The laboratory must be secured at all times; no unauthorized personnel shall be permitted. Upon receipt of specimens, accession personnel shall inspect packages for evidence of possible tampering and compare information on specimen bottles with that on chain of custody forms. Any discrepancies shall be properly noted and described. Any direct evidence of tampering shall be reported immediately to the employer, and shall also be noted on the chain-of-custody form which must accompany all specimens during laboratory possession.

Specimen bottles and original chain of custody forms will normally be retained within the accession area until all analyses have been completed. Aliquots and intralaboratory chain of custody forms shall be used by laboratory personnel for conducting the initial and confirmatory tests.

LABORATORY ANALYSIS PROCEDURES

Short-Term Refrigerated Storage

Specimens shall be refrigerated upon arrival if initial testing is not to be completed within two days.

Specimen Processing

Drug testing laboratories will normally process specimens by grouping them into batches. The number of specimens in each batch may vary significantly depending on the size of the laboratory and its workload. When conducting either initial or confirmatory testing, every batch shall contain an appropriate number of standards for calibrating the instrumentation and a minimum of 10 percent controls. Both internal and external blind proficiency test samples should appear as ordinary samples to laboratory personnel.

Initial Test

The initial testing shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine whether negative or positive for these five drugs or classes of drugs:

	Initial Test Level (ng/ml)
Marijuana metabolite	25
Cocaine metabolites	300
Opiates	300
Phencyclidine	25
Amphetamines	1000

These test levels are subject to change by the Office of Workers' Compensation as advances in technology or other considerations may permit identification and quantification of these substances at lower concentrations.

Some specimens may be subjected to initial testing by methods other than immunoassays, where the latter are unavailable for the detection of specific drugs of special concern. These methods are thin layer, high pressure liquid and/or gas chromatography. Alternate initial test methods and testing levels shall be submitted for written approval to the Assistant Secretary, Office of Workers' Compensation, or his designee.

Confirmatory Test

All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques. Quantitative GC/MS confirmation procedures at the following cutoff values shall be used for the following drugs:

	Confirmatory Test Level (ng/ml)
Marijuana metabolite*	20
Cocaine metabolites**	150
Opiates	300
Phencyclidine	25
Amphetamines	300

*Delta-9-tetrahydrocannabinol-9-carboxylic acid

**Benzoylcegonine

These test levels are subject to change by the Office of Workers' Compensation as advances in technology or other considerations may permit identification and quantification of these substances as lower concentrations.

Confirmation methods and levels for other drugs tested shall be submitted by the employer to the assistant secretary, Office of Workers' Compensation or his designee for approval. In the absence of an accepted quantitative GC/MS assay procedure, preference will be given to a confirmation of qualitative identification by means of full-scan GC/MS analysis and quantification by an alternate chromatographic method. All methods shall meet commonly accepted analytical standards.

Proper chain of custody controls shall always be enforced during confirmation testing. Authorized confirmation technicians shall sign the chain of custody forms and be responsible for each urine specimen to be tested. The laboratory shall include sufficient safeguards to ensure that unauthorized personnel are prevented from gaining access to the confirmation laboratory.

Reporting Results

Test results shall be reported to the employer within an average of five working days of receipt of the specimens. The report should contain the specimen number assigned by the submitting employer, the drug testing laboratory accession number, and results of the drug tests. All specimens negative on the initial test or negative on the confirmatory test shall be reported negative. Only specimens confirmed positive shall be reported positive for a specific drug. Results may be transmitted to the employer by various electronic means (e.g., teleprinters, facsimile, or computer) in a manner consistent with the privacy act. It is not permitted to provide results verbally by telephone. A certified copy of the original chain of custody form, signed by the laboratory director or laboratory certifying official, shall be sent to the employer. Certified copies of all analytical results shall be available from the laboratory when requested by appropriate authority.

All records pertaining to a given urine specimen shall be retained by the drug testing laboratory for a minimum of two years.

Long-Term Storage

Specimens confirmed positive shall be retained and placed in properly secured long-term frozen storage for at least 365 days. Within this 365-day period an employer may request the laboratory to retain the specimen for additional periods of time. This ensures that the urine specimen will be available for a possible retest during any administrative or disciplinary proceeding. If the laboratory does not receive a request to retain the specimen during the initial 365-day period, the specimen may be discarded.

Retesting Specimens

Should specimen reanalysis be required, the quantitation of a drug or metabolite in a specimen may not be subject to the same testing level criteria that was used during the original analysis. Some analytes deteriorate or are lost during freezing and/or storage.

Subcontractors

The drug testing laboratory shall perform all work with its own personnel and equipment, unless otherwise authorized by the employer. Subcontractors shall be instructed to follow all procedures and regulations as set out in these rules.

Laboratory Facilities

Laboratories must comply with applicable provisions of any state licensure requirements. Laboratories must have the facility and capability at the same laboratory, which performing screening and confirmation tests for each drug or metabolite for which service is offered.

Laboratory Personnel

The scientific director of the drug testing laboratory shall meet three criteria. He or she must; (1) be certified as a laboratory director by the state in forensic/toxicological analysis, or (b) hold a Ph.D. in pharmacology, toxicology, or analytical chemistry; (2) have at least two years experience in analytic toxicology (the analysis of biological materials for drug abuse) and appropriate training and/or forensic applications of analytic toxicology (court testimony, research and publications in analytic toxicology of drug abuse, etc.); and, (3) have documented scientific qualifications comparable to those of a person certified by the American Board of Forensic Toxicology or the American Board of Clinical Chemistry in Toxicological Chemistry. The director is responsible for ensuring that there are sufficient personnel with adequate training and experience to supervise and conduct the work of the urine drug testing laboratory.

A key individual in the laboratory is the certifying scientist; (who may also be the laboratory scientific director); this individual reviews the standards, control specimens, and supervises the quality control of the data obtained together with the screening and confirmation of the test results. After having assured that all results are acceptable, this individual certifies the test result. The certifying scientist must have sound training in the sciences, specific training in the theory and practice of the procedures used, including the recognition of aberrant results and familiarity with quality control procedures.

Supervisors of analysts must possess a B.S. degree in chemistry or at least the education and experience comparable to a Medical Technologist certified by the American Society of Clinical Pathologists, MT(ASCP), or its equivalent. These individuals, also, must have training in the theory and practice of the procedures used, and understanding of quality control concepts. Periodic verification of their skills must be documented. Other technicians or nontechnical staff must possess the necessary training and skills for the task assigned. In-service continuing education programs to meet the needs of all laboratory personnel are desirable. Personnel files must include: resumé of training and experience, certification or license, if any, references, job descriptions, health records, records of performance evaluation and advancement, incident reports, and results of tests for color blindness.

Quality Assurance and Quality Control

Urine drug testing laboratories shall have a quality assurance program which encompasses all aspects of the testing process: specimen acquisition, chain of custody, security, and reporting of results, in addition to the screening and confirmation of analytical procedures. Quality control procedures will be designed, implemented, and reviewed to monitor the conduct of each step of the process.

a. Requirement of Internal Laboratory Quality Control

Laboratories are responsible for assuring that Quality Control (QC) urine specimens that contain no drug or specimens

fortified with known standards be analyzed with each run of specimens screened: some of these will be blind to the analyst. In addition, some of these QC specimens will contain drug or metabolite at or near the threshold (cutoff) levels. Implementation of procedures must be documented to ensure that carry-over does not contaminate the testing of a subject's specimen. A minimum of 10 percent of all test samples must be QC specimens. The known standards shall be the first specimens processed each run. After acceptable values are obtained for the known standards, those values will be used to calculate sample data. Internal proficiency test samples, prepared from spiked urine samples of determined concentration shall be included in the run and will appear as normal samples to laboratory personnel. Each run must include at least two blind control samples (one positive and one negative) per 200 specimens. Similar standards, positive and negative controls will be analyzed in parallel with confirmation tests.

b. Employer External Laboratory Quality Control Procedures

Participation in proficiency testing surveys, by which the laboratory performance is compared with peers and reference laboratories, is encouraged. Participation in a ADAMHA/National Institute on Drug Abuse (NIDA)-recognized accreditation and proficiency testing program for drugs of abuse is mandatory. (Criteria for such recognition will be available from ADAMHA in March 1987.)

During the initial 90-day period of any new drug testing program a minimum of 1000 samples of which at least 800 are blank (i.e. certified to contain no drug) must be submitted to the contract laboratory as external blind proficiency test specimens. Subsequent to the initial 90-day period, a minimum of 250 specimens per quarter shall be submitted to the contract laboratory as external blind proficiency test specimens. Any unsatisfactory proficiency testing results must be investigated by the Office of Workers' Compensation and corrective actions must be taken. A report of the investigative findings, together with subsequent corrective actions, should be recorded, dated, signed by the responsible supervisor and laboratory director and sent to the agency contracting officer. Should a false positive error occur on a blind proficiency test specimen, retesting of all specimens submitted to that lab for the period two weeks prior to the detected error and two weeks after is required. Unsatisfactory performance on proficiency test samples is sufficient cause for the Office Workers' Compensation to revoke laboratory accreditation.

c. Interim External Laboratory Quality Control Procedures

Prior to the existence of ADAMHA/NIDA recognized accreditation and proficiency testing programs, agencies must ensure laboratory proficiency by using contract laboratories that have been certified for urinalysis testing.

Documentation

Documentation of all aspects of the testing process must be available. This documentation will be maintained for at least two years and shall include: personnel files on analysts, supervisors, directors, and all individuals authorized to have access to specimens; chain of custody documents; quality assurance/quality control records; all test data; reports; performance records on proficiency testing; performance on accreditation inspection; and hard copies of computer-generated data.

Reports

All test results, including screening, confirmation, and quality control data must be reviewed by the certifying scientist or laboratory director before a test result is certified as accurate. The

report shall identify the drugs/-metabolites tested for, whether positive or negative, and the threshold concentration for each.

Inspections

The Office of Workers' Compensation shall reserve the right to inspect the laboratory at any time. Contractors with laboratories, and/or collection site services, shall permit unannounced inspections. Prior to the award of any contract inspections and evaluation of the procedural aspects of the program must be accomplished.

Judicial Proceedings

The laboratory must have qualified personnel available to testify in an administrative or disciplinary proceeding against an employee who has a positive urinalysis result reported by its laboratory.

REPORTING AND REVIEW OF RESULTS

An essential part of the drug testing program is the final review of results. A positive test result does not automatically identify an employee/applicant as an illegal drug user. A Medical Review Officer (MRO) with a detailed knowledge of possible alternate medical explanations must be involved in the review process.

The MRO may be an Office of Workers' Compensation or contract employee who is a licensed physician with knowledge of substance abuse disorders. The role of the MRO is to review and interpret positive test results obtained through the office's testing program. In the conduct of this responsibility, the MRO should undertake the examination of alternate medical explanations for a positive test result. This action could include conducting employee medical interviews, review of employee medical history, or the review of any other relevant biomedical factors.

The MRO is required to review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. After the MRO has reviewed the pertinent information and the laboratory assessment is verified, the results are to be forwarded to the employer and the Office of Workers' Compensation. Should any question arise as to the veracity of a positive test result, the MRO is authorized to order a reanalysis of the original sample. If the MRO determines there is a legitimate medical explanation for the positive test results, MRO may deem the result is consistent with legal drug use, and take no further action.

Before the MRO certifies a confirmed positive result for opiates, he/she must verify that there is clinical evidence (in addition to the urine test) of illegal use of any opium, opiate or opium derivative listed in Schedules I and II. This requirement does not apply if the office's GC/MS confirmation testing for opiates verifies the presence of 6-0-monoacetylmorphine.

Protection of Employee Records

Any laboratory contract shall provide that the contractor's records are subject to the Privacy Act, 5 U.S.C. 552a. The Office of Workers' Compensation shall establish a Privacy Act System of Records (or modify an existing system) to cover both the employer's and the contractor's records of employee urinalysis results. The contract and the Privacy Act System must have specific provisions that require that employee records are maintained and used with the highest regard for employee privacy.

Stephen W. Cavanaugh
Director

DECLARATION OF EMERGENCY

Department of Employment and Training Office of Workers' Compensation

Medical Fee Schedule

In accordance with the emergency provisions of R.S. 49:953(B) of the Louisiana Administrative Procedure Act, and the authority of R.S. 23:1034.2 of Act 938 of 1988 Regular Louisiana Legislative Session and R.S. 23:1203, the director of the Office of Workers' Compensation has determined that because of the imminent peril to the public health, safety and welfare, it is necessary that the Office of Workers' Compensation adopt an immediate medical reimbursement fee schedule for drugs, supplies, hospital care and services, medical and surgical treatment and any non-medical treatment recognized by the laws of this state as legal and due under the Workers' Compensation Act and is applicable to all state employees or corporation who renders such care, services or treatment or provides such drugs or supplies to all persons covered by Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950.

Additionally, Act 938 mandates the promulgation of a medical reimbursement fee schedule by the director of the Office of Workers' Compensation effective January 1, 1989.

This medical reimbursement fee schedule establishes a basis for billing and payment of medical services provided all injured state employees. A copy of the fee schedule shall be available for view at the Office of Workers' Compensation Administration at 1001 North 23rd Street, Baton Rouge, LA 70804, Room 142.

Stephen W. Cavanaugh
Director

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 Medical Assistance Program.

In accordance with Act 403 of the 1989 Legislature, the bureau is eliminating the closed restricted drug formulary and expanding pharmacy program coverage of drugs. As mandated by state law, the program will begin paying for all legend drugs designated as safe and effective by the Food and Drug Administration except cosmetic drugs, cough and cold preparations, minor tranquilizers and anorexic drugs effective September 15, 1989. In addition, the program will include coverage for a limited number of over-the-counter drugs, indwelling catheters, and catheterization trays when prescribed.

Under this rule, there is no change in the reimbursement methodology for prescription drugs.

This rule was previously adopted under Emergency Rule-making provisions of R.S. 49:953B effective September 14, 1989 and published in the *Louisiana Register*, Vol. 15, No. 10 on October 20, 1989.

RULE

Authorized medications and/or supplies which are payable under Title XIX pharmacy services of the Medical Assistance Program are listed below.

1. All legend drugs will be provided except the following therapeutic classifications:

- anorexics;
- cough and cold preparations;
- minor tranquilizers;
- cosmetic drugs.

2. Non-legend drugs as follows:

Benedict's Solution	Contraceptive Supplies and Devices
Calcium Gluconate	Ferrous Gluconate
Calcium Lactate	Ferrous Sulfate
Calcium Phosphate	Insulin
Clinitest	Nicotinic Acid
Clinistix	Tes Tape

3. Non-disposable insulin syringes as follows: (Louisiana Drug Codes for these are indicated)

LDC	SYRINGE TYPES
994 1901 00	Insulin Syringe Type 1YLI BD
994 1902 00	Insulin Syringe Type 1YLI BD
994 1903 00	Insulin Syringe Type 2YZ BD
994 1904 00	Insulin Syringe Type 1YTI BD
994 1905 00	Insulin Syringe Type ND, LO-DOSE, U-100
994 1908 00	Insulin Syringe Type 2YPI BD
994 1910 00	Insulin Syringe Type U-100 BD
994 1911 00	Insulin Syringe Type 3YLH BD

4. Indwelling Catheters and Catheterization Trays as follows:

LDC	TYPE
993 304 00	5 cc Catheter
993 303 00	30 cc Catheter
993 302 00	Tray

5. The combination indwelling Catheters and Catheterization Trays are payable as follows:

LDC	TYPE
303 305 00	Tray with 5 cc Catheter
993-301	Tray with 30 cc Catheter

6. Immunosuppressant Drugs -- Pharmacies shall be required to bill Title XVIII for Immunosuppressant drugs prescribed within one year from the date of the transplant for recipients who have Medicare Part B coverage. After Title XVIII has processed the claim, then the claim along with the Explanation of Medicare Benefits should be forwarded to the bureau's fiscal intermediary for payment of co-insurance or deductible where applicable. If the transplant date is more than one year, then pharmacy claims along with documentation of transplant date from either the physician or hospital should be forwarded to the bureau's fiscal intermediary, Provider Relations TPL Unit for processing and override of the Medicare eligible edit. Non-Transplant Patients with Medicare Part B: When a prescription is filled for NDC810597 (Imuran, 50 mg) and NDC780110 (Sandimmune, 100 mg/ml) and the individual is not an organ transplant patient and is covered by Medicare Part B, copy of a physician statement verifying the diagnosis must be attached to each claim submittal.

COVERAGE LISTING

A complete listing of covered drugs will be maintained in the Title XIX provider manual for utilization by providers. The bureau's fiscal intermediary will provide coverage information on any specific drug. Providers should contact the fiscal intermediary's provider relations unit when a specific coverage question arises.

EXCLUSIONS

Listed below are the medications and/or supplies (with examples) which are not payable under pharmaceutical services of the Medical Assistance Program.

1. Experimental drugs, which are generally labeled: "Caution--limited by Federal Law to investigational use."

2. Anorexics, such as:

Adipex-P	Fastin	Obestat	Tenuate
Biphetamine	Ionamin	Panrexin MTP	Tenuate Dospan
Coramine	Mazanok	Pondimin	Tepanil
Dexedrine	Melfiat	Preludin	Trimtabs
Desoxyn	Melfiat 105	Sanorex	
Didrex	Methamphetamine	Statobex	

3. Cough and cold preparations, such as:

Actifed	Endal ND	Phenergan D
Actifed C	Endal SR	Phenergan Exp.
Ambenyl	Endal Plain	Phenergan w/Codeine
Brexin LA	Entex	Phenergan Ped. DM
Brexin Caps	Entex LA	Phenergan VC
Brexin Liquid	Glynazan Exp.	Phenergan VC Codeine Exp.
Bromfed	Hista Vadrin	Polaramine Exp.
Comhist	Histabid	Polyhistine D
Comhist LA	Histalet	PV Tussin
Condriin LA	Histalet DM	Robitussin DAC
Cophene	Histalet Forte	Rondec
Cophene No. 2	Histaspan D	Rondec DM
Cophene PL	Histaspan Plus	Ru Tuss
Cophene S	Hycodan	Ru Tuss Exp.
Cophene XP	Hycomine Comp	Ru Tuss Plain
Co-Pyronil 2	Hycomine Syr	Rynatan
Deconamine SR	Hycomine Ped.	Rynatan Ped.
Decongestabs	Hycotuss	Rynatuss
De Tuss	Isocol	Singlet
Detussin	Marcof	Sinubid
Dihistine	Naldecon	Tavist D
Dimacol	Naldecon CX	Triaminic
Dimetane DX	Naldecon Ped.	Triaminic DH
Dimetane Exp.	Nolamine	Triaminic Juvelet
Dimetane Exp. D.C.	Novafed-A	Tussar SF
Disophrol	Ornade	Tussend
Drixoral	Pancof	Tussend Exp.
Drize	Pediacof	Tuss-Organidin
Endal	Phenergan Comp.	Tuss Ornade

4. Minor Tranquilizers, such as:

Atarax	Miltown	Tranxene
Ativan	Paxipam	Traxin
Centrax	Promate	Valium
Equanil	Rezine	Valrelease
Libritab	Serax	Vistaril
Librium	Trancopal	Xanax

5. Cosmetic Drugs

A/T/S	Cleocin T Topical Gel	Pan Oxyl 5
Accutane	Cleocin T Topical Soln	Pan Oxyl 10
Benoquin	Desquam x 5	Pan Oxyl AQ 2 1/2
Benzac 5 Gel	Desquam x 10	Pan Oxyl AQ 5
Benzac 10 Gel	Drysol	Pan Oxyl AQ 10
Benzac W 2 1/2	Eldopaque	Retin A
Benzac W 5	Eldoquin-Forte	Rogaine
Benzac W 10	Eryderm 2%	Staticin
Benzac W Wash 5	Meclan Cream	Solaquin-Forte
Benzac W Wash 10	Melanex	T-Stat 2%
Benzagel	Minoxidil Topical	Topicycline

6. Compounded prescriptions (mixtures of two or more ingredients).

7. Narcotics prescribed only for narcotic addiction.

8. In addition, payment will not be made for medications which are included in the reimbursement to a facility such as a:

- a. hospitalized recipient, or
- b. a recipient receiving benefits under Part A of Title XVIII

in a Skilled Nursing Facility, or

- c. a resident/patient at Villa Feliciana or at a State Mental Hospital.

9. DESI Drugs--Drugs which have been identified by the FDA as lacking evidence of safety/effectiveness.

Regulatory Exception

Implementation of this 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 Medical Assistance Program.

Public Law 100-360 established mandatory requirements for all pregnant women covered by Title XIX concerning changes in income. Under the statutory provisions, the bureau is required to ignore income changes for all pregnant women rather than limiting this exception to recipients covered under the Child Health and Maternity Program (CHAMP).

This rule is necessary to ensure compliance with mandated federal regulations and laws and to avoid sanctions from HCFA. This rule was previously adopted under emergency rule-making provisions of R.S. 49:953B effective October 1, 1989 and published in the *Louisiana Register* Vol. 15, No. 10 on October 20, 1989.

RULE

All pregnant women covered under Title XIX shall be exempt from reporting income changes during the period of pregnancy and for 60 days postpartum.

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 Medical Assistance Program.

Currently, Title XIX (Medicaid) coverage in Louisiana limits obstetrical care visits to one initial office visit including the complete OB workup, preparation of records, health/dietetic counseling, etc., 13 follow-up prenatal visits during the term of the pregnancy including such services as vaginal exam, "dipstick" urinalysis, routine fetal monitoring, diagnosis and treatment of conditions both related to and non-related to pregnancy, and one postpartum visit including all services associated with the usual antepartum visit releasing the patient from obstetrical care. These services are in addition to the 12 "office and other outpatient visits" provided for routine medical care, but available to pregnant women only in extreme life-threatening situations.

Under the present procedure, approval for payment of claims for follow-up prenatal visits in excess of the limitation of 13 must be requested post-visit by the provider. Following each visit over the limitation of 13, the provider's staff completes a preauthorization form and submits it to the Prior Authorization Unit of the Bureau of Health Services Financing. The Prior Authorization Unit receives between 200 and 250 such forms each month, which must be evaluated and returned to the provider prior to submission of claims for payment. Requests for additional prenatal visits are being approved routinely in the interest of maternal and child health and in providing reimbursement to providers for services already performed. Present policy forbids submission of a request for pre-approval based on an estimated number of additional visits.

Elimination of this paperwork requirement is expected to contribute to enhanced access to necessary additional prenatal care. For recipients whose prenatal visits may have limited to 13 even though additional visits were indicated, adoption of this provision will contribute materially to maternal and child health. Failure to adopt this provision could result in seriously jeopardizing the lives and future health of high-risk pregnant women and/or infants at risk of being born prematurely, with low birth weights, or suffering from other preventable conditions.

This rule was previously adopted under emergency rule-making provisions of R.S. 49:953 B effective October 18, 1989 and published in the *Louisiana Register*, Vol. 15, No. 11, page 946 on November 20, 1989.

RULE

Provision of follow-up prenatal visits shall be allowed as necessary for adequate and necessary medical treatment of the Title XIX-eligible recipient.

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 Medical Assistance Program.

The Bureau of Health Services Financing has developed

program policy and payment standards which will allow federal financial participation in the funding of Optional Targeted Case Management Service for mentally retarded/developmentally disabled (MR/DD) individuals under Title XIX of the Social Security Act. Such funding will become available upon implementation of these services, which are provided in accordance with Title XIX requirements.

Under this proposed rule, Case Management Services will be provided to mentally retarded/developmentally disabled individuals, subject to Title XIX limitations necessary to receive federal financial participation. Provision of such services will enable recipients to receive multiple health/social/informal services which the recipient is unable to arrange without assistance.

Certain service and cost limitations are applicable to provision of this service. Reimbursement will be a statewide prospective rate based on allowable cost not to exceed \$9.37 per unit of service. A maximum unit of service limitation based on utilization shall be established. Maximum caseload size for each case manager is 45 cases. It is anticipated that 350 recipients will receive these services the first year, 550 recipients the second year, and 750 recipients the third year.

RULE

Case Management for mentally retarded/developmentally disabled individuals is defined as:

- A. development of initial service plan which identifies the evaluations necessary to determine the recipient's service needs;
- B. arrangements for and compilation of interdisciplinary team or other evaluative materials;
- C. coordination and participation in the development of a comprehensive service plan for each recipient which includes both formal and informal services;
- D. training and support of the recipient in the use of personal and community resources identified on the care plan;
- E. advocacy on behalf of recipients so that they may receive appropriate benefits or services;
- F. periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs;
- G. maintenance of documentation of each service provided to a recipient;
- H. during such time as the state has an approved Section 1915(c) waiver, monitoring service delivery in order to assess progress, the quality of services and that the services are being provided as ordered by the ID Team.

I. for recipients of MR/DD waiver services, implementation and maintenance of cost containment measures through periodic calculation of each recipient's waiver service costs. This service will be reimbursed when provided to MR/DD individuals subject to the limitations specified below.

1. The following conditions must be met for services to be reimbursed:

a. A recipient of services must meet the criteria listed below:

(1) the recipient must meet the definition of "Developmentally Disabled" as defined by the Division of Mental Retardation and Developmental Disabilities, and

(2) the recipient is unable to access the necessary services, and

(3) the recipient, except in the instance of waiver recipients, must require service from multiple health/social/informal services providers, and

(4) (a) The individual is at risk of becoming homeless or in need of protection from harm due to environmental or live circumstances, need for supervision, or potential threat of abuse or neglect, or

(b) The individual has been institutionalized, is at risk of becoming institutionalized or would otherwise require ICF/MR level of care unless eligible to participate in Medicaid Home and Community Based Waiver Services.

b. A recipient may receive services on an inpatient or an outpatient basis.

c. Providers of case management services under this provision will not be reimbursed for specific services provided to individuals in institutional settings when those services are included in the per diem rate for the institution.

d. The recipient will not be forced under this provision to receive case management services for which he or she may be eligible.

e. Case management services under this provision will not be used to restrict the access of the recipient to other services available under the State Plan.

f. Payment for case management services under this provision will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

g. The maximum number of units of service covered by this provision per individual per calendar year shall be limited in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

2. Standards for Participation

The provider of case management services must:

a. enter into a provider agreement with the Bureau of Health Services Financing;

b. be licensed to provide case management services in the state;

c. have been certified by the Office of Mental Retardation/Developmental Disabilities as having adequate programming and administration to provide the service effectively and efficiently;

3. Standards for Payment

In order to be reimbursed by the state, the provider of case management services must:

a. insure that all case management services are provided by individuals who meet the following education and experience requirements:

(1) an individual with at least a bachelor's degree in a human service related field plus two years of experience in such a field;

(2) years of experience in human services related field may be substituted for the bachelor's degree on an equivalent basis of one year of experience for 30 hours of course credit;

(3) 30 hours or more graduate level course credit in the human services field may be substituted for one year of the experience.

b. insure that services are provided according to an individualized plan of care developed by an interdisciplinary team of professionals;

c. insure that only one individual who is an employee of the case management agency is assigned as the primary case manager for each recipient;

d. insure that the one case manager for each recipient under this provision visits the recipient in accordance with the plan of care.

e. insure that the individual assigned as the case manager maintains contact with the recipient or his/her legal representative and that these contracts are documented in progress notes and address the efficacy of the care plan;

f. insure that the case manager assigned to serve the re-

ipient as well as any other employee of the case management provider services keep sufficient records to document the services being provided;

g. insure that appropriate professional consultation is available to each case manager at all times;

h. insure that appropriate referrals for services are made and documented for each recipient served under this provision;

i. insure that the maximum caseload established by the Bureau of Health Services Financing for a case manager is not exceeded;

j. insure that each recipient has freedom of choice with regard to providers of any service, including case management services;

k. abide by the articles of the Provider Agreement entered into with the Bureau of Health Services Financing.

4. General Provisions

a. Providers of case management services will be reimbursed on a unit of service basis. A unit of service negotiated fee will be established based on the cost of providing case management service. Reimbursement will be based on allowable cost not to exceed limitations established by the Bureau of Health Services Financing.

b. Providers of case management services shall maintain time sheets which are completed by their case managers to document the units of service they have provided. A unit of service will be defined for each provider as 15 minutes. Time sheets shall contain the dates and times of service provisions and be maintained for audit as prescribed in the Standards for Payment.

c. The number of units of service to be reimbursed by the state for each individual in a calendar year shall not exceed the maximum established under the Title XIX State Plan agreement.

d. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in the Standards of Payment shall be adhered to by providers of Case Management Services.

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 Medical Assistance Program.

Medicaid currently reimburses for skilled nursing facility (SNF) and intermediate care facility (ICF I and II) services on a prospective per diem. This does not adequately address the costs of state facilities which frequently accept the more difficult and intensive patient for care. State facilities are currently in jeopardy of being closed due to inadequate reimbursement. As federal regulations permit a different reimbursement methodology for services provided by state-operated facilities, reimbursement to state-operated nursing facilities is being modified effective for cost reporting periods ending June 30, 1989 to provide for a retrospective cost-based reimbursement which will ad-

dress the additional costs of such facilities. This emergency rule will then ensure the availability of nursing facility services to that needy population that would not be accepted by other facilities due to difficult or intensive levels of care needed. Thus, imminent peril to the health and welfare of these individuals due to closure of these facilities will be avoided.

This rule was previously adopted under emergency rule-making provisions of R.S. 49:953B effective October 10, 1989 and published in the *Louisiana Register* Vol 15, No. 11 on November 20, 1989.

RULE

Effective for cost reporting periods ending June 30, 1989, the Bureau of Health Services Financing shall revise Medicaid reimbursement for nursing facility services provided by state-operated facilities. Skilled nursing facility (SNF) and Intermediate Care Facility (ICF I and II) services shall be reimbursed allowable costs based on Medicare (Title XVIII) principles of reimbursement and methods of cost apportionment for skilled nursing facilities. An interim per diem shall be established subject to cost settlement. Cost reports shall be filed and subject to desk review and audit by agency personnel or their contractual representative. Desk reviews shall be performed on all cost reports while full-scope on-site audits shall be performed in accordance with the criteria established by Medicare for skilled nursing 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. 49:953B, to adopt the following rule in the Medical Assistance Program.

Public Law 100-360 established mandatory requirements for institutionalized individuals with a spouse living the community. Under the statutory provisions, the bureau is required to follow new methods for determining income and resources eligibility under Title XIX (Medicaid) for those recipients who entered a nursing facility or began receiving home and community based services on September 30, 1989 or later. The new provisions require the following changes:

1. No income of the community spouse will be considered available to the institutionalized spouse. Income paid to the one spouse is attributed to that spouse only and income paid to both is attributed in equal parts or in proportion to the spouse's interest in the income.

2. The couple's resources are assessed as of the date of entry to the institution. The community spouse is allowed to retain \$62,580 in resources in 1990, with annual adjustments based on changes in the Consumer Price Index. When there are changes in the amount of resources held by a couple during the initial eligibility period, recalculation of resource eligibility is made for the institutionalized spouse, but spousal protected amounts continue to be deducted in determining eligibility.

3. Resources must be assessed for private-pay patients if requested.

4. After being determined eligible, the institutionalized spouse may transfer resources not used in determining eligibility (spousal allowance) to the community spouse to assist in meeting that spouse's needs in the community.

5. Community spouse monthly income allowance is \$1,565 which includes an excess housing allowance to cover utilities, rent or mortgage, taxes and insurance as allowed to be adopted under the law. This amount is adjusted annually based on changes in the Consumer Price Index.

6. Dependent maintenance needs allowance is \$850 in 1990, with annual adjustments based on changes in the Consumer Price Index.

7. If the community spouse transfers assets, the transfer is considered as though the institutionalized spouse performed the action.

Under this rule, the bureau is adopting the provisions of P.L. 100-360 as mandated for implementation effective September 30, 1989 utilizing the interpretations of the Health Care Financing Administration (HCFA) set forth in its State Medicaid Manual publication, Sections 3260 - 3262.6.

This rule is necessary to ensure compliance with mandated federal regulations and laws and to avoid sanctions from HCFA. The rule was previously adopted under emergency rule-making provisions of R.S. 49:953B and published in the *Louisiana Register* Vol. 15, No. 10, on October 20, 1989.

RULE

Spousal impoverishment under Title XIX shall apply to institutionalized individuals with a spouse living in the community. Eligibility under Title XIX shall be determined under the mandatory provisions of P.L. 100-360 utilizing the interpretations of the Health Care Financing Administration set forth in its State Medical Manual publication, Sections 3260 - 3262.6, 3700 - 3701, and 3710.

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 Medical Assistance Program.

Public Law 100-360 established mandatory requirements for the transfer of resources policy applicable under Title XIX (Medicaid). Under the statutory provisions, the bureau is required to determine whether an institutionalized individual, during the 30-month period immediately before he or she made application for medical assistance, disposed of resources for less than fair market value. The new transfer provisions apply to transfers that take place during or after the 30-month period immediately before the individual becomes an institutionalized individual, if entitled to Medicaid on that date, or if the individual

is not entitled on the date of institutionalization, the date the individual applies for assistance while an institutionalized individual. The 30-month provisions apply only to institutionalized individuals and individuals who receive home and community-based services. Additionally, individuals who make prohibited transfers are no longer ineligible for all Medicaid services for a prescribed period of time, but are only ineligible for nursing facility services and for a level of care in a medical institution for up to a maximum of 30 months, computed by dividing uncompensated value of the transferred assets by the state's average private-pay facility fee (\$1322).

Under this rule the bureau is adopting the mandatory provisions of P.L. 100-360 utilizing the interpretations of the Health Care Financing Administration set forth in its State Medicaid Manual publication, Section 3250-3255.

This rule is necessary to ensure compliance with mandated federal regulations and laws and to avoid sanctions from HCFA. This rule was previously adopted under emergency rule-making provisions of R.S. 49:953B effective October 1, 1989 and published in the *Louisiana Register* Vol. 15, No. 10 on October 20, 1989.

RULE

Transfer of resources under Title XIX shall apply to all applications for Medical Assistance in accordance with the Health Care Financing Administration's State Medicaid Manual publication, Section 3250 - 3255.

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 Medical Assistance Program.

Medicaid is proposing to reimburse for Traumatic Brain Injury (TBI) unit services on a negotiated prospective per diem based on allowable costs as defined by Medicare principles of reimbursement and methods of cost apportionment. This reimbursement would be applicable to either hospital-based units or skilled nursing facility based units which meet the Medicare PPS exempt criteria for rehabilitation units and are accredited by the Joint Commission on Accreditation of Rehabilitation Facilities as an Acute Brain Injury Treatment Program. Currently the state reimburses hospitals on costs subject to certain limitations which negatively impact head injury rehabilitation admissions due to the extensive lengths of stay required for these services. Likewise, the current prospective reimbursement for skilled nursing facility services does not reflect the additional costs for more intensive rehabilitation services needed by traumatic brain injury patients. These current reimbursement limitations have resulted in no providers being willing to participate as Medicaid providers for these services and the state cannot assure access to the necessary medical care needed by these individuals.

The proposed change in reimbursement shall ensure availability of rehabilitation services to traumatic brain injury patients to assure the reduction of the disabilities resulting from traumatic brain injury and the restoration of the individual to his best possible functioning level in the community. Thus, imminent peril to the health and welfare of these individuals will be averted, and the state will remain in compliance with federal regulations which mandate that reimbursement be reasonable and sufficient to assure access of individuals to needed medical services.

This rule was previously adopted under emergency rule-making provisions of R.S. 49:953B effective October 10, 1989 and published in the *Louisiana Register* Vol. 15, No. 11 on November 20, 1989.

RULE

Effective for services provided on or after October 1, 1989, the Bureau of Health Services Financing shall revise Medicaid reimbursement to provide for a negotiated prospective per diem rate for Traumatic Brain Injury (TBI) or Head Injury Units in a skilled nursing facility (SNF) or hospital. The per diem will be based on allowable costs based on Medicare (Title XVIII) principles of reimbursement and methods of cost apportionment. Standards of participation will require that hospital-based units meet the Medicare criteria for PPS exempt rehabilitation units; and both SNF and hospital-based units must be accredited by the Commission on Accreditation of Rehabilitation Facilities as an Acute Brain Injury Treatment Program. Cost reports must be filed and desk reviews shall be completed on all cost reports submitted while full-scope on-site audits shall be performed in accordance with criteria established by Medicare for hospitals and nursing facilities. Separate provider enrollment shall be required for TBI units being reimbursed under this methodology; and all costs and admissions shall be treated separately from all other SNF or hospital costs and admissions.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Insurance Commissioner of Insurance

The United States Congress has implemented significant changes in the Medicare insurance program. As a result of these changes in federal law, the Louisiana Department of Insurance proposed Legislative action. The Legislature passed and the governor signed into law Act 447 which embodies the necessary changes in the Louisiana Insurance Code.

The Health Care Financing Administration of the U.S. Department of Health and Human Services has the responsibility of monitoring the Medicare supplement regulatory program. This office has established minimum requirements for regulations and rules. The time frame for implementation of these regulations have created this emergency in Louisiana.

These emergency regulations shall be effective on Friday, February 9, 1990 and shall continue in effect for 120 days or until regular promulgation of the regulations and rule.

INSURANCE REGULATION 33A

To implement transitional requirements for the conversion of Medicare supplement insurance benefits and premiums to

conform to repeal of Medicare Catastrophic Coverage Act.

Section 1. Purpose

The purpose of this regulation is to assure the orderly implementation and conversion of Medicare supplement insurance benefits and premiums due to changes in the federal Medicare program; to provide for the reasonable standardization of the coverage, terms and benefits of Medicare supplement policies or contracts; to facilitate public understanding of such policies or contracts; to eliminate provisions contained in such policies or contracts which may be misleading or confusing in connection with the purchase of such policies or contracts; to eliminate policy or contract provisions which may duplicate Medicare benefits; to provide for adjustment of required minimum benefits for Medicare supplement policies; to provide notice to former policyholders of offer to reinstitute coverage; to provide full disclosure of policy or contract benefits and benefit changes; and to provide for appropriate premium adjustments.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner under R.S. 22:224H.

Section 3. Applicability and Scope

This regulation shall take precedence over other rules and requirements relating to Medicare supplement policies or contracts to the extent necessary to assure that benefits are not duplicated and to adjust minimum required benefits to changes in Medicare benefits, that applicants receive adequate notice and disclosure of changes in Medicare supplement policies and contracts, that appropriate premium adjustments are made in a timely manner, and that premiums are reasonable in relation to benefits.

Except as provided in Section 5, this regulation shall apply to:

- A. all Medicare supplement policies and contracts delivered, or issued for delivery, or which are otherwise subject to the jurisdiction of this state on or after the effective date hereof, and
- B. all certificates issued under group Medicare supplement policies as provided in A. above.

Section 4. Definitions

For purposes of this regulation:

A. *Applicant* means:

1. in the case of an individual Medicare supplement policy or contract, the person who seeks to contract for insurance benefits, and
2. in the case of a group Medicare supplement policy or contract, the proposed certificate holder.

B. *Certificate* means any certificate issued under a group Medicare supplement policy.

C. *Medicare Supplement Policy* means a group or individual policy of accident and sickness insurance or any other contract which is advertised, marketed or designed primarily to provide health care benefits as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

Section 5. Benefit Conversion Requirements

A. Effective January 1, 1990, no Medicare supplement insurance policy, contract or certificate in force in this state shall contain benefits which duplicate benefits provided by Medicare.

B. Benefits eliminated by operation of the Medicare Catastrophic Coverage Act of 1988 transition provisions shall be restored.

C. For Medicare supplement policies subject to the minimum standards adopted by the states pursuant to Medicare Catastrophic Coverage Act of 1988, the minimum benefits shall be:

1. coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

2. coverage for either all or none of the Medicare Part A inpatient hospital deductible amount.

3. coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

4. upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90 percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

5. coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B.

6. coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible [\$75].

7. effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

D. General Requirements

1. No later than January 31, 1990, every insurer, health care service plan or other entity providing Medicare supplement insurance or benefits to a resident of this state shall notify its policyholders, contract holders and certificate holders of modifications it has made to Medicare supplement insurance policies or contracts. Such notice shall be in a format prescribed by the commissioner or in the format adopted by the NAIC (Appendix A) if no other format is prescribed by the commissioner.

a. Such notice shall include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement insurance policy or contract.

b. The notice shall inform each covered person as to when any premium adjustment due to changes in Medicare benefits will be effective.

c. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

d. Such notice shall not contain or be accompanied by any solicitation.

2. No modifications to an existing Medicare supplement contract or policy shall be made at the time of or in connection with the notice requirements of this regulation except to the extent necessary to accomplish the purposes articulated in Section 1 of this regulation.

Section 6. Form and Rate Filing Requirements

A. As soon as practicable, but no longer than 45 days after the effective date of the Medicare benefit changes, every insurer, health care service plan or other entity providing Medicare supplement insurance or contracts in this state shall file with the department, in accordance with the applicable filing procedures of this state.

1. appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable poli-

cies or contracts. Such supporting documents as necessary to justify the adjustment shall accompany the filing.

2. any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplications with Medicare and to provide the benefits required by Section 5. Any such riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or contract.

B. Upon satisfying the filing and approval requirements of this state, every insurer, health care service plan or other entity providing Medicare supplement insurance in this state shall provide each covered person with any rider, endorsement or policy form necessary to make the adjustments outlined in Section 5 above.

C. Any premium adjustments shall produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies and shall result in an expected loss ratio at least as great as that originally anticipated by the insurer, health care service plan or other entity for such Medicare supplement insurance policies or contracts. Premium adjustments may be calculated for the period commencing with Medicare benefit changes.

Accelerated Policy Adjustment Procedures

1. Require that such filing made pursuant to state laws and rules be accompanied by the certification of an officer of the filing entity that the filing complies with all the requirements of the regulation to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of the Medicare Catastrophic Coverage Act (transition rule), and that any portion of the filing found by the commissioner not to comply with any requirement of the transition rule will be modified by the filing entity as ordered by the commissioner to comply with the transition rule. The filing entity must further certify that any such modification ordered by the commissioner will be made effective as of the effective implementation date of the filing to which the original certification applies and that the entity will promptly notify affected insureds of the modification.

2. Upon receipt of a Medicare supplement insurance filing made solely for the purpose of implementing adjustments to Medicare supplement insurance necessary to provide a transition of benefits and premiums to conform to repeal of the Medicare Catastrophic Act and to the requirements of the transition rule, the commissioner deems approved for immediate use such filed adjustments as comply with all requirements of the transition rule.

3. Upon completion of review of the filings received pursuant to these accelerated policy adjustment procedures, the commissioner shall order such modifications as are necessary to bring the filing into compliance with the transition rule. The review shall be conducted in accordance with the time period provided by the applicable laws and rules of the state.

Section 7. Offer of Reinstatement of Coverage

A. Except as provided in Subsection B, in the case of an individual who had in effect, as of December 31, 1988, a Medicare supplemental policy with an insurer (as a policyholder or, in the case of a group policy, as a certificate holder) and the individual terminated coverage under such policy before the date of the enactment of the repeal of the Medicare Catastrophic Coverage Act of 1988, the insurer shall:

1. provide written notice no earlier than December 15, 1989, and no later than January 30, 1990, to the policyholder

or certificate holder (at the most recent available address) of the offer described below, and

2. offer the individual, during a period of at least 60 days beginning not later than February 1, 1990, reinstatement of coverage (with coverage effective as of January 1, 1990), under the terms which:

a. does not provide for any waiting period with respect to treatment of pre-existing conditions;

b. provides for coverage which is substantially equivalent to coverage in effect before the date of such termination; and

c. provides for classification of premiums on which terms are at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage never terminated.

B. An insurer is not required to make the offer under Paragraph 2 above in the case of an individual who is a policyholder or certificate holder in another Medicare supplemental policy as of January 1, 1990, if the individual is not subject to a waiting period with respect to treatment of a pre-existing condition under such other policy.

Section 8. Requirements for New Policies and Certificates

A. Effective January 1, 1990, no Medicare supplement insurance policy, contract or certificate shall be delivered or issued for delivery in this state which provides benefits which duplicate benefits provided by Medicare. No such policy, contract or certificate shall provide less benefits than those required under the existing Medicare Supplement Insurance Minimum Standards Model Act or regulation except where duplication of Medicare benefits would result and except as required by these transition provisions.

B. General Requirements

1. Within 90 days of the effective date of this regulation, every insurer, health care service plan or other entity required to file its policies or contracts with this state shall file new Medicare supplement insurance policies or contracts which eliminate any duplication of Medicare supplement benefits with benefits provided by Medicare, which adjust minimum required benefits to changes in Medicare benefits and which provide a clear description of the policy or contract benefit.

2. The filing required under Section 6A(1) shall provide for loss ratios which are in compliance with all minimum standards.

3. Every applicant for a Medicare supplement insurance policy, contract or certificate shall be provided with an outline of coverage which simplifies and accurately describes benefits provided by Medicare and policy or contract benefits along with benefit limitations.

Section 9. Filing Requirements for Advertising

Every insurer, health care service plan or other entity providing Medicare supplement insurance or benefits in this state shall provide a copy of any advertisement intended for use in this state whether through written, radio or television media to the commissioner of insurance of this state for review or approval by the commissioner to the extent it may be required under state law. Such advertisement shall comply with all applicable laws of this state.

Section 10. Buyer's Guide

No insurer, health care service plan or other entity shall make use of or otherwise disseminate any buyer's guide or informational brochure which does not accurately outline current Medicare benefits and which has not been adopted by the commissioner.

Section 11. Separability

If any provision of this regulation or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application of

such provision to other persons or circumstances shall not be affected thereby.

Section 12. Effective Date

This regulation shall be effective upon adoption.

[COMPANY NAME]

APPENDIX A

NOTICE OF CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT COVERAGE - 1990

THE FOLLOWING OUTLINE BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.]

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	In 1989 Medicare Pays Per Calendar Year	Effective January 1, 1990, Medicare Will Pay	In 1989 Your Coverage Pays _____	Effective January 1, 1990 Your Coverage Will Pay _____
MEDICARE PART A SERVICES AND SUPPLIES				
Inpatient Hospital Services	Unlimited number of hospital days after \$560 deductible	All but \$592 for first 60 days/ benefit period		
Semi-Private Room & Board		All but \$148 a day for 61st-90th days/benefit period		
Misc. Hospital Services & Supplies, such as Drugs, X-Rays, Lab Tests & Operating Room		All but \$296 a day for 91st-150th days (if individual chooses to use 60 nonrenewable lifetime reserve days)		
BLOOD	Pays all costs except payment of deductible (equal to costs for first 3 pints) each calendar year. Part A blood deductible reduced to the extent paid under Part B	Pays all costs except nonreplacement fees (blood deductible) for first 3 pints in each calendar year.		
SKILLED NURSING FACILITY CARE	There is no prior confinement require- ment for this benefit	100% of costs for 1st 20 days (after a 3 day prior hospital confinement)/benefit period		
	First 8 days - All but \$25.50 a day	All but \$74.00 a day for 21st-100th days/ benefit period		

SERVICES

MEDICARE BENEFITS

YOUR MEDICARE SUPPLEMENT COVERAGE

	In 1989 Medicare Pays <u>Per Calendar Year</u>	Effective January 1, 1990, Medicare Will Pay	In 1989 Your Coverage <u>Pays</u>	Effective January 1, 1990 <u>Your Coverage Will Pay</u>
	9th through 150th day - 100% of costs	Beyond 100 days - Nothing/benefit period		
	Beyond 150 days - Nothing			
MEDICARE PART B SERVICES AND SUPPLIES	80% of allowable charges (after \$75 deductible)	80% of allowable charges (after \$75 deductible/ calendar year)		
PRESCRIPTION DRUGS	Inpatient prescription drugs. 80% of allowable charges for immuno- suppressive drugs during the first year following a covered transplant (after \$75 deductible/ calendar year)	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive drugs during the first year following a covered transplant (after \$75 deductible/calendar year)		
BLOOD	80% of all costs except nonreplacement fees (blood deductible) for first 3 pints in each benefit period (after \$75 deductible/calendar year)	80% of costs except nonreplacement fees (blood deductible) for first 3 pints (after \$75 deductible/calendar year)		

[Any other policy benefits not mentioned in this chart should be added to the chart in the order prescribed by the outline of coverage. If there are corresponding Medicare benefits, they should be shown.]

[Describe any coverage provisions changing due to Medicare modifications.]

[Include information about when premium adjustments that may be necessary due to changes in Medicare benefits will be effective.]

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [Policy] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT]

[ADDRESS/PHONE NUMBER]

INSURANCE REGULATION 33B

To Implement the Louisiana Medicare Supplement Insurance Minimum Standards Act.

Section 1. Purpose

The purpose of this regulation is to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies; to facilitate public understanding and comparison of such policies; to eliminate provisions contained in such policies which may be misleading or confusing in connection with the settlement of claims; and to provide for full disclosures in the sale of accident and sickness insurance coverage to persons eligible for Medicare by reason of age.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner under L.R.S. 22:224H.

Section 3. Applicability and Scope

Except as otherwise specifically provided in Sections 10 and 11, this regulation shall apply to:

A. All Medicare supplement policies and subscriber contracts delivered or issued for delivery in this state on or after the effective date hereof, and

B. All certificates issued under group Medicare supplement policies or subscriber contracts, which certificates have been delivered or issued for delivery in this state.

C. This regulation shall not apply to a policy or contract

of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

Section 4. Definitions

For purposes of this regulation:

A. *Applicant* means:

1. in the case of an individual Medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits, and

2. in the case of a group Medicare supplement policy or subscriber contract, the proposed certificate holder.

B. *Certificate* means any certificate issued under a group Medicare supplement policy, which certificate has been delivered or issued for delivery in this state.

C. *Medicare Supplement Policy* means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical associations or health maintenance organizations which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

Section 5. Policy Definitions and Terms

No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy unless such policy or subscriber contract contains definitions or terms which conform to the requirements of this Section.

A. *Accident, Accidental Injury, or Accidental Means* shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

1. The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

2. Such definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

B. *Benefit Period or Medicare Benefit Period* shall not be defined as more restrictive than as that defined in the Medicare program.

C. *Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility* shall be defined in relation to its status facilities and available services.

1. A definition of such home or facility shall not be more restrictive than one requiring that it:

a. be operated pursuant to law;

b. be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;

c. be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

d. provide continuous 24-hour a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and

e. maintains a daily medical record of each patient.

2. The definition of such home or facility may provide

that such term not be inclusive of:

a. any home, facility or part thereof used primarily for rest;

b. a home or facility for the aged or for the care of drug addicts or alcoholics; or

c. home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.

D. *Health Care Expenses* means expenses of health maintenance organizations associated with the delivery of health care services which are analogous to incurred losses of insurers.

Such expenses shall not include:

1. home office and overhead costs;

2. advertising costs;

3. commissions and other acquisition costs;

4. taxes;

5. capital costs;

6. administrative costs; or

7. claims processing costs.

E. *Hospital* may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

1. The definition of the term *hospital* shall not be more restrictive than one requiring that the hospital:

a. be an institution operated pursuant to law, and;

b. be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which charge is made; and

c. provide 24-hour nursing service by or under the supervision of registered graduate professional nurses (R.N.s).

2. The definition of the term *hospital* may state that such term shall not be inclusive of:

a. convalescent homes, convalescent, rest or nursing facilities; or

b. facilities primarily affording custodial, educational or rehabilitative care; or

c. facilities for the aged, drug addicts or alcoholics; or

d. any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

F. *Medicare* shall be defined in the policy. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89.97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

G. *Medicare Eligible Expenses* shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims;

H. *Mental or Nervous Disorders* shall not be defined more restrictively than a definition including neurosis, psycho-

neurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

I. *Nurses* may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N), or a licensed vocational nurse (L.V.N.). If the words *nurse*, *trained nurse*, or *registered nurse* are used without specific instruction, then the use of such terms requires the insurer to recognize the services of any individual who qualified under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.

J. *Physician* may be defined by including words such as duly qualified physician or *duly licensed physician*. The use of such terms requires an insurer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when such services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

K. *Sickness* shall not be defined to be more restrictive than the following:

"Sickness means sickness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force."

The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers compensation, occupational disease, employer's liability or similar law.

Section 6. Prohibited Policy Provisions

A. No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if such policy or subscriber contract limits or excludes coverage by type of illness, accident, treatment or medical condition, except as follows:

1. foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

2. mental or emotional disorders, alcoholism and drug addiction;

3. illness, treatment or medical condition arising out of:
a. war or act of war (whether declared or undeclared); participation in a felony, riot or insurrection; service in the armed forces or units auxiliary thereto;

b. suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;

c. aviation;

4. cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part;

5. care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effect thereof, where such interference is the result of or related to distortion, misalignment or subluxation of or in the vertebral column;

6. treatment provided in a governmental hospital; benefits provided under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

7. dental care or treatment;

8. eye glasses, hearing aids and examination for the prescription or fitting thereof;

9. rest cures, custodial care, transportation and routine physical examinations;

10. territorial limitations outside the United States; provided, however, supplemental policies may not contain, when issued, limitations or exclusions of the type enumerated in Paragraphs 1, 5, 9, or 10 above that are more restrictive than those of Medicare. Medicare supplement policies may exclude coverage for any expense to the extent of any benefit available to the insured under Medicare.

B. No Medicare supplement policy may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described pre-existing diseases or physical conditions.

C. The terms *Medicare Supplement*, *Medigap* and words of similar import shall not be used unless the policy is issued in compliance with this regulation.

D. No Medicare supplement insurance policy, contract or certificate in force in the state shall contain benefits provided by Medicare.

Section 7. Benefit Conversion Requirements

A. Effective January 1, 1990, no Medicare supplement insurance policy, contract or certificate in force in this state shall contain benefits which duplicate benefits provided by Medicare.

B. Benefits eliminated by operation of the Medicare Catastrophic Coverage Act of 1988 transition provisions shall be restored.

C. For Medicare supplement policies subject to the minimum standards adopted by the states pursuant to Medicare Catastrophic Coverage Act of 1988, the minimum benefits shall be:

1. coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

2. coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

3. coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

4. upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90 percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

5. coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part A;

6. coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible (\$75);

7. effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

Section 8. Minimum Benefit Standards

No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy which does not meet the following minimum standards. These are minimum standards and do not preclude

the inclusion of other provisions or benefits which are not inconsistent with these standards.

A. General Standards

The following standards apply to Medicare supplement policies and are in addition to all other requirements of this regulation.

1. A Medicare supplement policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a pre-existing condition. The policy may not define a pre-existing condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

2. A Medicare supplement policy may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

3. A Medicare supplement policy shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

4. A *noncancellable, guaranteed renewable, or noncancellable and guaranteed renewable* Medicare supplement policy shall not:

a. provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

b. be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health.

5. a. Except as authorized by the commissioner of this state, an insurer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

b. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in Paragraph (5)(d), the insurer shall offer certificate holders an individual Medicare supplement policy. The insurer shall offer the certificate holder at least the following choices:

1. an individual Medicare supplement policy which provides for continuation of the benefits contained in the group policy; and

2. an individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards.

c. If membership in a group is terminated, the insurer shall:

1. offer the certificate holder such conversion opportunities as are described in Subparagraph b; or

2. at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

d. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for pre-existing conditions that would have been covered under the group policy being replaced.

6. Termination of a Medicare supplement policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be

predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

B. Minimum Benefit Standards

1. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

2. Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

3. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

4. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90 percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

5. Coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

6. Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible (\$75) maximum benefit;

7. Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

C. Medicare Eligible Expenses

Medicare eligible expenses shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

Section 9. Standards for Claims Payment

A. Every entity providing Medicare supplement policies or contracts shall comply with all provisions of Section 4081 of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203).

B. Compliance with the requirements set forth in Subsection A above must be certified on the Medicare supplement insurance experience reporting form.

Section 10. Loss Ratio Standards

Medicare supplement policies shall return to policyholders in the form of aggregate benefits under the policy, for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for such period and in accordance with accepted actuarial principles and practices:

A. at least 75 percent of the aggregate amount of premiums earned in the case of group policies, and

B. at least 60 percent of the aggregate amount of premiums earned in the case of individual policies.

All filings of rates and rating schedules shall demonstrate that actual and expected losses in relation to premiums comply with the requirements of this Section.

C. Every entity providing Medicare supplement policies in

this state shall file annually its rates, rating schedule and supporting documentation including ratios of incurred losses to earned premiums by number of years of policy duration demonstrating that it is in compliance with the foregoing applicable loss ratio standards and that the period for which the policy is rated is reasonable in accordance with accepted actuarial principles and experience.

For the purposes of this Section, policy forms shall be deemed to comply with the loss ratio standards if: (i) for the most recent year, the ratio of the incurred losses to earned premiums for policies or certificates which have been in force for three years or more is greater than or equal to the applicable percentages contained in this Section; and (ii) the expected losses in relation to premiums over the entire period for which the policy is rated comply with the requirements of this Section. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three years.

D. As soon as practicable, but prior to the effective date of Medicare benefit changes, every insurer, health care service plan or other entity providing Medicare supplement insurance or contracts in this state shall file with the commissioner, in accordance with the applicable filing procedures of this state:

1. a. appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts. Such supporting documents as necessary to justify the adjustment shall accompany the filing, and

b. every insurer, health care service plan or other entity providing Medicare supplement insurance or benefits to a resident of this state pursuant to R.S. 22:4E(2) shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the insurer, health care service plan or other entity for such Medicare supplement insurance policies or contracts. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein should be made with respect to a policy at any time other than upon its renewal date or anniversary date.

2. Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplications with Medicare. Any such riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or contract.

Section 11. Filing Requirements for Out-of-State Group Policies

Every insurer providing group Medicare supplement insurance benefits to a resident of this state pursuant to R.S. 22:224(E)(1) shall file a copy of the master policy and any certificate used in this state in accordance with the filing requirements and procedures applicable to group Medicare supplement policies issued in this state; provided, however, that no insurer shall be required to make a filing earlier than 30 days after insurance was provided to a resident of this state under a master policy issued for delivery outside this state.

Section 12. Required Disclosure Provisions

A. General Rules

1. Medicare supplement policies shall include a renewal or continuation provisions. The language or specifications of such provision must be consistent with the type of contract issued. Such provision shall be appropriately captioned and shall

appear on the first page of the policy.

2. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits; all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement insurance policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.

3. A Medicare supplement policy which provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

4. If a Medicare supplement policy contains any limitations with respect to pre-existing conditions, such limitations must appear as a separate paragraph of the policy and be labeled as "Pre-existing Condition Limitations."

5. Medicare supplement policies or certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

6. Insurers issuing accident and sickness policies, certificates or subscriber contracts which provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to a person(s) eligible for Medicare by reason of age shall provide to all applicants a Medicare Supplement Buyer's Guide in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration. Delivery of the buyer's guide shall be made whether or not such policies, certificates or subscriber contracts are advertised, solicited or issued as Medicare supplement policies as defined in this regulation. Except in the case of direct response insurers, delivery of the buyer's guide shall be made to the applicant at the time of application and acknowledgement of receipt of the buyer's guide shall be obtained by the insurer. Direct response insurers shall deliver the buyer's guide to the applicant upon request but not later than the time the policy is delivered.

B. Notice Requirements

1. As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, every insurer, health care service plan or other entity providing Medicare supplement insurance or benefits to a resident of this state shall notify its policyholders, contract holders and certificate holders of modifications it has made to Medicare supplement insurance policies or contracts in a format acceptable to the commissioner or in the format prescribed in Appendix A if no other format is prescribed by the commissioner.

a. include a description of revisions to the Medicare program and a description of each modification made to the cover-

age provided under the Medicare supplement insurance policy or contract, and

b. inform each covered person as to when any premium adjustment is to be made due to changes in Medicare.

2. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

3. Such notices shall not contain or be accompanied by any solicitation.

C. Outline of Coverage Requirements for Medicare Supplement Policies

1. Insurers issuing Medicare supplement policies or certificates for delivery in this state shall provide an outline of coverage to all applicants at the time application is made and, except for direct response policies, shall obtain an acknowledgement of receipt of such outline from the applicant; and

2. If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate must accompany such policy or certificate when it is delivered and contain the following statement, in no less than 12 point type, immediately above the company name:

“NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.”

3. The outline of coverage provided to applicants pursuant to Paragraphs 1 and 2 shall be in the form prescribed below:

**[Company Name]
Outline of Medicare
Supplement Coverage
and Premium Information**

Use this outline to compare benefits and premiums among policies.

1. Read Your Policy Carefully - This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2. Medicare Supplement Coverage - Policies of this category are designed to supplement Medicare by covering some hospital, medical and surgical services which are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and copayment provisions which may be in addition to those provided by Medicare, and subject to other limitations which may be set forth in the policy. The policy does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing and taking medicine [delete if such coverage is provided].

3. A. [for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

B. [for direct responses:]

[insert company's name] is not connected with Medicare.

4. [A brief summary of the major medical benefit gaps in Medicare Parts A and B with a parallel description of supplemental benefits, including dollar amounts (and indexed copayments or deductibles, as appropriate), provided by the Medicare supplement coverage in the following order:]

THIS POLICY YOU PAY
PAYS**

DESCRIPTION

I. Minimum Standards

SERVICE

PART A

INPATIENT HOSPITAL SERVICES:

Semi-Private Room and Board

Miscellaneous Hospital Services and Supplies, such as Drugs, X-Rays, Lab Tests and Operating Room

BLOOD

PART B

MEDICAL EXPENSE:

Services of a Physician/
Outpatient Services

Medical Supplies other than
Prescribed Drugs

BLOOD

MISCELLANEOUS

Immunosuppressive Drugs

II. Additional Benefits

PART A

Part A Deductible

Private Rooms

In-Hospital Private Nurses

Skilled Nursing Facility Care

PARTS A and B

Home Health Services

PART B

Part B Deductible

Medical Charges in Excess of
Medicare Allowable Expenses
(Percentage Paid)

OUT-OF-POCKET MAXIMUM
PRESCRIPTION DRUGS

MISCELLANEOUS

Respite Care Benefits

Expenses Incurred in
Foreign Country

Other:

TOTAL PREMIUM

\$ _____

IN ADDITION TO THIS OUTLINE OF COVERAGE, [INSURANCE COMPANY NAME] WILL SEND AN ANNUAL NOTICE TO YOU 30 DAYS PRIOR TO THE EFFECTIVE DATE OF MEDICARE CHANGES WHICH WILL DESCRIBE THESE CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE.

**If this policy does not provide coverage for a benefit listed above, the insurer must state "no coverage" beside that benefit in the first column.

NOTICE OF CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT COVERAGE - 1990

THE FOLLOWING CHART BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.]

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	<u>In 1989 Medicare Pays Per Calendar Year</u>	<u>Effective January 1, 1990, Medicare Will Pay</u>	<u>In 1989 Your Coverage Pays</u>	<u>Effective January 1, 1990 Your Coverage Will Pay</u>
MEDICARE PART A SERVICES AND SUPPLIES				
Inpatient Hospital Services	Unlimited number of hospital days after \$560 deductible	All but \$592 for first 60 days/benefit period		
Semi-Private Room & Board		All but \$148 a day for 61st-90th days/benefit period		
Misc. Hospital Services & Supplies, such as Drugs, X-Rays, Lab Tests & Operating Room		All but \$296 a day for 91st-150th days (if individual chooses to use 60 nonrenewable lifetime reserve days)		
BLOOD	Pays all costs except payment of deductible (equal to costs for first 3 pints) each calendar year. Part A blood deductible reduced to the extent paid under Part B	Pays all costs except nonreplacement fees (blood deductible) for first 3 pints in each calendar year.		
SKILLED NURSING FACILITY CARE	There is no prior confinement requirement for this benefit	100% of costs for 1st 20 days (after a 3 day prior hospital confinement)/benefit period		
	First 8 days - All but \$25.50 a day	All but \$74.00 a day for 21st-100th days/benefit period		

SERVICES

MEDICARE BENEFITS

YOUR MEDICARE SUPPLEMENT COVERAGE

	In 1989 Medicare Pays <u>Per Calendar Year</u>	Effective January 1, 1990, Medicare Will Pay	In 1989 Your Coverage <u>Pays</u>	Effective January 1, 1990 Your Coverage Will Pay <u></u>
	9th through 150th day - 100% of costs	Beyond 100 days - Nothing/benefit period		
	Beyond 150 days - Nothing			
MEDICARE PART B SERVICES AND SUPPLIES	80% of allowable charges (after \$75 deductible)	80% of allowable charges (after \$75 deductible/ calendar year)		
PRESCRIPTION DRUGS	Inpatient prescription drugs. 80% of allowable charges for immuno- suppressive drugs during the first year following a covered transplant (after \$75 deductible/ calendar year)	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive drugs during the first year following a covered transplant (after \$75 deductible/calendar year)		
BLOOD	80% of all costs except nonreplacement fees (blood deductible) for first 3 pints in each benefit period (after \$75 deductible/calendar year)	80% of costs except nonreplacement fees (blood deductible) for first 3 pints (after \$75 deductible/calendar year)		

[Any other policy benefits not mentioned in this chart should be added to the chart in the order prescribed by the outline of coverage. If there are corresponding Medicare benefits, they should be shown.]

[Describe any coverage provisions changing due to Medicare modifications.]

[Include information about when premium adjustments that may be necessary due to changes in Medicare benefits will be effective.]

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [Policy] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT]

[ADDRESS/PHONE NUMBER]

6. Statement that the policy does or does not cover the following:

- a. private duty nursing;
- b. skilled nursing home care costs (beyond what is covered by Medicare);
- c. custodial nursing home care costs;
- d. intermediate nursing home care costs;
- e. home health care above number of visits covered by Medicare;
- f. physician charges (above Medicare's reasonable charges);
- g. drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay);

h. care received outside the U.S.A.;

i. dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for the cost of eyeglasses or hearing aids.

7. A description of any policy provisions which exclude, eliminate, resist, reduce, limit, delay, or in any other manner operate to qualify payments of the benefits described in 4 above, including conspicuous statements;

a. that the chart summarizing Medicare benefits only briefly describes such benefits;

b. that the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.

8. A description of policy provisions respecting renewability or continuation of coverage, including any reservation of rights to change premium.

9. The amount of premium for this policy.

D. Notice Regarding Policies or Subscriber Contracts which are not Medicare Supplement Policies.

Any accident and sickness insurance policy or subscriber contract, other than a Medicare supplement policy; or a policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. § 1395 et seq.), disability income policy; basic, catastrophic, or major medical expense policy; single premium nonrenewable policy or other policy identified in Section 3B of this regulation, issued for delivery in this state to persons eligible for Medicare by reason of age shall notify insureds under the policy or subscriber contract that the policy or subscriber contract is not a Medicare supplement policy. Such notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy or subscriber contract, or if no outline of coverage is delivered, to the first page of the policy, certificate or subscriber contract delivered to insureds. Such notice shall be in no less than 12 point type and shall contain the following language:

"This (POLICY, CERTIFICATE OR SUBSCRIBER CONTRACT) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CONTRACT). If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company." Section 13. Requirements for Application Forms and Replacement Coverage

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent except where the coverage is sold without an agent, containing such questions may be used.

1. Do you have another Medicare supplement insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?

2. Did you have another Medicare supplement policy or certificate in force during the last 12 months?

a. If so, with which company?

b. If that policy lapsed, when did it lapse?

3. Are you covered by Medicaid?

4. Do you intend to replace any of your medical or health insurance coverage with this policy (certificate)?

B. Agents shall list any other health insurance policy they have sold to the applicant.

1. List policies sold which are still in force.

2. List policies sold in the past five years which are no longer in force.

C. Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of accident and sickness coverage. One copy of such notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the insurer. A direct response insurer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of accident and sickness coverage.

D. The notice required by Subsection C above for an insurer, other than a direct response insurer, shall be provided in substantially the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF
MEDICARE SUPPLEMENT INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN
THE FUTURE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with a policy to be issued by (Company Name) Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT (BROKER OR OTHER REPRESENTATIVE): (Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

1. Health conditions which you may presently have (pre-existing conditions) may not be immediately or fully in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate, may not contain new pre-existing conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to pre-existing conditions, waiting periods, elimination periods or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

Signature of Agent, Broker or Other Representative

(Type Name and Address of Agent or Broker)

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

E. The notice required by Subsection C above for a direct response insurer shall be as follows:

**NOTICE TO APPLICANT REGARDING REPLACEMENT OF
MEDICARE SUPPLEMENT INSURANCE
SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN
THE FUTURE**

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with the policy delivered herewith issued by (Company Name) Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

1. Health conditions which you may presently have (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate, may not contain new pre-existing conditions, waiting periods, elimination periods or probationary periods. Your insurer will waive any time periods applicable to pre-existing conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. (To be included only if the application is attached to the policy.)

If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (company name and address) within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company Name)

Section 14. Filing Requirements for Advertising

Every insurer, health care service plan or other entity providing Medicare supplement insurance or benefits in this state shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio or television media to the commissioner of insurance of this state for review or approval by the commissioner to the extent it may be required under state law.

Section 15. Standard for Marketing

A. Every insurer, health care service plan or other marketing Medicare supplement insurance coverage in this state, directly or through its producers, shall:

1. Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.

2. Establish marketing procedures to assure excessive insurance is not sold or issued.

3. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following:

“Notice to buyer: This policy may not cover all of the costs associated with medical care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.”

4. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance.

5. Every insurer or entity marketing Medicare supplement insurance shall establish auditable procedures for verifying compliance with this Subsection A.

B. In addition to the practices prohibited Part XXVI Unfair Trade Practices of the Louisiana Insurance Code the following acts and practices are prohibited.

1. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

2. Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

Section 16. Separability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 17. Effective Date

This regulation shall be effective on the date of adoption.

SERVICES

MEDICARE BENEFITS

YOUR MEDICARE SUPPLEMENT COVERAGE

	In 1989 Medicare Pays <u>Per Calendar Year</u>	Effective January 1, 1990, Medicare Will Pay	In 1989 Your Coverage <u>Pays</u>	Effective January 1, 1990 <u>Your Coverage Will Pay</u>
	9th through 150th day - 100% of costs	Beyond 100 days - Nothing/benefit period		
	Beyond 150 days - Nothing			
MEDICARE PART B SERVICES AND SUPPLIES	80% of allowable charges (after \$75 deductible)	80% of allowable charges (after \$75 deductible/ calendar year)		
PRESCRIPTION DRUGS	Inpatient prescription drugs. 80% of allowable charges for immuno- suppressive drugs during the first year following a covered transplant (after \$75 deductible/ calendar year)	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive drugs during the first year following a covered transplant (after \$75 deductible/calendar year)		
BLOOD	80% of all costs except nonreplacement fees (blood deductible) for first 3 pints in each benefit period (after \$75 deductible/calendar year)	80% of costs except nonreplacement fees (blood deductible) for first 3 pints (after \$75 deductible/calendar year)		

[Any other policy benefits not mentioned in this chart should be added to the chart in the order prescribed by the outline of coverage. If there are corresponding Medicare benefits, they should be shown.]

[Describe any coverage provisions changing due to Medicare modifications.]

[Include information about when premium adjustments that may be necessary due to changes in Medicare benefits will be effective.]

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [Policy] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT] [ADDRESS/PHONE NUMBER]

NOTICE OF CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT COVERAGE - 1990

THE FOLLOWING OUTLINE BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.]

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	<u>In 1989 Medicare Pays Per Calendar Year</u>	<u>Effective January 1, 1990, Medicare Will Pay</u>	<u>In 1989 Your Coverage Pays</u>	<u>Effective January 1, 1990 Your Coverage Will Pay</u>
MEDICARE PART A SERVICES AND SUPPLIES				
Inpatient Hospital Services	Unlimited number of hospital days after \$560 deductible	All but \$592 for first 60 days/benefit period		
Semi-Private Room & Board		All but \$148 a day for 61st-90th days/benefit period		
Misc. Hospital Services & Supplies, such as Drugs, X-Rays, Lab Tests & Operating Room		All but \$296 a day for 91st-150th days (if individual chooses to use 60 nonrenewable lifetime reserve days)		
BLOOD	Pays all costs except payment of deductible (equal to costs for first 3 pints) each calendar year. Part A blood deductible reduced to the extent paid under Part B	Pays all costs except nonreplacement fees (blood deductible) for first 3 pints in each calendar year.		
SKILLED NURSING FACILITY CARE	There is no prior confinement requirement for this benefit	100% of costs for 1st 20 days (after a 3 day prior hospital confinement)/benefit period		
	First 8 days - All but \$25.50 a day	All but \$74.00 a day for 21st-100th days/benefit period		

Douglas D. Green
Commissioner

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

In accordance with the emergency provisions of R.S. 49:953B and 967(D) of the Administrative Procedure Act, and under the authority of R.S. 56:326.1 and 326.3, the Wildlife and Fisheries Commission hereby finds that preliminary estimates of fishing mortality on black drum, if unregulated, would be higher than desirable and accordingly adopts the following emergency rule:

Effective at 12 noon on February 9, 1990, there is hereby established for the recreational taking and possession of black drum, within and without state waters, a minimum size limit of 14 inches total length. and for the commercial taking and possession of black drum, within and without state waters, a minimum size limit of 18 inches total length.

There is further hereby established for the commercial taking of black drum an interim quota of 300,000 fish for the period October 12, 1989 through April 12, 1990, and beginning April 12, 1990, an additional quota of 300,000 fish.

The secretary of the Department of Wildlife and Fisheries is hereby authorized to enact an emergency closure, upon 72 hours notice, when either quota is met.

The Wildlife and Fisheries Commission recognizes that black drum landings have increased significantly from 1984-1988 and finds that preliminary estimates of current levels of fishing mortality are higher than desirable. The Wildlife and Fisheries Commission acknowledges the importance of stabilizing fishing mortality rates at a level which will maintain an age structure that would ensure a healthy fishery in the future.

Warren Pol
Chairman

§803. Cases Not Covered

Cases not covered by the Arabian Jockey Club's rules shall be decided by the stewards with the advice and consent of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 179.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission, LR 16: (February 1990).

§805. Jurisdiction

The jurisdiction of a licensed Arabian horse race meeting shall be vested solely with the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 179.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission, LR 16: (February 1990).

§807. Official Registry

The Arabian Horse Registry of America, Inc. shall be recognized as the sole official registry for Arabian horses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 179.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission, LR 16: (February 1990).

§809. Races with Other Breeds

Races between Arabian horses and other horse breeds are prohibited unless special permission is granted by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 179.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission, LR 16: (February 1990).

Claude P. Williams
Executive Director

Rules

RULE

**Department of Economic Development
Racing Commission**

Title 35

HORSE RACING

Part I. General Provisions

Chapter 8. Arabian Horse Racing

§801. Applicable Rules

The rules of the commission shall govern Arabian horse racing wherever they are applicable. When not applicable, the stewards may enforce the rules of the Arabian Jockey Club, Inc. provided they are consistent with the rules of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and 179.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission, LR 16: (February 1990).

RULE

**Department of Economic Development
Racing Commission**

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 7. Jockeys and Apprentice Jockeys

§725. Jockey Fee Schedule

Purse	Win	Second	Third	Unplaced
A. Prior to the start. . .				
\$ 400 and under	\$27	\$19	\$17	\$16
500	30	20	17	16
600	36	22	17	16
700- 900	10%	25	22	20
1,000- 1,400	10%	30	25	22
1,500- 1,900	10%	35	30	28
2,000- 3,400	10%	45	35	33
3,500- 4,900	10%	55	45	35
5,000- 9,900	10%	65	50	40
10,000-14,900	10%	5%	5%	45
15,000-24,900	10%	5%	5%	50
25,000-49,900	10%	5%	5%	60
50,000-99,900	10%	5%	5%	75
100,000 and up	10%	5%	5%	100

B. Failure, refusal and/or neglect. . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, 150 and 151.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, amended LR 2:431 (December 1976), LR 3:28 (January 1977), promulgated LR 4:276 (August 1978), amended LR 5:23 (February 1979), LR 12:12 (January, 1986), LR 16: (February 1990).

Claude P. Williams
Executive Director

RULE

Department of Economic Development Used Motor Vehicle and Parts Commission

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

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 36. Motor Vehicle Trade Shows

§3601. Definitions

A. *Exhibitor* means a non-resident dealer who meets the definition of a used motor vehicle dealer subject to license under R.S. 32:773, but holds a current dealer license in another state and whose Louisiana business is limited to participation in vehicle trade shows or expositions in this state.

B. *Manufacturer or Distributor* means any person, firm, association, corporation or trust, resident or non-resident who fabricates, manufactures, or assembles new and unused vehicles or who in whole or in part maintains distributor representatives licensed under R.S. 32:773.

C. *Permit* means a temporary license issued to a licensed used motor vehicle dealer, exhibitor, manufacturer or distributor, to display vehicles at a vehicle trade show or exposition. The permit issued shall be for the duration of the trade show only and shall not exceed 14 days.

D. *Promoter* means any person, firm, association, corporation, or trust, who alone or with others assumes the financial responsibility of a vehicle trade show or exposition in which vehicles are displayed by dealers, manufacturers or distributors, licensed under R.S. 32:773.

E. *Trade Show* means a controlled event in which a promoter charges for either booth space and/or spectator entrance in which a used motor vehicle dealer exhibits vehicles.

F. *Used Motor Vehicle Dealer* means a dealer subject to license under LA R.S. 32:773.

G. *Vehicle* means any used car or truck, or any new or used motorhome, motorcycle, motorscooter, ATV, watercraft, boat, or a boat with an inboard or outboard motor attached and shall also include new and used trailers, recreational trailers, semi-trailers and travel trailers.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16: (February 1990).

§3603. License, Fees and Applications

A. Promoters of motor vehicle trade shows shall be required to obtain a license from the Louisiana Used Motor Vehicle and Parts Commission and shall consist of the following:

1. Application for license shall be on forms prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant.

2. A license fee of \$100.

3. A promoter's license shall be for one calendar year and shall expire on December 31.

B. An exhibitor shall be required to obtain a permit to display vehicles in a trade show or exposition which shall consist of the following:

1. An oath or affirmation that the exhibitor has complied with all registration requirements of the state in which he conducts his business including any requirements pertaining to posting of bond and demonstration of fiscal responsibility.

2. A notarized copy of the dealer's current license issued in the state in which he conducts his business.

3. The name, site, and dates of the show or exposition for which an exhibitor's permit is sought and the name and address of the promoter of that show or exposition.

4. Such other pertinent information consistent with the safeguarding of the public interest and public welfare.

5. An application fee of \$50.

C. A used motor vehicle dealer shall be required to obtain a permit to display vehicles in trade shows or expositions and consist of the following:

1. An application giving the dealer name, address and current dealer number.

2. A licensed used motor vehicle dealer who participates in a motor vehicle show or exposition shall not be deemed to have an additional place of business at that show or exposition and shall not be charged any additional fees.

D. All applications for permits received within 48 hours of the start of the trade show or exposition shall be charged a \$15 late processing fee.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16: (February 1990).

§3605. Qualifications and Eligibility of Motor Vehicle Trade Shows

A. Promoters of motor vehicle trade shows or expositions in which a dealer, manufacturer, or distributor, which is required to be licensed under R.S. 32:773, displays vehicles, are required to notify by mail the Louisiana Used Motor Vehicle and Parts Commission no later than 60 days prior to the start date of the vehicle trade show and shall give the start date, ending date, location of the proposed trade show or exposition, and the type of vehicles to be promoted.

B. Within 15 days of the start of the event the promoter shall also furnish a complete list of all licensed Louisiana dealers and exhibitors who will participate. This list shall also include the dealer's current dealer number.

C. A promoter may invite exhibitors to attend the trade show or exposition by providing proof to this commission that:

1. all Louisiana dealers who sell the type vehicles being

promoted, starting within a 50-mile radius of the proposed location of the trade show or exposition, have been contacted and given the opportunity to attend and space is still available;

2. that the exhibitor invited is a greater distance away than a Louisiana dealer selling the same make, model or brand and that the Louisiana dealer has declined to attend;

3. or, that the exhibitor invited will only display a make, model, or brand not sold by any Louisiana dealer.

D. A promoter shall not allow an exhibitor who has secured a permit to exhibit any used vehicles of any type.

E. A promoter shall not allow an exhibitor to display any vehicles of the same make, model or brand as an attending licensed Louisiana dealer at a trade show or exposition.

F. A promoter is required to keep all records of attending dealers and exhibitors and all records of dealers that have declined to attend a trade show or exposition for a period of five years.

G. A manufacturer or distributor may exhibit vehicles through a licensed Louisiana dealer and may only display suggested list price.

H. Any promoter who violates any provisions of these rules and regulations shall be subject to the civil penalties under R.S. 32:780.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 E and 32:774 E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16: (February 1990).

Rodley J. Henry
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published November 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted as an amendment to Bulletin 741, the following State Board of Elementary and Secondary Education Honors Curriculum and the addition of a new standard to require that a high school transcript seal indicates successful completion of the Honors Curriculum.

Rule 3.01.51.aa(16)

The State Board of Elementary and Secondary Education Honors Curriculum

ENGLISH	4 units
English I, II, III, IV. (No substitutions)	
MATHEMATICS	4 units
Algebra I; Algebra II; Geometry; and one additional unit to be selected from Calculus, Trigonometry, or Advanced Mathematics.	
NATURAL SCIENCE	3 units
Biology; Chemistry; and Earth Science or Physics.	
SOCIAL STUDIES	3 units
United States History; World History; and World Geography or Western Civilization.	

FREE ENTERPRISE	1/2 unit
CIVICS	1/2 unit
FINE ARTS SURVEY	1 unit
Any two units of credit in band, orchestra, choir, dance, art, or drama may be substituted for one unit of Fine Arts Survey	
FOREIGN LANGUAGE	2 units
(In same language)	
PHYSICAL EDUCATION	2 units
COMPUTER LITERACY/COMPUTER SCIENCE	1/2 unit
ELECTIVES	3 1/2 units
TOTAL	24 units

Add Standard 2.099.03 to read:

"The transcript of a graduating senior who has successfully completed the Board of Elementary and Secondary Education Honors Curriculum shall bear a special seal of notation indicating successful completion of the honors alternative curriculum."

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

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

Rule 5.00.81

The board adopted the guidelines for the Alternative Post-Baccalaureate Certification Scholarship Program. See October, 1989 issue of the *Louisiana Register* for complete text of guidelines.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

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

Rule 3.01.70.qq

REVISED CERTIFICATION REQUIREMENTS FOR PRINCIPALS

(Effective for all individuals applying for certification as principal on or after July 1, 1990.)

Elementary School Principal

Elementary school principals shall meet the following criteria:

A. hold a valid Type A Louisiana Teaching Certificate for the elementary school;

B. have an earned master's degree from a regionally accredited institution of higher education;

C. have completed five or more years of classroom teaching at the elementary school level;

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

E. have completed a minimum of 30 semester hours of graduate credit as follows: (30 hours include all hours in 1 through 2).

1. Nine semester hours of educational administration and instructional supervision to include the following:

a. Foundations of (Introductory) Educational Administration or Theory of Educational Administration

b. Elementary School Principalship

c. Principles of Instructional Supervision in the Elementary School

2. Twenty-one semester hours of professional education as follows:

a. Eighteen semester hours in professional education to include the following:

1. Educational Research

2. History or Philosophy of Education

3. Elementary School Curriculum

4. School Law

5. School Finance

6. School Personnel Administration

b. Three semester hours of electives in education administration from:

1. School-Community Relations

2. School Facilities

3. Program Development and Evaluation (in professional education or area/s outside professional education).

F. Persons who have met the requirements of Items A through E-2, above are eligible for a provisional elementary school principal endorsement. Upon employment as a principal or assistant principal an individual with a provisional principal endorsement must enroll in the two-year Administrative Internship Program under the auspices of the Administrative Leadership Academy and Project LEAD.

G. A five-year renewable elementary school principal endorsement will be added to the standard Type A certificate upon satisfactory completion of the two-year Administrative Internship Program. Subsequent renewal every five years will be based upon a satisfactory evaluation by the State Department of Education.

H. Persons holding provisional or regular principal endorsements at either the elementary or secondary school level may serve as principal of a combination elementary-secondary school.

I. Assistant elementary school principals are required to meet the same standards as elementary school principals at the provisional or permanent levels.

Secondary School Principal*

Secondary school principals shall meet the following criteria:

A. hold a valid Type A Louisiana Teaching Certificate for the secondary school;

B. have an earned master's degree from a regionally accredited institution of higher education;

C. have completed five or more years of classroom teaching at the secondary school level;

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

E. completed a minimum of 30 semester hours of graduate credit as follows: (30 hours include all hours in 1 through 2).

1. Nine semester hours of educational administration and instructional supervision to include the following:

a. Foundations of (Introductory) Educational Administration or Theory of Educational Administration

b. Secondary School Principalship

c. Principles of Instructional Supervision in the Secondary School

2. Twenty-one semester hours of professional education as follows:

a. Eighteen semester hours in professional education to include the following:

1. Educational Research

2. History or Philosophy of Education

3. Secondary School Curriculum

4. School Law

5. School Finance

6. School Personnel Administration

b. Three semester hours of electives in educational administration from:

1. School-Community Relations

2. School Facilities

*Effective for all individuals applying for certification as a principal on or after July 1, 1990.

3. Program Development and Evaluation (in professional education or area/s outside professional education).

F. Persons who have met the requirements of Items A through E-2, above are eligible for a provisional secondary school principal endorsement. Upon employment as a principal or assistant principal an individual with a provisional principal endorsement must enroll in the two-year Administrative Internship Program under the auspices of the Administrative Leadership Academy and Project LEAD.

G. A five-year renewable secondary school principal endorsement will be added to the standard Type A certificate upon satisfactory completion of the two-year Administrative Internship Program. Subsequent renewal every five years will be based upon a satisfactory evaluation by the State Department of Education.

H. Persons holding provisional or regular principal endorsements at either the elementary or secondary school level may serve as principal of a combination elementary-secondary school.

I. Assistant secondary school principals are required to meet the same standards as secondary school principals at the provisional or permanent levels.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published November 20, 1989 and under the authority contained in Loui-

siana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted as a rule, an amendment to change the vo-tech regional advisory council membership from 15 to 25 as stated below:

Rule 4.03.20(b)

4.03.20 - Organization of Local Vocational-Technical Advisory Bodies

B. Advisory Body Structure, Function, and Definition:

Regional Advisory Council - An advisory body limited to 25 members, equally representative of employee, employer, educational and public interests, and ethnic minorities. Each school within the region should be represented on such advisory council. The regional center director shall serve as executive secretary of the council. Such body is established for the purpose of advising the regional center on:

- a. regional program offerings as related to regional needs;
- b. facilities and equipment requirements;
- c. educational and employment trends;
- d. community relations;
- e. management and labor relations.

Em Tampke

Executive Director

RULE

Board of Elementary and Secondary Education

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

Rule 6.03.60

The board adopted a new salary schedule for unclassified vocational-technical school personnel and directed the vo-tech directors to include the salary increase in their budgets for FY 90-91. See December, 1989 issue of *Louisiana Register* for complete text of salary schedule.

Em Tampke

Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published November 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted as a rule, the following amendment to the Revised Procedures for Appeals to BESE for Waivers of Minimum Standards:

Rule 1.00.40.e - Teacher Certification Appeals Council

A. Composition

A Teacher Certification Appeals Council shall be appointed by the board and shall consist of seven members, three of whom shall be representatives from the universities, one of whom shall be a representative of the Parish Superintendents'

Association, and three of whom shall be classroom teachers. The classroom teachers shall consist of one representative each from the Louisiana Federation of Teachers, Louisiana Association of Educators, and the Associated Professional Educators of Louisiana. The board will be responsible only for paying travel expenses of council members at the state rate.

Em Tampke

Executive Director

RULE

Department of Environmental Quality Office of Air Quality and Nuclear Energy Air Quality Division

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Air Quality Regulations, LAC 30:III.2107, 2109, 2111, 2113, 2117, 2119, and 2127.

These amendments will add some additional record-keeping requirements for regulated industries and some additional testing of emissions.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2105. Storage of Volatile Organic Components (Small Tanks)

Repeal.

(This Section was combined into §2103.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), repealed LR 16: (February 1990).

§2107. Volatile Organic Compounds - Loading

A. Applicability. The following loading facilities for volatile organic compounds have a true vapor pressure at loading conditions of 1.5 psia (10.3 kPa) or greater must comply with the requirements of Subsections B through F when servicing tanks, trucks or trailers which have individual capacities in excess of 200 gallons (760 liters):

1. 20,000 gallons (75,700 liters) or more throughput per day (averaged over any 30-day period), for operations (all facilities on premises) for which construction commenced after May 20, 1979; or

2. 40,000 gallons (151,400 liters) or more throughput per day (averaged over any 30-day period), for operations (all facilities on premises) for which construction commenced prior to May 20, 1979. Once a facility is subject to this Section, it must remain in compliance with the requirements of Subsections B through F, even during periods in which its throughput is below the applicability levels.

B. Control Requirements. The facility must be equipped

with a vapor collection system properly installed, and in good working order. The vapor collection system shall consist of, at a minimum, a vapor return line which returns to the VOC dispensing vessel or to a disposal system all vapors displaced during loading. In the event a disposal system is used, it shall have a destruction/removal efficiency as referenced at Subsection E (demonstrated to the satisfaction of the Louisiana Department of Environmental Quality) of no less than 90 percent. Examples of vapor disposal systems include but are not limited to incinerators, flares, carbon adsorbers or chillers.

Provisions must be made to prevent spills during the attachment and disconnection of filling lines or arms. Loading and vapor lines must be equipped with fittings which close automatically when disconnected, or must be equipped to permit residual VOC in the loading line to discharge into a collection system or disposal or recycling system.

C. Monitoring. No liquid or gaseous leaks shall exist during loading or unloading operations. Inspection for visible liquid leaks, visible fumes, or significant odors resulting from VOC dispensing operations shall be conducted by the owner or operator of the VOC loading facility or the owner or operator of the tank, truck, or trailer. VOC loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

D. Recordkeeping. The owner or operator of any VOC loading facility shall maintain the following information on the premises for at least two years and shall make such information available to representatives of the Louisiana Department of Environmental Quality upon request.

1. A daily record of the total throughput of VOC loaded at the facility, and

2. For VOC loading operations subject to the requirements of this Section:

a. a daily record of the number of delivery vessels loaded at the facility and the quantity and type of VOC loaded to each delivery vessel,

b. a record of any leaks found at the facility in accordance with the provisions specified in Subsection C of this Section and the corrective action taken,

c. a record of the results of any testing conducted at the facility in accordance with the provisions specified in Subsection E of this Section.

E. Test Methods. Compliance with Subsection B of this Section shall be determined by applying the following test methods, as appropriate:

1. Test Methods 1-4 (LAC 33:III.6001, 6003, 6009 and 6113, respectively) for determining flow rates, as necessary;

2. Test Method 25 (LAC 33:III.6085) for determining total gaseous nonmethane organic emissions as carbon.

F. Exemptions. This Section does not apply to a) crude or condensate loading facilities, b) ship and barge loading operations, and c) gasoline loading facilities which are regulated under Subchapter F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 16: (February 1990).

§2109. Oil/Water - Separation

A. Oil/Water - Separation. Single or multiple compartment volatile organic compound water separators which receive

effluent water from any equipment processing, refining, treating, storing, or handling volatile organic compounds and emit greater than 100 tons per year of regulated hydrocarbons (uncontrolled) shall be equipped with one of the following vapor loss control devices properly installed, in good working order and in operation.

1. A container having all openings sealed and totally enclosed liquid contents. All gauging and sampling devices will be gas-tight except when gauging or sampling is taking place.

2. A container equipped with a floating roof, consisting of a pontoon type, double deck type roof, or internal floating cover which rests or floats on the surface of the contents and is equipped with a closure seal or seals to close the space between the roof edge and container wall. All gauging and sampling devices will be gas-tight except when gauging or sampling is taking place.

3. A container equipped with a vapor disposal system capable of processing such organic vapors and gases so as to limit their emission to the atmosphere to the same extent as LAC 33:III.2109.A.1 and 2 and with all container gauging and sampling devices gas-tight except when gauging or sampling is taking place.

4. Other equivalent equipment or means as may be approved by the administrative authority*.

B. Exemptions from LAC 33:III.2109.A.

1. Volatile organic compound water separators used exclusively in conjunction with the production of crude oil or condensate are exempt from the provisions of LAC 33:III.2109.A.

2. Any single or multiple compartment volatile organic compound water separator which separates less than 200 gallons (757 liters) a day of materials containing volatile organic compounds.

3. Any single or multiple compartment volatile organic compound water separator which separates materials having a true vapor pressure of volatile organic compounds less than 0.5 psia (3.4 kPa).

C. Compliance. Compliance with LAC 33:III.2109.A shall be determined by monthly visual inspections or by use of one of the following test methods where appropriate:

1. Test Method 1 through 4 (LAC 33:III.6001, 6003, 6009 and 6013, respectively) for determining flow rates, as necessary;

2. Test Method 18 (LAC 33:III.6071) for measuring gaseous organic compound emissions by gas chromatographic analysis;

3. Test Method 21 (LAC 33:III.6077) for determination of volatile organic compounds leaks;

4. Test Method 25 (LAC 33:III.6085) for determining total gaseous nonmethane organic emissions as carbon;

5. determination of true vapor pressure using ASTM Test Method D323-82 for the measurement of Reid vapor pressure, adjusted for actual storage temperature in accordance with API Publication 2517, Third Edition, 1989; or

6. additional performance test procedures, or equivalent test methods, approved by the administrative authority*.

D. Recordkeeping. The owner/operator of any single or multiple compartment volatile organic compound water separator shall maintain records to verify compliance with or exemption from LAC 33:III.2109. The records shall be maintained for at least two years and will include but not be limited to the following:

1. results of the monthly visual inspections and the results of other tests performed in accordance with LAC 33:III.2109.C;

2. measurement of the volume and true vapor pressure of the volatile organic compound(s) recovered by the separator to demonstrate continuous compliance with the criteria for emptied facilities;

3. the date and reason for any maintenance and repair of the applicable control devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 16: (February 1990).

§2111. Pumps and Compressors

All rotary pumps and compressors handling volatile organic compounds having a true vapor pressure of 1.5 psia or greater at handling conditions shall be equipped with mechanical seals or other equivalent equipment or means as may be approved by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 16: (February 1990).

§2113. Housekeeping

Best practical housekeeping and maintenance practices must be maintained at the highest possible standards to reduce the quantity of organic compounds emissions. Emission of organic compounds must be reduced wherever feasible.

A. Good housekeeping shall include but not be limited to the following practices:

1. Spills of volatile organic compounds shall be avoided and clean up of such spills shall employ procedures that reduce or eliminate the emission of volatile organic compounds.

2. Containers of volatile organic compounds shall not be left open and the contents allowed to evaporate.

3. Waste materials that contain volatile organic compounds shall be stored and disposed of in a manner that reduces or eliminates the emission of volatile organic compounds.

4. Each facility shall develop a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound emissions from the facility.

5. Good housekeeping shall be determined by compliance with LAC 33:III.2121 (Fugitive Emission Control) and the maintenance and the housekeeping plan required by LAC 33:III.2113.A.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 16: (February 1990).

§2117. Exemptions

The following compounds are exempt from the control requirements of LAC 33:III.2101 to 2147:

Methane, ethane, 1,1,1-trichloroethane (methyl chloroform), methylene chloride (dichloromethane), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), trichlorotrifluoroethane (CFC-113), Dichlorotetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), dichlorotrifluoroethane (HCFC-123), tetrafluoroethane (HFC-134a), dichlorofluoroethane (HCFC-141b) and chlorodifluoroethane (HCFC-142b).

roethane (HCFC-123), tetrafluoroethane (HFC-134a), dichlorofluoroethane (HCFC-141b) and chlorodifluoroethane (HCFC-142b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 16: (February 1990).

§2119. Variances

A. If upon written application of responsible person(s) the administrative authority finds that by reason of exceptional circumstances strict conformity with any provisions of these regulations would cause undue hardship, would be unreasonable, impractical or not feasible technologically or economically under the circumstances, the administrative authority may permit a variance from these regulations upon such conditions and with such time limitations as it may prescribe for prevention, control, or abatement of air pollution in harmony with the intent of the Act.

B. No variance may permit or authorized the maintenance of a nuisance, or a danger to the public health or safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 16: (February 1990).

Subchapter D. Cutback Paving Asphalt

§2127. Cutback Paving Asphalt

A. No person may cause, allow or permit the manufacture, mixing, storage, use or application of cutback paving asphalts or emulsified asphalts used for paving which contain volatile organic compounds without approval of the administrative authority as provided in §2127.D.

B. Compliance. Compliance with this Section shall be determined on a daily basis by direct observation as specified in guideline report EPA-450/2-77-037.

C. Recordkeeping. The owner/operator of any operation involved with the manufacture, mixing, storage, use or application of cutback paving asphalts shall maintain records to verify compliance with this Section. The records will be maintained for at least two years and will include but not be limited to the following:

1. Purchase and sales receipts including delivery dates, quantities, types of materials and comments.

2. Equipment operation schedules and maintenance records.

3. Testing data to document compliance with LAC 33:III.2127.B and D.2.

D. Exemptions

1. The administrative authority may approve the manufacture, mixing, storage, use or application of cutback paving asphalt where:

a. long life stockpile storage is necessary;

b. the use or application at ambient temperatures less than 10°C (50°F) is necessary;

c. the cutback paving asphalt is to be used solely as a penetrating prime coat;

d. it can be demonstrated that no VOC emissions will occur from the use of the cutback.

2. The administrative authority may approve the manufacture, mixing, storage, use or application of emulsified asphalts

used for paving which contain volatile organic compounds where certain grades or applications of emulsified asphalt shall be allowed with the following maximum solvent contents as determined by ASTM D-244:

- a. 3.0 percent by weight for seal coats;
- b. 3.0 percent by weight for chip seals when dusty or dirty aggregate is used;
- c. 8.0 percent by weight for mixing with open graded aggregate with less than one percent by weight of dust or clay-like materials adhering to the coarse aggregate fraction (1/4 inch in diameter or greater); and
- d. 12.0 percent by weight for mixing with dense graded aggregate when used to produce a mix designed to have 10 percent or less voids when fully compacted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 16: (February 1990).

Paul Templet
Secretary

RULE

**Department of Environmental Quality
Office of Air Quality and Nuclear Energy
Air Quality Division**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Air Quality Regulations, LAC 30:III.2123.

These amendments will add some requirements for testing and recordkeeping for painting and coating industries. The amendments will also change regulations regarding surface coating of automobiles and light-duty trucks to incorporate alternate means of compliance.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 21. Control of Emission of Organic Compounds

Subchapter B. Organic Solvents

§2123. Organic Solvents

A. Any emission source using organic solvents having an emission of organic solvents of more than three pounds (1.3 kilograms) per hour or 15 pounds (6.8 kilograms) per day shall reduce the emission, where feasible, by incorporating one or more of the following control methods:

- 1. incineration, provided ninety percent of the carbon in the organic compounds being incinerated is oxidized to carbon dioxide (except as provided in LAC 33:III.2123.D);
- 2. carbon adsorption of the organic compounds;
- 3. any other equivalent means as may be approved by the administrative authority.

B. Soldering operations, painting and coating operations, not listed in LAC 33:III.2123.C, and dry cleaning operations

using organic solvents which are not considered photochemically reactive shall be considered for exemption from the requirements of LAC 33:III.2123.

1. For the purposes of the statement, a photochemically reactive solvent is any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

- a. a combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cycloolefinic type of unsaturation: five percent;
- b. a combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: eight percent;
- c. a combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group, that is, that group having the least allowable percent of the total volume of solvents.

C. Surface Coating Industries. No person may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating of any materials affected by LAC 33:III.2123.C to exceed the emission limits as specified in this regulation.

Affected Facility	VOC Emission Limitation	
	Lbs. Per Gal. Of Coating (minus water and exempt solvent)	Kgs. Per Liter Of Coating (minus water and exempt solvent)
1. Large Appliance Coating Industry. The following emission limits shall apply:		
Prime, single or topcoat application area, flash-off area and oven	2.8	0.34
2. Surface Coating of Cans. The following emission limits shall apply:		
Sheet Basecoat (exterior and interior) and over-varnish: Two-piece can exterior (base coat and over-varnish)	2.8	0.34
Two and three-piece can interior body spray, two-piece can exterior end (spray or roll coat)	4.2	0.51
Three-piece can side-seam spray	5.5	0.66
End sealing compound	3.7	0.44
3. Surface Coating of Coils. The following emission limits shall apply:		
Prime and topcoat or single coat operation	2.6	0.31
4. Surface Coating of Paper. The following emission limits shall apply:		
Coating Line	2.9	0.35
5. Surface Coating of Fabrics. The following emission limits shall apply:		
Fabric Facility	2.9	0.35
Vinyl Coating Line	3.8	0.45

Affected Facility	VOC Emission Limitation	
	Lbs. Per Gal. Of Coating (minus water and exempt solvent)	Kgs. Per Liter Of Coating (minus water and exempt solvent)

6. Surface Coating of Assembly Line Automobiles and Light Duty Trucks. The following emission limits shall apply:

Prime application, flashoff area and oven	1.2	0.14
Primer surface application flashoff area and oven	2.8	0.34
Topcoat application, flashoff area and oven	2.8	0.34
Final repair application, flashoff area and oven	4.8	0.58

As an alternative to the emission limitation of 2.8 pounds of VOC per gallon of coating applied for the primer surfacer and/or topcoat application, compliance with these emission limitations may be demonstrated by meeting a standard of 15.1 pounds of VOC per gallon of solids deposited.

7. Surface coating-magnet wire coating. The following emission limits shall apply:

Coating Line	1.7	0.20
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8. Surface Coating of Metal Furniture. Volatile organic compound emissions from metal furniture coating lines shall not exceed three pounds per gallon (0.36 kg/liter) of coating (minus water and exempt solvent).

9. Surface Coating of Miscellaneous Metal Parts and Products. The following emission limits shall apply:

Clear Coat	4.3	0.52
Air or force air dried items (not oven dried)	3.5	0.42
Frequent color change and/or large numbers of colors applied, or first coat on untreated ferrous substrate	3.0	0.36
Outdoor or harsh exposure or extreme performance characteristics	3.5	0.42
No or infrequent color change, or small number of colors applied		
a. Powder Coating	0.4	0.05
b. Other	3.0	0.36

These limits do not apply to operations covered in 1-8 herein or exterior coating of aircraft, auto refinishing, exterior coating of marine vessels and auto customizing topcoating (processing less than 35 vehicles per day).

10. Factory Surface Coating of Flat Wood Paneling. The following emission items shall apply:

	VOC Emission Limitation	
	Lbs. Per 1000 sq. ft. of Coated Surface	Kgs. Per 100 sq. meter of Coated Surface
	Printed interior wall panels made of hard-wood plywood and thin particleboard	6.0
Natural finish hardwood plywood panels	12.0	5.8
Class II finishes for hardboard paneling	10.0	4.8

D. Control Techniques

1. If add-on controls such as incinerators or vapor recov-

ery systems are used to comply with the emission limitation requirements, the volatile organic compound capture and abatement system shall be at least 80 percent efficient overall (65 percent with energy recovery). All surface coating facilities shall submit to the administrative authority, for approval, design data for each capture system and emission control device which is proposed for use.

2. If a person wishes to use low solvent technology to meet any of the emission limits specified in Regulation LAC 33:III.2123.C.1 through 10 and if the technology to be used for any particular application is not now proven but is expected to be proven in a reasonable length of time, he may request a compliance date extension from the administrative authority. Compliance date extensions will require progress reports every 90 days, or as directed, to show reasonable progress, as determined by the administrative authority, toward technology to meet the specified emission limitation.

3. Compliance will be determined by the procedure specified in "Control of Volatile Organic Emissions for Existing Stationary Sources. Vol 2-Surface Coating of Cans, Coils, Paper, Fabric, Autos and Lt. Duty Trucks", (EPA 450/2-77-008), the procedures specified in "Measurement of Volatile Organic Compounds" (EPA-450/2-78-041), a method approved by the administrative authority or certification from the paint manufacturer concerning the solvent makeup of the paint. Exempt solvents shall be treated the same as water in calculating the VOC content per gallon of coating. Exempt solvents are those compounds listed in LAC 33:III.2117.

Compliance with the alternative emission limit established in LAC 33:III.2123.C.6 of 15.1 pounds of VOC per gallon of solids deposited shall be determined in accordance with EPA's "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light Duty Truck Topcoat Operations", EPA 450/3-88-018, December, 1988.

4. A plant wide emission reduction plan may be approved by the administrative authority if it can be demonstrated by the surface coating facility that any emissions in excess of those allowed for a given coating line will be compensated for by reducing emissions from regulated sources within the surface coating facility.

5. Surface coating facilities on any property in affected parishes which have a potential to emit a combined weight of volatile organic compounds less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of LAC 33:III.2123.C.1 through 10.

6. Soldering and surface coating facilities or portions thereof, may request exemption from the requirements of LAC 33:III.2123.C if all of the following conditions are met:

- the affected portion of the facility will not emit more than 50 tons per year of VOC;
- that the only practical means of VOC control is thermal oxidation.
- that the substance to be emitted is not toxic;
- that the moles of fuel used would exceed the moles of VOC destroyed;
- that the reasonable control of the VOC would result in a net increase of emissions from the facility.

The exemption will be described in detail in the Compliance Orders under Section 110a.(3) of the Federal Clean Air Act, adopted by the administrative authority.

E. Testing

Compliance with LAC 33:III.2123.C and D shall be determined by applying the following test methods, as appropriate.

1. Test Method 24 (LAC 33:III.6083) with a one-hour bake;
2. Test Method 1 through 4 (LAC 33:III.6001, 6003, 6009 and 6013, respectively) for determining flow rates;
3. Test Method 18 (LAC 33:III.6071) for measuring gaseous organic compound emissions by gas chromatographic analysis;
4. Test Method 25 (LAC 33:III.6085) for determining total gaseous nonmethane organic emissions as carbon;
5. protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations (Document No. EPA-450/3-88-018 dated December, 1988) for determining transfer efficiency, oven loading and incinerator destruction efficiency;
6. additional performance test procedures, or equivalent test methods approved by the Administrative Authority*.

F. Recordkeeping

The owner/operator of any surface coating facility shall maintain records at the facility to verify compliance with or exemption from LAC 33:III.2123. The records shall be maintained for at least two years and will include, but not be limited to, the following:

1. Records of any testing done in accordance with LAC 33:III.2123.E.
2. Records of operational parameters of control devices including:
 - a. the exhaust gas temperature of direct-flame incinerators and/or the gas temperature immediately upstream and downstream of any catalyst bed;
 - b. the total amount of volatile organic compounds recovered by carbon adsorption or other solvent recovery systems during a calendar month; and
 - c. the dates and reasons for any malfunction of a required control device and the estimated quantity and duration of volatile organic compound emissions during the upset period.
3. Material data sheets which document the volatile organic compound content, composition, solids content, solvent density, and other relevant information regarding each coating and/or solvent used.
4. Records used for determining the daily volatile organic compound emission rate of automobile and light-duty truck topcoat operations as specified in Document No. EPA-450/3-88-018 dated December, 1988.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1084.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 16: (February 1990).

Mike McDaniel
Assistant Secretary.

RULE

**Office of the Governor
Division of Administration
Community Development Section**

Louisiana Community Development Block Grant
(LCDBG) Program
FY 1990 Final Statement

I. PROGRAM GOALS AND OBJECTIVES

The LCDBG Program, as its primary objective, provides grants to units of general local government in nonentitlement areas for the development of viable communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this objective, not less than 60 percent of the aggregate of fund expenditures shall be for activities that benefit low and moderate income persons.

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

- A. Principal benefit (at least 60 percent) to low/moderate income persons.
- B. Elimination or prevention of slums and blight. In order to justify that the proposed activity meets this objective, the following must be met. An area must be delineated by the grantee which:
 1. meets the definition of slums and blight as defined in Act 590 of the 1970 Parish Redevelopment Act, Section Q-8 (See Appendix 1); and
 2. contains a substantial number of deteriorating or dilapidated buildings or public improvements throughout the area delineated. The grantee must describe in the application the area boundaries and the conditions of the area at the time of its designation and how the proposed activity will eliminate the conditions which qualify the area as slum/blight. If an applicant plans to request funds for an activity claiming that the activity addresses the slums/blight objective, the state must be contacted for the specific requirements for this determination/qualification prior to application submittal.

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

- A. Strengthen community economic development through the creation of jobs, stimulation of private investment, and community revitalization, principally for low and moderate income persons,
- B. Benefit low and moderate income persons,
- C. Eliminate or aid in the prevention of slums or blight, or
- D. Provide for other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

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

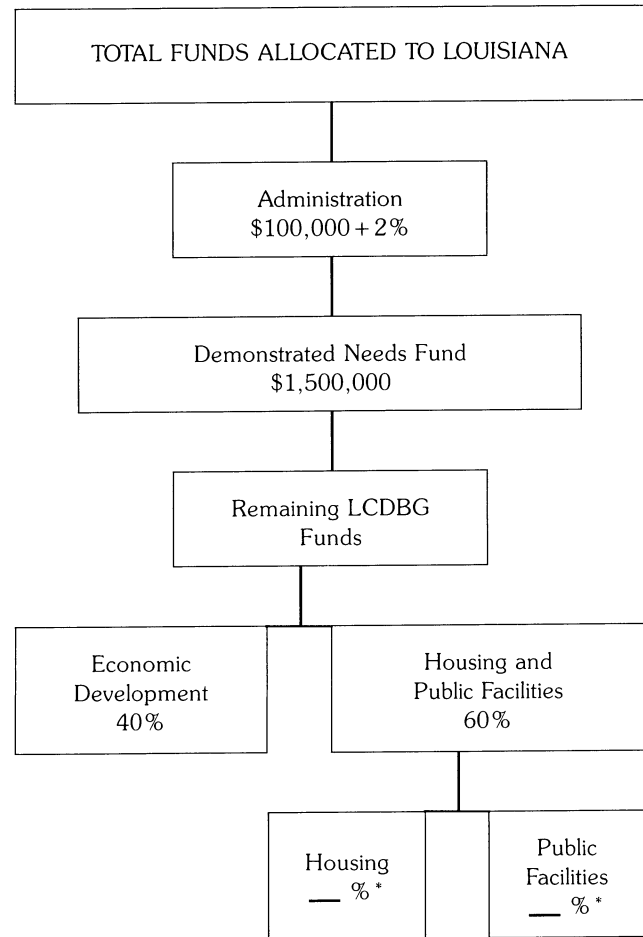
- A. Strengthen community economic development through the creation of jobs, stimulation of private investment, and community revitalization, principally for low and moderate income persons,
- B. Benefit low and moderate income persons,
- C. Eliminate or aid in the prevention of slums or blight, or
- D. Provide for other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

II. GENERAL

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

The state shall establish deadlines for submitting applications and notify all eligible applicants through a direct mailing. The applications submitted for FY 1990 funds for housing and public facilities will be rated and ranked and funded to the extent that monies are available. The ranking under the FY 1990 pro-

FIGURE 1



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

gram will also be used to determine the grants selected for funding under the FY 1991 LCDBG Program. In other words, the top ranked applications, to the extent that monies are available, will be funded under the FY 1990 Program; the next highest ranked applications will be funded in FY 1991 to the extent that monies are available. Only one application for housing or public facilities can be submitted for FY 1990 funds; that same application will be considered for FY 1991 funds. No new applications for housing and public facilities will be accepted in FY 1991. Only new applications for economic development and demonstrated needs funds will be accepted for FY 1991.

B. ELIGIBLE APPLICANTS. Eligible applicants are units of general local government, that is, municipalities and parishes, excluding the following areas: Alexandria, Baton Rouge, Bossier City, Terrebonne Parish Consolidated Government, Jefferson Parish (including Grand Isle, Gretna, Harahan, Jean Lafitte, and Westwego), Kenner, Lafayette, Lake Charles, Monroe, New Orleans, Shreveport, Slidell, and Thibodaux. Each eligible applicant may only submit an application(s) on its own behalf. Two or more eligible applicants may submit a joint application for activities of mutual need of each eligible applicant. Joint projects shall necessitate a meeting with state staff prior to submitting the application to determine the appropriate applicant. All local governing bodies involved must be eligible according to the threshold criteria.

C. ELIGIBLE ACTIVITIES. An activity may be assisted in whole or in part with LCDBG funds if the activity meets the provisions of Title 24 of the U. S. Code of Federal Regulations, Subpart C, as provided in Appendix 2. For application purposes, eligible activities are grouped into the program areas of housing, public facilities, economic development or demonstrated need.

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

E. DISTRIBUTION OF FUNDS. Approximately \$22,861,000 (subject to federal allocation) in funds will be available for the FY 1990 LCDBG Program. Figure 1 shows how the total funds will be allocated among the various program categories.

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

In addition, \$1,500,000 will be set aside for the Demonstrated Needs Fund. Since the creation and retention of permanent jobs is so critical to the economy of the state of Louisiana, up to 40 percent of the remaining LCDBG funds will be allocated specifically for economic development type projects. Only economic development applications will compete for these funds. Economic development applications and demonstrated needs applications will be accepted on a continual basis within the timeframe designated by the state. Public facilities and housing applications will be funded with the remaining LCDBG funds.

There will be one funding cycle for housing and public facilities applications. This fund will be divided into two program categories as identified in Figure 1; the exact distribution of these funds will be based upon the number of applications received and amount of funds requested in each program category as established under the FY 1990 LCDBG Program.

Half of the money will be allocated based on the number of applications received in each category and half based on the amount of funds requested in each category with a maximum of 15 percent of the funds allocated to housing. Within the maximum 15 percent allocated for housing, an award of up to \$500,000 will be made for an "innovative housing" program.

The public facilities category will be allocated in the manner, by number and dollar amount of applications for sewer (collection and/or treatment) and water (potable water and fire protection).

Six months following the date of the state's executed grant agreement with HUD, the status of the monies originally allocated (40 percent) for economic development will be evaluated. At that time, any monies in excess of half of the original allocation which have not yet been awarded for economic development projects will then be transferred to the current program year's public facilities category to fund the project(s) with the

highest score that was not initially funded. Twelve months following the date of the state's executed grant agreement with HUD, all unawarded monies remaining in the original allocation for economic development will be transferred to the current program year's public facilities category to continue to fund the highest ranked project(s) not already funded.

F. SIZE OF GRANTS.

1. Ceilings. The state has established a funding ceiling of \$550,000 for housing grants, \$500,000 for an innovative housing grant, \$600,000 for public facilities grants with the exception of sewer grants which have a funding ceiling of \$750,000, and \$350,000 for demonstrated needs grants. The state has established a funding ceiling of \$600,000 for economic development projects involving a loan for the creation of a new business and for economic development projects involving a grant to the local governing body a funding ceiling of \$1,000,000 for infrastructure improvements, and a funding ceiling of \$300,000 for the acquisition, construction or rehabilitation of buildings by the local governing body when necessary for the creation/retention of jobs; no funding ceiling is imposed for economic development projects involving a loan for the expansion of an existing business.

Within the ceiling amounts the state allows applicants to request funds for administrative costs with the following limitations. Administrative funds for housing programs cannot exceed 12 percent of the estimated housing costs. 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 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; this additional two percent is specifically dedicated for the grantee to contract with a Small Business Development Center. If, after a project has been funded, the scope of the project changes significantly, the state will make a determination as to the actual amount which will be allowed for administrative costs; this determination will be made on a case-by-case basis.

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

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

G. RESTRICTIONS ON APPLYING FOR GRANTS.

1. With the exception of parishes which have an unincorporated population of more than 25,000, each eligible applicant may apply for one housing or public facilities grant under the FY 1990 LCDBG Program; that application will also be considered for funding under the FY 1991 LCDBG Program. Those parishes which have an unincorporated population of more than 25,000 may submit a maximum of two single purpose applications for housing or public facilities with a combined maximum

request of \$1.2 million; the individual amounts requested per application cannot exceed the funding ceiling amount for that particular type of application as identified in Section II. F. 1.

Those parishes as identified by the U. S. Bureau of the Census, Current Population Reports, Series P-26, No. 86-S-Sc, South-1986 Population and 1985 Per Capita Income Estimates for Counties and Incorporated Places include: Acadia, Ascension, Bossier, Caddo, Calcasieu, Lafayette, Lafourche, Livingston, Ouachita, Plaquemines, Rapides, St. Bernard, St. Charles, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Vermilion, Vernon, and Washington.

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

2. Capacity and performance: threshold considerations for grant approval. No grant will be made to an applicant that lacks the capacity to undertake the proposed program. In addition, applicants which have previously participated in the Community Development Block Grant Program must have performed adequately. Performance and capacity determinations for FY 1990 will be made as of the deadline date for submittal of the housing and public facilities applications. Performance and capacity determinations for FY 1991 will be made as of the date the state receives its executed grant agreement from HUD. In determining whether an applicant has performed adequately, the state will examine the applicant's performance as follows.

In order to be eligible for a housing or public facilities grant award in FY 1990, the following thresholds must have been met:

(a) Units of general local government will not be eligible to receive funding unless past CDBG programs awarded by HUD have been closed out.

(b) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1983, FY 1984, FY 1985, FY 1986, FY 1987, FY 1988 and FY 1989) awarded by the state have been conditionally closed-out with the following exception.

For recipients of economic development awards under the FY 1987, FY 1988 and FY 1989 LCDBG Programs and for recipients of demonstrated needs awards under the FY 1989 LCDBG Program, the state will, at its own discretion on a case-by-case basis, make a determination on the recipient's performance. If the state makes the determination that the recipient has performed adequately, the state may deem that recipient also eligible for FY 1990 funding.

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

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

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

In order to be eligible for a grant award in FY 1991, the following thresholds must have been met:

(a) Units of general local government will not be eligible to receive funding unless past CDBG programs awarded by HUD have been closed out.

(b) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1983, FY

1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, and FY 1990) awarded by the state have been conditionally closed out with the following exception.

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

Those parishes with an unincorporated population of more than 25,000 (identified in Section II. G. 1) that may have received a grant award under the FY 1990 LCDBG Program will also be eligible for an FY 1991 award if the state makes the determination that the recipient has thus far performed adequately.

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

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

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

All applications will be rated upon receipt. Any applications that are determined to be ineligible for FY 1990 funding will be re-evaluated for eligibility for FY 1991 funding.

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

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

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

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

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

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

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

5. *Division* refers to the Division of Administration.

III. METHOD OF SELECTING GRANTEEES

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

A. DATA

1. *Low and Moderate Income.* The low/moderate income limits are defined as being equal to or less than the Section 8 income limits as established by HUD. In order to determine the benefit to low/moderate income persons for a public facility project, the applicant must utilize either census data (if available) or

conduct a local survey. A local survey must be conducted for housing activities and must involve 100 percent of the total houses within the target area. Local surveys which have been conducted within twelve months prior to the application submittal date will be accepted, provided the survey conforms to current program requirements.

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

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

(b) *Local Survey.* If the applicant chooses to conduct a local survey, the survey sheet in the FY 1990 application package must be used. Local surveys must be conducted for all housing activities.

When conducting a local survey rather than using 1980 census data, an applicant in a non-metropolitan area will determine the low and moderate income level based on the higher of either 80 percent of the median income of the parish OR 80 percent of the median income of the entire non-metropolitan area of the state. The annual income limits for low/moderate income persons for each parish are provided in Appendix 3. The FY 1989 median income for non-metropolitan Louisiana was \$23,400; therefore, the non-metropolitan state low/moderate income level would amount to \$18,700 and the low income limit would be \$11,700. The low and moderate income levels for applicants in Metropolitan Statistical Areas (MSAs) will be determined on the basis of the entire MSA.

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

# OF PERSONS IN FAMILY	% OF PARISH/MSA* MEDIAN INCOME
1	50
2	64
3	72
4	80
5	85
6	90
7	95
8 or more	100

*MSA = Metropolitan Statistical Area

When a local survey, rather than census data, is used to determine the low/moderate income benefit, a random sample which is representative of the population of the entire target area must be taken. There are several methodologies available to insure that the sample is random and representative. The methodology used must be stated in your application. If you have questions on the methodology to use, you should contact the

division for assistance. The appropriate sample size varies with the total number of families in the target area and is determined by using the following formula:

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

Where n = required number of families in sample

Where N = total number of families in target area

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

B. PROGRAM OBJECTIVES

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

C. RATING SYSTEMS

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

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

1. HOUSING (Total of 100 points)

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

(a) PROGRAM IMPACT (Maximum Possible Points - 25)

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

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

of owner occupied substandard units including those in need of demolition and replacement + vacant units in need of demolition inside the target area

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

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

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

Rental units which are occupied by low/moderate income persons are eligible as long as the number of rental units to be treated does not exceed 10 percent of the total owner occupied

units proposed for rehab; the rehab of rental units will not affect the impact score in any way. All units must be brought up to at least the Section 8 Existing Housing Quality Standards and HUD's Cost Effective Energy Conservation Standards.

(b) NEEDS ASSESSMENT (Maximum Possible Points- 25)

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

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

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

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

(c) PROJECT FEASIBILITY (Maximum Possible Points- 50)

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

2. INNOVATIVE HOUSING

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

3. PUBLIC FACILITIES (Total of 81 Points)

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

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

(a) BENEFIT TO LOW/MODERATE INCOME PERSONS (Maximum Possible Points - 10)

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

Percent of Low/Moderate Income (Maximum Possible Points - 5) The percentage of low/moderate income persons benefitting will be calculated by dividing the number of low/moderate income persons benefitting (as defined by the state) by the total persons benefitting. Points for percentage of low/moderate income persons benefitting will be assigned according to the following ranges:

- 85% or more - 5 points
- at least 70% but less than 85% - 4 points
- at least 60% but less than 70% - 3 points

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

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

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

(b) COST EFFECTIVENESS (Maximum Possible Points - 20)

Cost estimates per person benefitting will be carefully

evaluated. The cost per person benefitting will be calculated for all projects. All applicants for the same type project (sewer systems for collection and/or treatment, potable water, water for fire protection, and other) will be grouped and each of these groups will then be grouped by whether the project is for a new system, improvements to an existing system, or both.

Once all of these separate groups are established, they will be separated into categories based on the number of persons benefitted. An average cost per person benefitting will then be determined for each of these categories. Each applicant in a given category will be scored relative to that average cost per person figure determined for that given category.

An average cost project will receive 10 points, a project with a lower than average cost per person benefitting will receive more than 10 points (a maximum of 20), and a project with higher than average cost per person will receive fewer than 10 points. The following formula will be used to determine the cost effectiveness points for each applicant in each grouping:

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

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

(c) PROJECT SEVERITY (Maximum Possible Points - 50)

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

In assigning points for project severity, the following general criteria will be critiqued for the type of project proposed.

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

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

Problems that are generally attributable to a lack of routine operation and maintenance will result in a less favorable evaluation. The proposed actions to eliminate verified problems will be evaluated in terms of the direct applicability of the solu-

tion; superfluous or inadequate solutions will result in a less favorable evaluation. The proposed actions to eliminate verified problems will be evaluated in terms of the direct applicability of the solution; superfluous or inadequate solutions will result in a lowering of the overall rating.

(d) USE OF LOCAL FUNDS (Maximum Possible Points- 1)

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

4. ECONOMIC DEVELOPMENT

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

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

An application for LCDBG-ED funds may be submitted at any time during the year.

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

The state will recoup 100 percent of the payback of the LCDBG-ED loans (program income to the state) unless the local governing body will utilize the payback to continue the activity from which such income was derived; i.e., to expand 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 govern-

ment to provide sewer, water, and street/road access on public property to the industrial/business site. It cannot be used to acquire, construct, or rehabilitate a building or to create a general industrial park project with the hope that a business client will then be attracted. It must be tied to a specific developer creating a specific number of jobs for low to moderate income people.

Although the grant will be tied to a specific developer, all/any other developments that occur within the life of the program as a result of the infrastructure improvements must also be considered to fall under LCDBG requirements. Therefore, when preparing the closeout documents, the job creation/retention and low/moderate income figures would be the total of all of the benefitting businesses in aggregate.

It must be a "but for" situation, where the business cannot locate or expand at that site unless the particular infrastructure is provided. The developer must show why this location, which lacks proper infrastructure, must be used instead of another site which already has proper infrastructure.

The developer must provide sufficient financial and other statements, projections, etc. to establish that the business is likely to be successful, and will create the appropriate number of jobs at the site in a specified time frame. Certain assurances by the developer, related to the timing of his development on the site, will be required.

Other agreements between the local governing body and the developer/property holder, relative to public rights of way, availability of site to local governing body upon failure or change in operation by the developer, etc. will be required as needed on an individual project basis.

The maximum amount available to the local governing body for an infrastructure or building acquisition, construction, or rehabilitation type project grant is \$10,000 per job created or retained, with a \$1,000,000 limit for infrastructure improvements on any single project or a \$300,000 limit for the acquisition, construction, or rehabilitation of a building.

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

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

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

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

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

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

ered 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 from families whose total income is below the low to moderate income limit for the parish where the development occurs (see Appendix 3).

E. The application must include documentation showing that the project is feasible from the management, marketing, financial and economic standpoints. Management feasibility has to do with the past experience of the developer in managing the type of project described in the application, or other similar managerial experience. Marketing feasibility deals with how well the market for the product has been documented at the application stage - the best case being that the developer has verifiable commitments substantiating the first year's sales projection.

A typical market study includes a detailed analysis of competition, the expected geographical sales plan, and letters of intent to buy, specifying quantity and price. Economic feasibility relates to whether or not the developer has realistic projections of revenues and variable costs, such as labor and cost of materials, and whether they are consistent with industry value-added comparisons. An assessment will be made of the industry sector performances for the type of industry/business described in the application. Financial feasibility has to do with the ability of the firm to meet all of its financial obligations in the short and long run, determined by a cash flow analysis on the financial history and projections of the business. In analyzing the financial feasibility of a project, the state may suggest alternatives in the timing of expenditures, the amount and proposed use of public and private funds, as well as other financial arrangements proposed in the application.

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

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

The state shall look to the local governing body for repayment of all funds disbursed under this contract and default by the developer shall not be considered as just cause for non-payment by the local governing body. In case of a default by the local

governing body in the repayment of contract funds to the state, in accordance with the terms and conditions of the contract, the full sum remitted to the local governing body shall become due and payable to the state upon demand, without the need of putting the local governing body in default.

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

D. DEMONSTRATED NEEDS FUND

A \$1.5 million reserve fund will be established to alleviate critical/urgent community needs.

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

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

1. GENERAL ELIGIBILITY

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

Each proposed activity must address one of the national objectives.

2. CRITICAL/URGENT NEED - PROJECT SEVERITY

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

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

3. APPLICATION REQUIREMENTS

All items and forms necessary for a regular public facilities application will also be required for demonstrated needs.

E. SUBMISSION REQUIREMENTS

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

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

i. Identification of the national objective(s) that the activity will address.

ii. A detailed description of each activity to be carried out with LCDBG assistance. The description of each activity must clearly identify the target area or areas by street names, highway names or numbers for each street serving as a boundary of the target area. The written description must clearly and exactly conform to the designated area or areas on the map(s). A detailed cost estimate is also required for each activity. If the proposed activity is dependent on other funds for completion, the source of funds and the status of the commitment must also be indicated. If the applicant is applying for a public facilities project, the description must specifically describe what means will be taken by the applicant to ensure that adequate revenues will be available to operate and maintain the proposed project; the description must identify the source of and estimated amount of funds that will be generated for this purpose.

iii. A statement describing the impact the activity will have

on the problem area selected and on the needs of low and moderate income persons, including information necessary for considering the program impact.

iv. A statement on the percent of funds requested that will benefit low and moderate income persons. The statement should indicate the total number of persons to be served and the number of such persons that meet the definition of low and moderate income.

(2) Map. A map of the local jurisdiction which identifies by project area:

i. census tracts and/or enumeration districts by number;

ii. location of concentrations of minorities, showing number and percent by census tracts and/or enumeration districts;

iii. location of concentrations of low and moderate income persons, showing number and percent by census tracts and/or enumeration districts;

iv. boundaries of areas in which the activities will be concentrated;

v. specific location of each activity.

(3) Program Schedule. Each applicant shall submit, in a format prescribed by the state, a listing of dates for major milestones for each activity to be funded.

(4) Title VI Compliance. All applicants shall submit, in a form prescribed by the state, evidence of compliance with Title VI of the Civil Rights Act of 1964. This enables the state to determine whether the benefits will be provided on a nondiscriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(5) Certification of Assurances. The certificate of assurances required by the state, relative to federal and state statutory requirements, shall be submitted by all applicants; this certificate includes, but is not limited to, Title VI, Title VIII, and affirmatively furthering fair housing. In addition, each recipient should target at least 15 percent of all grant monies for minority enterprises. All assurances must be strictly adhered to; otherwise, the grant award will be subject to penalty.

(6) Certification to Minimize Displacement. The applicant must certify that it will minimize displacement as a result of activities assisted with LCDBG funds. In addition to minimizing displacement, the applicant must certify that when displacement occurs reasonable benefits will be provided to persons involuntarily and permanently displaced as a result of the LCDBG assistance to acquire or substantially rehabilitate property. This provision applies to all displacement with respect to residential and nonresidential property not governed by the Uniform Relocation Act.

(7) Certification of Residential Antidisplacement and Relocation Assistance Plan. The applicant must certify that it has developed and is following a residential antidisplacement and relocation assistance plan. The plan must include two components - a requirement to replace all low/moderate income dwelling units that are demolished or converted to a use other than low/moderate income housing as a direct result of the use of CDBG assistant and a relocation assistance component.

(8) Certification to Promote Fair Housing Opportunities. Applicants are required to certify that they will make every effort to further fair housing opportunities in their respective jurisdictions.

(9) Certification Prohibiting Special Assessments. The applicant must submit a certification prohibiting the recovery of capital costs for public improvements financed, in whole or in part, with LCDBG funds through assessments against properties owned and occupied by low and moderate income persons. The

prohibition applies also to any fees charged or assessed as a condition of obtaining access to the public improvements.

(10) Certification of Citizen Participation. Applicants shall provide adequate information to citizens about the Community Development Block Grant Program. Applicants shall provide citizens with an adequate opportunity to participate in the planning and assessment of the application for Community Development Block Grant Program funds. At least one public hearing must be held prior to application submittal in order to obtain the citizens' views on community development and housing needs. A notice must be published informing the populace of the forthcoming public hearing; a minimum of five calendar days is required for this notice. Citizens must be provided with the following information at the hearing:

- i. The amount of funds available for proposed community development and housing activities;
- ii. The range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income;
- iii. The plans of the applicant for minimizing displacement of persons as a result of activities assisted with such funds and the benefits to be provided to persons actually displaced as a result of such activities;
- iv. If applicable, the applicant must provide citizens with information regarding the applicant's performance on prior LCDBG programs funded by the state.

A second notice must be published after the first public hearing has been held but before the application is submitted. The second notice must inform citizens of the proposed objectives, proposed activities, the location of the proposed activities and the amounts to be used for each activity. Citizens must be given the opportunity to submit comments on the proposed application. The notice must further provide the location at which and hours when the application is available for review. The notice must state the proposed submittal date of the application.

Applicants must submit a notarized proof of publication of each public notice.

In order to provide a forum for citizen participation relative to the proposed activities, a second hearing must be held to receive comments and discuss the proposed application.

Each applicant shall provide citizens with adequate opportunity to participate in the planning, implementation, and assessment of the CDBG program. The applicant shall provide adequate information to citizens, hold public hearings at the initial stage of the planning process to obtain views and proposals of citizens, and provide opportunity to comment on the applicant's community development performance. In order to achieve these goals each applicant shall prepare and follow a written citizen participation plan that incorporates procedures for complying with the following regulations (a-f). The plan must be made available to the public at the beginning of the planning stage, i.e., the first public hearing.

The written plan must:

- (a) provide for and encourage citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;
- (b) provide citizens with reasonable and timely access to local meetings, information, and records relating to the state's proposed method of distribution, as required by regulations of the secretary, and relating to the actual use of funds under Title I of the Housing Community Development Act of 1974, as amended;

(c) provide for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

(d) provide for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodations for the handicapped;

(e) provide for a timely written answer to written complaints and grievances, within 15 days where practicable; and

(f) identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

(11) Certification Regarding Lead-Based Paint. The applicant must certify that its notification, inspection, testing, and abatement procedures concerning lead-based paint are in compliance with Section 570.608 of the Housing and Community Development Act of 1974, as amended.

(12) Certification on Excessive Use of Force. This certificate 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, in writing, by the state. Material received after the deadline will not be considered as part of the application, unless requested by the state.

F. APPLICATION REVIEW PROCEDURE

(1) The application must be mailed or delivered prior to any deadline dates established by the division. The applicant must obtain a "Certificate of Mailing" from the post office, 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 the following reasons:

- i. Based on a field review of the applicant's proposal or other information received, it is found that the information was incorrect; the division will exercise administrative discretion in this area.
- ii. The Division of Administration determines that the applicant's description of needs and objectives is plainly inconsistent with facts and data generally available. The data to be considered must be published and accessible to both the applicant and state such as census data, or recent local, area wide, or state comprehensive planning data.
- iii. Other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time.
- iv. The activities cannot be completed within the estimated costs or resources available to the applicant.
- v. Any of the items identified under E. SUBMISSION REQUIREMENTS are not included in the application.

G. PROGRAM AMENDMENTS FOR LCDBG PROGRAM

The division may consider amendments if they are necessitated by actions beyond the control of the applicant. Recipients shall request prior division approval for all program amendments involving new activities or alteration of existing activities that will change the scope, location, or objectives of the approved activities or beneficiaries.

A. New or altered activities are considered in accordance with the criteria for selection applicable at the time the original application was reviewed and the policy, current at that time, regarding amendments.

B. All amended activities must receive environmental clearance prior to construction.

C. The state will ascertain as whether or not the proposed activity is an integral part of the originally approved project and is necessary to complete the project as originally approved. The state will also review the site location of the proposed activity in relation to the originally approved target area. As a general rule, activities which are not an integral part of the originally approved project and which are not located within the boundaries of the originally approved target area will not be approved.

IV. ADMINISTRATION

Rule for Policy Determination. In administering the program, while the division is cognizant of the intent of the program, certain unforeseeable circumstances may arise which may require the exercise of administrative discretion. The division reserves the right to exercise this discretion in either interpreting or establishing new policies.

V. REDISTRIBUTION OF FUNDS

Any monies awarded by the state that are later recaptured

by or returned to the state will be reallocated in accordance with the division's policy, then in effect. The sources of these funds may include, but not be limited to, program income, questioned costs, disallowed expenses, recaptured funds from loans, unallocated monies, previously awarded funds not spent by grant recipients, etc.

With the following exceptions and the stipulations identified in Section II.E., the monies as defined above will be placed in the current program year's public facilities category and will be used to fund the project(s) with the highest score that was not initially funded. This policy will govern all such monies as defined herein from FY 1982, FY 1983, FY 1984, FY 1985, FY 1986, FY 1987, FY 1988, FY 1989, and FY 1990 LCDBG Program years as well as subsequent funding cycles, until later amended. One exception to this rule is that funds recaptured from economic development loans which were not spent by the grant recipients will initially be transferred to the current economic development program category. Those monies remaining in the economic development program category at the end of the FY 1990 program year will be transferred to the public facilities category for distribution as described above. Another exception is that all funds recaptured by the state from the payback of economic development loans will be placed in an economic development revolving loan fund which will be used to supplement funding for economic development projects. These funds will be subject to the federal regulations regarding use of program income.

These regulations are to become effective on February 20, 1990, and are to remain in force until they are amended or rescinded.

Dennis Stine
Commissioner

APPENDIX 1

Act 590 of the 1970 Parish Redevelopment Act Section Q-8

(8) *Slum area* means an area in which there is a predominance of buildings or improvements, whether residential or non-residential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open space, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or an area of open land which, because of its location and/or platting and planning 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 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 such unit, or received by such unit from the state in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this Title, and which are to be used for such services, unless the secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 percentum of the amount of any assistance to a unit of general local government under this Title may

be used for activities under this Paragraph unless such unit of general local government used more than 15 percent of the assistance received under this Title for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculations yields the higher amount;

(9) payment of the non-federal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under this Title;

(10) payment of the cost of completing a project funded under Title 1 of the Housing Act of 1949;

(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this Title may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provisions of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in Section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing and Community Development Amendments of 1981;

(14) activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;

(15) assistance to neighborhood-based nonprofit organizations, local development corporations, or entities organized under Section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of Section 101(c), and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in Section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;

(16) activities necessary to the development of energy use strategies related to recipient's development goals, to assure

that those goals are achieved with maximum energy efficiency, including items such as—

(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities.

(17) provisions of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project;

(18) the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937; and

(19) provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low and moderate income persons (A) where the need for reconstruction was not determinable until after rehabilitation under this Section had already commenced, or (B) where the reconstruction is part of a neighborhood rehabilitation effort and the grantee (i) determines the housing is not suitable for rehabilitation, and (ii) demonstrates to the satisfaction of the secretary that the cost of substantial reconstruction is significantly less than the cost of new construction and less than the fair market value of the property after substantial reconstruction.

(b) Upon the request of the recipient of assistance under this Title, the secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under Subsection (a)(4).

(c)(1) In any case in which an assisted activity described in Paragraph (14) or (17) of Subsection (a) is identified as principally benefitting persons of low and moderate income, such activity shall—

(A) be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or

(B) involve facilities designed for use predominately by persons of low and moderate income; or

(C) involve employment of persons, a majority of whom are persons of low and moderate income.

(2)(A) In any case in which an assisted activity described in Subsection (a) is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if (i) not less than 51 percent of the residents of such area are persons of low and moderate income; (ii) in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of person of low and moderate income; or (iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover

the capital cost for a public improvement.

(B) The requirements of Subparagraph (A) do not prevent the use of assistance under this Title for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the secretary determines that—

(i) such system will contribute substantially to the safety of the residents of the area served by such system;

(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

(iii) other federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee. The percentage of the cost of the development, establishment, and operation of such a system that may be paid from assistance under this Title and that is considered to benefit low and moderate income persons is the percentage of the population to be served that is made up of persons of low and moderate income.

(3) Any assisted activity under this Title that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.

APPENDIX 3

Footnotes:

¹Includes Rapides Parish only.

²Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.

³Includes Terrebonne and Lafourche Parishes.

⁴Includes St. Martin and Lafayette Parishes.

⁵Includes Calcasieu Parish only.

⁶Includes Ouachita Parish only.

⁷Includes Jefferson, Orleans, St. Tammany, St. Bernard, St. John the Baptist, and St. Charles Parishes.

⁸Includes Caddo and Bossier Parishes.

Source: Income data provided by U. S. Department of Housing and Urban Development, December 1, 1988.

APPENDIX 4

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 Nursing

The Louisiana State Board of Nursing hereby adopts amendments to the administrative rules.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Educational Programs

§3529. Selection and Use of Clinical Facilities

A. Hospitals used for clinical experiences shall be licensed by the state of Louisiana and certified by Health Care Financing Administration (HCFA). In addition, hospitals should be accredited by JCAHO. Other health care agencies shall be accredited or approved by a recognized accrediting or approving agency.

B. Board approval shall be secured prior to the time an agency is utilized for student clinical experience.

C. Faculty shall plan for the student's learning experiences in cooperation with agency personnel.

D. Contractual agreements between the program and the agency shall be in writing, shall state rights and responsibilities of each party, shall include a termination clause and shall be reviewed annually.

E. The facility shall have:

1. a written philosophy of patient/client care which gives direction to nursing care;
 2. qualified registered nurses to insure the safe care of patient and to serve as role models for students;
 3. a sufficient number of patients/clients to provide learning experiences to meet the objectives of courses;
 4. an environment in which the student is recognized as a learner;
 5. provide for nursing care to be given in accordance with this board's legal standards for nursing care;
 6. criteria for making patient assignments;
 7. complete and current policy and procedure manuals available;
 8. available evidence of nursing quality assurance programs;
 9. clearly defined written personnel policies, including job descriptions for all categories of nursing personnel;
 10. a planned program for orientation, inservice, and continuing education programs for nursing personnel;
 11. a means of communication between faculty and agency administrative personnel and between faculties of all nursing education programs that use the agency;
 12. evidence that the agency's personnel understand their relationship to faculty and students and that the responsibility for coordination is specifically identified;
 13. designated conference areas on, or in close proximity to, units utilized for students' clinical practice;
- F. The program head shall notify the board in writing when a clinical agency being used for students' clinical practice loses J.C.A.H. or other accreditation or approved status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:189

(April 1977), amended by the Department of Health and Hospitals, LR 16: (February, 1990).

Betty N. Adams, M.N., R.N.
Associate Director/Nursing
Consultant for Education

RULE

Department of Health and Hospitals Board of Practical Nurse Examiners

Notice is hereby given that the Louisiana State Board of Practical Nurse Examiners, under the authority vested in it by R.S. 37, Chapter 11, Nurses, Part II, Practical Nurses, Section 961-979, and pursuant to the notice of intent published on November 20, 1989, took the following action relative to an amendment to the administrative rules and minimum requirements relating to the practice of practical nursing education and licensure to practice in the state of Louisiana (LAC XLVII.901) on February 2, 1990 at a regular board meeting in New Orleans, Louisiana.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Chapter 9. Program Projection

Subchapter A. Faculty and Staff

§901. Faculty

A. Shall consist of a minimum of two nurse members one of whom shall be designated as program coordinator/department head.

B. Educational Qualifications

1. Licensure

Each nurse faculty member shall hold a current, valid license to practice in the state of Louisiana, which license has never been encumbered in any jurisdiction.

2. Application

Each applicant for a faculty position in an approved practical nursing program shall be approved by the Louisiana State Board of Practical Nurse Examiners before being approved for employment by any other agency.

3. Nurse Coordinator/Department Head

Shall be a graduate of a three-year diploma nursing program or a graduate of a baccalaureate nursing program with a minimum of four years experience in medical-surgical nursing or nursing education. At least one of these four years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse coordinator must have worked as a nurse for a minimum of six full-time months during the three years immediately preceding application, or complete an approved review course and/or successfully pass a board approved competency examination.

4. Nurse Instructor

Shall be a graduate of a three-year diploma nursing program or a graduate of a baccalaureate nursing program with a minimum of three years experience in medical-surgical nursing or nursing education. At least one of these three years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse instructor must have worked as a nurse for a minimum of six full-time months during the three years immediately preceding application or complete an approved review

course and/or successfully pass a board approved competency examination.

5. No educational degree in nursing or in any other field shall substitute for the medical-surgical component of either of the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 10:338 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 16: (February 1990).

Terry L. DeMarcay
Executive Director

RULE

Department of Natural Resources Office of Conservation

The Office of Conservation has adopted LAC 43:XIII, Chapter 11, governing pipeline safety concerning drug testing procedures for natural gas and hazardous liquid pipeline company operating personnel as follows:

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation - Pipeline Safety

Chapter 11. Drug Testing

§1101. Scope and compliance

A. This Chapter requires operators of pipeline facilities subject to CFR Part 192, 193, or 195 to test employees for the presence of prohibited drugs and provide an employee assistance program. However, this Chapter does not apply to operators of "master meter systems" defined in CFR 191.3.

B. Operators with more than 50 employees subject to drug testing under this Chapter need not comply with this Chapter until April 20, 1990. Operators with 50 or fewer employees subject to drug testing under this Chapter need not comply with this Chapter until August 21, 1990.

C. This Chapter shall not apply to any person for whom compliance with this Chapter would violate the domestic laws or policies of another country.

D. This Chapter is not effective until January 2, 1992, with respect to any person for whom a foreign government contends that application of this Chapter raises questions of compatibility with that country's domestic laws or policies. On or before December 2, 1991, the administrator shall issue any necessary amendment resolving the applicability of this Chapter to such person on and after January 2, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February 1990).

§1103. Definitions

Accident means an incident reportable under CFR Part 191 involving gas pipeline facilities or LNG facilities, or an accident reportable under CFR Part 195 involving hazardous liquid pipeline facilities.

Administrator means the administrator of the Research and Special Programs Administration (RSPA), or any person who has been delegated authority in the matter concerned.

DOT Procedures means the "Procedures for Transportation Workplace Drug Testing Programs" published by the Office of the Secretary of Transportation in CFR Part 40 of this title.

Employee means a person who performs on a pipeline or LNG facility an operating, maintenance, or emergency-response function regulated by CFR Part 192, 193, or 195. This does not include clerical, truck driving, accounting, or other functions not subject to CFR Part 192, 193, or 195. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor.

Fail a drug test means that the confirmation test result shows positive evidence of the presence under DOT Procedures of a prohibited drug in an employee's system.

Operator means a person who owns or operates pipeline facilities subject to CFR Part 192, 193, or 195.

Pass a drug test means that initial testing or confirmation testing under DOT Procedures does not show evidence of the presence of a prohibited drug in a person's system.

Prohibited drug means any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act, 21 U.S.C. 801.812 (1981 and 1987 Cum.P.P.): marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). In addition, for the purposes of reasonable cause testing, "prohibited drug" includes any substance in Schedule I or II if an operator has obtained prior approval from RSPA, pursuant to the "DOT Procedures" in 49 CFR Part 40, to test for such substance, and if the Department of Health and Human Services has established an approved testing protocol and positive threshold for such substance.

State agency means an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under Section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 App. U.S.C. 1674) or Section 205 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 App. U.S.C. 2009).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February 1990).

§1105. DOT Procedures

The anti-drug program required by this Chapter must be conducted according to the requirements of this Chapter and the DOT Procedures. In the event of conflict, the provisions of this Chapter prevail. Terms and concepts used in this Chapter have the same meaning as in the DOT Procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February 1990).

§1107. Anti-drug Plan

Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this Chapter and the DOT Procedures. The plan must contain:

A. methods and procedures for compliance with all the requirements of this Chapter, including the employee assistance program;

B. the name and address of each laboratory that analyzes the specimens collected for drug testing; and

C. the name and address of the operator's medical review officer; and

D. procedures for notifying employees of the coverage and provisions of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February 1990).

§1109. Use of Persons who Fail or Refuse a Drug Test

A. An operator may not knowingly use as an employee any person who:

1. fails a drug test required by this Chapter and the medical review officer makes a determination under §1115.D.2; or
2. refuses to take a drug test required by this Chapter.

B. Subsection A.1 of this Section does not apply to a person who has:

1. passed a drug test under DOT Procedures;
2. been recommended by the medical review officer for return to duty in accordance with §1115.C; and
3. not failed a drug test required by this Chapter after returning to duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February 1990).

§1111. Drug Tests Required

Each operator shall conduct the following drug tests for the presence of a prohibited drug:

A. **Pre-Employment Testing.** No operator may hire or contract for the use of any person as an employee unless that person passes a drug test or is covered by an anti-drug program that conforms to the requirements of this Chapter.

B. **Post-Accident Testing.** As soon as possible but no later than 32 hours after an accident, an operator shall drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. If an employee is injured, unconscious, or otherwise unable to evidence consent to the drug test, all reasonable steps must be taken to obtain a urine sample. An operator may decide not to test under this Subsection but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.

C. **Random Testing.** Each operator shall administer, every 12 months, a number of random drug tests at a rate equal to 50 percent of its employees. Each operator shall select employees for testing by using a random number table or a computer-based random number generator that is matched with an employee's Social Security Number, payroll identification number, or other appropriate identification number. However, during the first 12 months following the institution of random drug testing under this Chapter, each operator shall meet the following conditions:

1. the random drug testing is spread reasonably through the 12-month period;
2. the last test collection during the year is conducted at an annualized rate of 50 percent; and
3. the total number of tests conducted during the 12 months is equal to at least 25 percent of the covered population.

D. **Testing Based on Reasonable Cause.** Each operator shall drug test each employee when there is reasonable cause to believe the employee is using a prohibited drug. The decision to

test must be based on a reasonable and articulable belief that the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence between the two supervisors may be by telephone. However, in the case of operators with 50 or fewer employees subject to testing under this Chapter, only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test.

E. **Return to Duty Testing.** An employee who refuses to take or does not pass a drug test may not return to duty until the employee passes a drug test administered under this Chapter and the medical review officer has determined that the employee may return to duty. An employee who returns to duty shall be subject to a reasonable program of follow-up drug testing without prior notice for not more than 60 months after his or her return to duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February 1990).

§1113. Drug Testing Laboratory

A. Each operator shall use for the drug testing required by this Chapter only drug testing laboratories certified by the Department of Health and Human Services under the DOT Procedures.

B. The drug testing laboratory must permit:

1. inspections by the operator before the laboratory is awarded a testing contract; and
2. unannounced inspections, including examination of records, at any time, by the operator, the administrator, and if the operator is subject to state agency jurisdiction, a representative of that state agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February 1990).

§1115. Review of Drug Testing Results

A. **MRO Appointment.** Each operator shall designate or appoint a medical review officer (MRO). If an operator does not have a qualified individual on staff to serve as MRO, the operator may contract for the provision of MRO services as part of its anti-drug program.

B. **MRO Qualifications.** The MRO must be a licensed physician with knowledge of drug abuse disorders.

C. **MRO Duties.** The MRO shall perform the following functions for the operator:

1. review the results of drug testing before they are reported to the operator;
2. review and interpret each confirmed positive test result as follows to determine if there is an alternative medical explanation for the confirmed positive test result:
 - a. conduct a medical interview with the individual tested;
 - b. review the individual's medical history and any relevant biomedical factors;
 - c. review all medical records made available by the individual tested to determine if a confirmed positive test resulted from legally prescribed medication;

d. if necessary, require that the original specimen be reanalyzed to determine the accuracy of the reported test result; and
e. verify that the laboratory report and assessment are correct;

3. determine whether and when an employee who refused to take or did not pass a drug test administered under DOT Procedures may be returned to duty;

4. determine a schedule of unannounced testing, in consultation with the operator, for an employee who has returned to duty;

5. ensure that an employee has been drug tested in accordance with the DOT Procedures before the employee returns to duty.

D. MRO Determinations. The following rules govern MRO determinations:

1. if the MRO determines, after appropriate review, that there is a legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO is not required to take further action.

2. if the MRO determines, after appropriate review, that there is no legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO shall refer the individual tested to an employee assistance program, or to a personnel or administrative officer for further proceedings in accordance with the operator's anti-drug program.

3. based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug test results, the MRO may conclude that a particular drug test result is scientifically insufficient for further action. Under these circumstances, the MRO should conclude that the test is negative for the presence of a prohibited drug or drug metabolite in an individual's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February 1990).

§1117. Retention of Samples and Retesting

A. Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures. Within this 365-day period, the employee or his representative, the operator, the administrator, or, if the operator is subject to the jurisdiction of a state agency, the state agency may request that the laboratory retain the sample for an additional period. If, within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

B. If the medical review officer (MRO) determines there is no legitimate medical explanation for a confirmed positive test result other than the unauthorized use of a prohibited drug, the original sample must be retested if the employee makes a written request for retesting within 60 days of receipt of the final test result from the MRO. The employee may specify retesting by the original laboratory or by a second laboratory that is certified by the Department of Health and Hospitals. The operator may require the employee to pay in advance the cost of shipment (if any) and reanalysis of the sample, but the employee must be reimbursed for such expense if the retest is negative.

C. If the employee specifies retesting by a second laboratory, the original laboratory must follow approved chain-of-

custody procedures in transferring a portion of the sample.

D. Since some analytes may deteriorate during storage, detected levels of the drug below the detection limits established in the DOT Procedures, but equal to or greater than the established sensitivity of the assay, must, as technically appropriate, be reported and considered corroborative of the original positive results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February, 1990).

§1119. Employee Assistance Program

A. Each operator shall provide an employee assistance program (EAP) for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause. The operator may establish the EAP as a part of its internal personnel services or the operator may contract with an entity that provides EAP services. Each EAP must include education and training on drug use. At the discretion of the operator, the EAP may include an opportunity for employee rehabilitation.

B. Education under each EAP must include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for employee assistance; and display and distribution of the employer's policy regarding the use of prohibited drugs.

C. Training under each EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February, 1990).

§1121. Contractor Employees

With respect to those employees who are contractors or employed by a contractor, an operator may provide by contract that the drug testing, education, and training required by this Chapter be carried out by the contractor provided:

A. the operator remains responsible for ensuring that the requirements of this Chapter are complied with; and

B. the contractor allows access to property and records by the operator, the administrator, and if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the operator's compliance with the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February, 1990).

§1123. Recordkeeping

A. Each operator shall keep the following records for the periods specified and permit access to the records as provided by Subsection B of this Section:

1. Records that demonstrate the collection process conforms to this Chapter must be kept for at least three years.

2. Records of employee drug test results that show employees failed a drug test, and the type of test failed (e.g., post-

accident), and records that demonstrate rehabilitation, if any, must be kept for at least five years, and include the following information:

- a. the functions performed by employees who failed a drug test.
- b. the prohibited drugs which were used by employees who failed a drug test.
- c. the disposition of employees who failed a drug test (e.g., termination, rehabilitation, leave without pay).
- d. the age of each employee who failed a drug test.
3. Records of employee drug test results that show employees passed a drug test must be kept for at least one year.
4. A record of the number of employees tested, by type of test (e.g., post-accident), must be kept for at least five years.
5. Records confirming that supervisors and employees have been trained as required by this Chapter must be kept for at least three years.

B. Information regarding an individual's drug testing results or rehabilitation may be released only upon the written consent of the individual, except that such information must be released regardless of consent to the administrator or the representative of a state agency upon request as part of an accident investigation. Statistical data related to drug testing and rehabilitation that is not name-specific and training records must be made available to the administrator or the representative of a state agency upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16: (February, 1990).

Ron Gomez
Secretary

RULE

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has adopted the medical fee schedule as mandated by Act 429 and House Concurrent Resolution No. 168 of the 1989 Regular Legislative Session, effective January 1, 1990.

This fee schedule may be viewed in its entirety by contacting the Executive Director of the State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, telephone (504) 925-6668.

James D. McElveen
Executive Director

RULE

Department of the Treasury Office of the Treasurer

The state treasurer, Department of the Treasury, amends LAC 64:V.103 as authorized by R.S. 49:327(B)(1)(d). The original rule published on September 20, 1989 established a procedure for determining the blended rate on non-competitive time certificates of deposit and a procedure for obtaining competitive bids on funds designated by the state treasurer for investment in time certificates of deposit. The changes to the original rule are both substantive and technical/procedural in nature.

Title 64 SECURITIES - INVESTMENTS Part V. Office of the Treasurer Subpart 1. Investments

Chapter I. Permissible Investments §103. Time Certificates of Deposit

A. Non-Competitive Bid Procedures for Time Certificates of Deposit

The state treasurer shall designate the amount of state funds available for time certificates of deposit to financial institutions in the state of Louisiana.

1. Frequency of Rate Setting. Each Tuesday, or in the case of a holiday, the first business day following the holiday, the state treasurer shall set interest rates to be paid on certificates of deposit. This interest rate shall remain in effect until the next Tuesday or first business day following the holiday.

2. Procedure for Time Certificates of Deposit Maturing One Year or Less. The interest rate shall be determined by the following procedure for certificates of deposit maturing one year or less:

a. The following interest rates shall be surveyed on the day the interest rate is set and averaged to determine the interest rate.

i. National Certificates of Deposit which is the average of the top rates paid by major New York money banks on primary new issues of negotiable certificates of deposits, usually on amounts of \$1,000,000 or more with similar length of maturity as quoted from the *Wall Street Journal* or a nationally recognized quotation system or the National Average of Jumbo Certificates of Deposit as compiled by Banxquote Money Markets cited in the *Wall Street Journal* or a nationally recognized quotation system, less 15 basis points.

ii. U.S. Treasury Obligation with similar length of maturity at the bond equivalent rate adjusted for a 360-day basis obtained from the current auction or *Wall Street Journal*.

iii. Survey of Financial Institution Rates of Interest on a weekly rotating basis shall be conducted. Two small and two large financial institutions from those eligible to receive public funds deposits shall be polled as to the interest rate offered on published jumbo certificates of deposits of \$100,000. The highest rate from each of the small and large financial institutions polled shall then be averaged, 15 basis points shall be deducted from the averaged figure and the result shall be the interest rate for this category. To establish the ranking of a financial institution as small or large, annually in April, the state treasurer shall compile a list of financial institutions by total assets based on the latest annual financial statements available, as ranked by Sheshunoff Bank Rankings, the Louisiana Banker's Association, or other listing. The financial institution shall be ranked by size as follows:

- (a). Small: \$0-\$100 million in total assets
- (b). Large: Greater than \$100 million in total assets.

b. Minimum Interest Rate. For maturities of one year or less, the minimum interest rate shall be the discount rate on U.S. Treasury bills with a similar length of maturity.

c. Determination of Rate. The interest rate shall be an equally weighted average of those interest rates obtained in §103.A.1.a.i., ii. and iii. This interest rate shall be compared to the minimum interest rate in §103.A.2.b. Whichever rate is higher shall be the rate of interest on the time certificates of deposit.

d. Calculation and Interest Payment. All certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. The treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is determined appropriate by the treasurer to protect state funds.

3. Procedure for Time Certificates of Deposit Maturing Greater than One Year. The interest rate shall be determined by the following procedure for certificates of deposit maturing greater than one year.

a. The following interest rates shall be surveyed on the day the interest rate is set and averaged to determine the interest rate.

i. U.S. Treasury Obligation with similar length of maturity calculated on yield to maturity obtained from the current auction or *Wall Street Journal*.

ii. Agencies. Any one of the agencies listed in §101 with similar length of maturity calculated on yield to maturity obtained from the *Wall Street Journal*.

iii. Survey of Financial Institution Rates of Interest on a weekly rotating basis shall be conducted. Two small and two large financial institutions from those eligible to receive public funds deposits shall be polled as to the interest rate offered of jumbo certificates of deposits of \$100,000. The highest rate from each of the small and large financial institutions polled shall then be averaged, 15 basis points shall be deducted from the averaged figure and the result shall be the interest rate for this category. To establish the ranking of a financial institution as small or large, annually in April, the state treasurer shall compile a list of financial institutions by total assets based on the latest annual financial statements available, as ranked by Sheshunoff Bank Rankings, the Louisiana Banker's Association, or other listing. The financial institutions shall be ranked by size as follows:

- (a). Small: \$0-\$100 million in total assets
- (b). Large: Greater than \$100 million in total assets.

b. Minimum Interest Rate. For maturities of greater than one year, the minimum interest rate shall be the yield to maturity on U.S. Treasuries with similar length maturities.

c. Determination of Rate. The interest rate shall be an equally weighted average of those interest rates obtained in §103.A.3.a.i., ii. and iii. This interest rate shall be compared to the minimum interest rate in §103.A.3.b. Whichever rate is the higher shall be the rate of interest on the time certificates of deposit.

d. Calculation and Interest Payment. All certificates of deposit maturing in greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of inception. The state treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's

financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the treasurer to protect state funds.

B. Competitive Bid Time Certificates of Deposit

Pursuant to R.S. 49:327B(1)(d), 20 percent of the amount designated by the treasurer to be available for certificates of deposit to financial institutions in the state of Louisiana may be competitively bid.

1. Frequency of Bid. On the third Tuesday of each month, or in the case of a holiday, the first business day following the third Tuesday of each month, the state treasurer may offer the amount of funds determined to be available for competitive bid to be invested effective on the second business day following the acceptance of the bids. Should additional funds become available for competitive bid, the state treasurer reserves the right to offer such funds for bid on any business day.

2. Eligibility to Bid. A financial institution shall become eligible to bid on the designated amount of state funds by annually completing a questionnaire by which the financial institution shall certify the following:

a. Each financial institution shall state the amount of state funds it will be able to accept for bid. Refer to §103.C. for the total maximum amount of certificates of deposit which shall be allowed to be maintained by each financial institution.

b. Meets Federal Deposit Insurance Corporation (FDIC), Savings Association Insurance Fund (SAIF), Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund and National Credit Union Association (NCUA) capital adequacy requirements.

c. Solvent under generally accepted accounting principles and/or regulatory accounting requirements.

d. The financial institution is profitable in one of the last three years as indicated in the audited financial statements or fiscal year end financial statements certified by the Board of Directors of the financial institution.

Should the overall financial condition of the financial institution substantially decline from the previous period, the state treasurer shall remove this financial institution from the list of eligible bid institutions until the institution's financial condition has returned to the minimum criteria stated above.

3. Required Financial Information. The financial institutions participating in the bid process for certificates of deposit shall provide the state treasurer's office with publicly disclosable quarterly call reports when filed with the appropriate regulatory authority. The complete quarterly call report shall be sent to the state treasurer in 90 days from the end of the quarter. Annual audited financial statements or financial statements certified by the Board of Directors, if annual audited statements are not available, shall be provided to the state treasurer upon completion.

4. Minimum Interest Rate. For maturities of one year or less, the minimum interest rate shall be the discount rate on U.S. Treasury bills with a similar length of maturity. For maturities of greater than one year, the minimum interest rate shall be the yield of maturity on U.S. Treasury Obligations with similar length maturities as provided for in §103.A.2.b. and §103.A.3.b.

5. Determination of Rate. The state treasurer shall determine the amount of funds available for competitive bid. Bids will be opened for the available amount of funds from 9 a.m. to 12 p.m. on the third Tuesday of each month, or in the case of a holiday, the first business day following the third Tuesday of each month. Those financial institutions eligible under §103.B.2. and who are interested in bidding for available state funds may call

the state treasurer's office from 9 a.m. to 12 p.m. on the day designated and bid on the state funds indicating a dollar amount and interest rate. The highest interest rate bid shall be accepted provided that the interest rate is the same as or above the minimum rate in §103.B.4. and deemed acceptable to the state treasurer. The state treasurer reserves the right to reject all bids. The winners of the bid(s) will be notified by phone between 1 p.m. and 4:30 p.m. on the same day. The financial institutions winning the bid shall confirm in writing the amount and interest rate the financial institution bid by telephone. The certificates of deposit shall be effective on the second business day after acceptance of the bid(s). Upon receipt of acceptable collateral on the effective date, the state treasurer shall wire the appropriate amount of funds to the financial institution. Interest shall begin to accrue on the second business day after the acceptance of the bid(s).

6. Collateral for Competitive Bid Time Certificates of Deposit. Collateral for competitive bid time certificates of deposit shall be in a form acceptable to the state treasurer as indicated on the most recent list of acceptable collateral prepared by the state treasurer's office. Such a list is available upon request. Should the state treasurer deem it necessary to limit the acceptable collateral, each bidder shall be notified of such change prior to the bid.

7. Calculation and Interest Payment. All certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. All certificates of deposit maturing greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of inception. The state treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the state treasurer to protect state funds.

C. Total Amount of Certificates of Deposit with each Financial Institution

The maximum total amount of certificates of deposit with each eligible financial institution of bid and non-bid certificates shall not exceed at any one time, the total capital, surplus and undivided profits, exclusive of loan loss reserves. Should the financial institution have losses indicated, the loss shall be deducted from the total capital and surplus to determine the total amount of certificates of deposit at any one time. The total amount of certificates of deposit shall be determined based on the latest annual financial statements available which have been certified by the secretary of the board. This determination shall be set annually in April. The state treasurer reserves the right to maintain less than the maximum amount of deposits with the financial institution should the treasurer deem it in the best interest of the state. §103.C. shall be phased in over a one-year period commencing January 1, 1990.

D. Collateral Securing Certificates of Deposit

1. Each financial institution shall submit a signed collateral agreement as issued by the treasurer in order to be eligible for both bid and non-bid certificates of deposit. This requirement shall be effective upon completion of the collateral agreement by the state treasurer.

2. All collateral securing certificates of deposit shall be in a form acceptable to the treasurer and meet the collateral requirements under R.S. 49:321.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327B(1)(b).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15:751 (September 1989), amended LR 16: (February 1990).

Mary L. Landrieu
State Treasurer

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Quarantine Program

The Louisiana Department of Agriculture and Forestry will consider amending the Plant Quarantine Regulations, LAC 7:XV, Chapter 95, as follows:

Title 7 AGRICULTURE AND ANIMALS Part XV. Plant Diseases

Chapter 95. Crop Pests and Diseases Subchapter A. General Plant Quarantine Provisions §9523. Host Materials

The following materials are declared to be host materials for the plant pests or diseases indicated:

Plant pest/disease	Host materials
A. Sweetpotato weevil [<i>Cylas formicarius</i> , <i>elegantulus</i> , (Sum.)]	Dehydrated sweet potatoes; sweet potato roots, plants, vines or parts thereof; all other <i>Ipomoea</i> spp. and containers used for transportation or storage of all such hosts
B. Pink bollworm [<i>Pectinophora gossypiella</i> , (Saunders)]	All parts of cotton and wild cotton plants of the genus <i>Gossypium</i> , seed cotton, cottonseed, cotton lint, cotton linters, okra, kanef, cotton waste, gin trash, cottonseed hulls, cottonseed cake, cottonseed meal, used bagging and other wrappers for cotton, used cotton harvesting equipment, used picking sacks and any other farm products, equipment, household goods, ginning and oil mill equipment, means of conveyance and any other articles which may serve as host materials
C. Brown garden snail (<i>Helix aspersa</i> Muller)	Ornamental, horticultural and nursery stock

Plant pest/disease	Host materials
D. Leaf scald (<i>Xanthomonas albilineans</i>)	Sugar cane plants, stalks, cuttings and seed; maize
E. Lethal yellowing	<ol style="list-style-type: none"> 1. <i>Cocos nucifera</i> L. (Coconut palm) all varieties, including Malayan dwarf 2. <i>Veitchia</i> spp. 3. <i>Pritchardia</i> spp. 4. <i>Arikuryroba schizophylla</i> (Mart.) Bailey (Arikury palm) 5. <i>Corypha elata</i> Roxb. (Buri palm, Gebang palm) 6. <i>Phoenix reclinata</i> Jacq. (Senegal date palm) 7. <i>Phoenix canariensis</i> Hort. ex Chab. (Canary Island date palm) 8. <i>Phoenix dactylifera</i> L. (Date palm) 9. <i>Phoenix sylvestris</i> (L.) Roxb. (Sylvester date palm) 10. <i>Trachycarpus fortunei</i> (Hook.) Wendl. (Chinese windmill palm) 11. <i>Hyophorbe (Mascarena) verschaffeltii</i> H. Wendl. (Spindle palm) 12. <i>Caryota mitis</i> Lour. (Cluster fishtail palm) 13. <i>Borassus flabellifer</i> L. (Palmyra palm) 14. <i>Chrysalidocarpus cabadae</i> H.E. Moore (Cabada palm) 15. <i>Dictyosperma album</i> (Bory) H. Wendl. & Drude (Hurricane or princess palm) 16. <i>Aiphanes lindeniana</i> (H. Wendl.) H. Wendl. 17. <i>Allagoptera arenaria</i> (Gomes) Kuntze 18. <i>Arenga engleri</i> Becc. 19. <i>Ravenea hildebrandti</i> Wendl. ex Bouche 20. <i>Gaussia attenuata</i> (O. F. Cook) Beccari (Puerto Rican Gaussia) 21. <i>Howeia belmoreana</i> (C. Moore & F. Muell.) Becc. (Sentry palm) 22. <i>Latania</i> spp. (all species) 23. <i>Livistona chinensis</i> (N. J. Jacquin) R. Br. ex Mart. (Chinese fan palm) 24. <i>Nannorrhops ritchiana</i> (W. Griffith) J. E. T. Aitchison (Mazari palm) 25. <i>Neodopsis decaryi</i> Jumelle (Triangle palm)
F. Sweet potato mosaic	Sweet potato tubers, plants, vines, cuttings, draws and slips; morning glory plants
G. Tristeza, xyloporosis, psoriasis, exocortis	Citrus nursery stock, scions and budwood
H. Burrowing nematode (<i>Radopholus similis</i>)	All plants with roots; all earth; all sand; and all parts of plants produced below soil level Exceptions: <ol style="list-style-type: none"> 1. aquatic plants if free from soil; 2. air plants, including certain orchids, grown in soil-free media; 3. air layered plants if roots are still established in the original soil-free moss wrappings;

Plant pest/disease	Host materials
	<ol style="list-style-type: none"> 4. dormant bulbs and corms if free from roots and soil; 5. fleshy roots, corms, tubers and rhizomes for edible or medicinal purposes if washed or otherwise freed of soil; and 6. Industrial sand and clay.
I. Oak wilt (<i>Ceratocystis fagacearum</i>)	Rooted trees, seedlings and/or propagative parts of oak (<i>Quercus</i> spp.), Chinese chestnuts (<i>Castanea mollissima</i>), tanoak (<i>Lithocarpus deniflorus</i>) and bush cinquapen (<i>Castanopsis semper-virens</i>), but not including seeds thereof
J. Phony peach	All peach, plum, apricot, nectarine and almond stock

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:319 (April 1985).

Persons interested in making comments relative to this notice may do so in writing to Tad N. Hardy, Administrative Coordinator, Horticulture and Quarantine Programs, Box 3118, Baton Rouge, LA 70821-3118. He is the person responsible for responding to inquiries regarding these proposed amendments.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Plant Diseases

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule amendments will carry no implementation costs. Existing staff will enforce the proposed rule amendments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule amendments 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)
Expansion of the host plant list for lethal yellowing will restrict the importation from Florida and Texas and sale/distribution of the added host plants in Louisiana. The remaining proposed rule amendments will incur no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Expansion of the host plant list for lethal yellowing will assist in maintaining our competitive disease-free status with respect to this plant disease. The remaining proposed rule amendments will have no effect on competition and employment in the public and private sectors.

Richard Allen
Asst. Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Board of Cosmetology

The Louisiana State Board of Cosmetology will hold a public hearing on March 7, 1990 to consider amending the State Board of Cosmetology rules and regulations and adopting certain new rules and regulations. The public hearing will begin at 9 a.m. in the Testing Center of the Louisiana State Board of Cosmetology, 11622 Sunbelt Court, Baton Rouge, LA.

A copy of this application may be obtained by writing directly to Frank Schwandt, Louisiana State Board of Cosmetology, Box 98013, Baton Rouge, LA 70898.

These rules are available for review in their entirety at the Louisiana State Board of Cosmetology Office. Persons wishing to make comments on the proposed rules may do so by contacting Frank Schwandt at the above address.

The rules and amendments are for the purpose of making corrections and updating the existing rules.

Frank Schwandt
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Cosmetologists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated cost or savings incurred by this agency or any other governmental unit through the adoption of this rule package.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

With the adoption of this package there is an increase from \$10 to \$15 for an education equivalency test. It is anticipated that 1,500 students will require that test. However, the statute provides that the students are to provide the board with 10th grade equivalency before licensing. Given enrollment numbers from 1989 only 58 percent of students enrolled actually take the board's exam for certification. The anticipated revenue increase will be $1,500 \times .42 \times \$5 = \$3,150$.

There are approximately 293 nursing homes throughout the state, many of which will require licensing by the Louisiana State Board of Cosmetology increasing revenues by an undetermined amount. This amount can not be determined because it is unknown as to how many homes have cosmetology facilities. The per license amount will be \$45 for the first year and \$20 for renewal for each following year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The persons directly affected by the increased \$15 cost of the state written exam will be the students pursuing an initial operator's license. For those students who can not provide proof of a 10th grade education they will be affected by the additional \$5 fee over our present \$10 equivalency exam policy.

Non-governmental groups (Cosmetology Schools) will be required to raise their hour minimum from 500 to 750 hours for the coursework of a cosmetology teacher. By authority of

R.S. 37:506.A(2), a minimum 500 hour curriculum is mandated; however, the majority of schools are currently requiring the 750 hours. This change will benefit low income students by providing an opportunity for federal financial aid.

Shop requirement violations, such as unauthorized personnel, unsanitary conditions, etc., resulting in the shop closure could have a significant financial impact to salon owner, such as loss of income and re-opening expenses.

The two-year work experience requirement for a manager's license will affect only operators receiving an initial manager's license.

Reducing the teacher work experience requirement from three years to eighteen months will have a significant monetary benefit to schools by allowing them to hire teachers with less experience.

The regulation regarding licensing of esthetics teachers will affect only new teachers.

The regulation regarding student hours will have a positive effect on the students by insuring they will not be penalized by any violation of the registration requirement by a school.

The change in minimum equipment requirements for schools may impose additional costs to schools which do not already have the required equipment.

The regulation that schools have tiled work floors will affect one school. That school will incur costs in replacing flooring.

The regulation regarding toilet facilities may impose additional costs to initial shops, if they were not already planning toilet facilities.

The regulation handbook will impose a nominal fee for students and operators.

The regulation requiring schools approval for transfers will make it more difficult for students to transfer to another school while owing the original school. This should help lower default rates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The change in the teacher curriculum requirements will equalize the competition between schools that require 500 hours and schools requiring 750 curriculum hours. There will be a positive effect to employment by having better qualified teachers providing more quality education for licensees.

Frank Schwandt
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Racing Commission

Testing for Dangerous Substance Abuse

Pursuant to the authority contained in R.S. 49:950 et seq., the Louisiana State Racing Commission amended the above captioned rule effective Thursday, January 25, 1990. This rule can be viewed in its entirety in the Emergency Rule Section of this *Louisiana Register*.

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

**Chapter 17. Corrupt and Prohibited Practices
§1791. Testing for Dangerous Substance Abuse**

The commission found it necessary to amend this rule to tighten its enforcement of the human drug testing procedures now being enforced at the race tracks. This should help keep drug abuse at the tracks to a minimum.

Pursuant to R.S. 4:141 et seq. and, particularly, R.S. 4:142 stating the legislative purpose of the racing statute, it is incumbent upon the Louisiana State Racing Commission to adopt this drug testing rule.

Interested persons may submit written comments to the following address: Thomas L. Trenchard, Jr., Administrative Services Assistant, 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111. He is the person responsible for responding to inquiries regarding this proposed rule.

Claude P. Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Testing for Dangerous Substance Abuse

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The commission is hiring a drug program evaluator, on contract, at a cost of \$300 per week for the balance of the current fiscal year (total of \$5,700 for FY 89-90). It is planned to have the contract renewed each fiscal year at the same cost rate (\$15,600 per FY).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The effect on revenue collections is minimal. The proposed rule change states that the commission shall suspend, where previously the commission had the option to suspend and/or fine the violator. Since fining a violator is no longer an option those funds cannot be collected. There have been only few, if any, monetary penalties up to this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits horsemen and patrons by assuring that licensed personnel, jockeys, exercise riders etc., are free from illegal drugs and mood altering substances which have not been legally prescribed by licensed physicians. The effect on these individuals, should there be a rule violation, would be the chance of losing potential income as a result of being suspended (barred from the tracks) and not being able to work. There is no way to measure the degree of potentially lost income. This version of the rule is more stringent than previous versions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on employment would be as described in III, due to rule violation and a resulting suspension, thereby rendering the individual unable to work (on the track) for the duration of the suspension.

Claude P. Williams
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Policy on Expenditure of Public Education Monies

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the following policy establishing accountability for the allocation and expenditure of public education monies:

5.00.05(a) All expenditures allocating or obligating public education funds, in particular all state and federal monies, shall be allocated and expended in compliance with applicable federal and state laws, regulations and policies. Any public employee of the Office of the State Board of Elementary and Secondary Education or the State Department of Education who recommends or authorizes contract awards and/or expenditure of funds knowingly to be in violation of federal and state laws and/or BESE regulations or policies shall be subject to disciplinary action, including dismissal from employment.

5.00.05(b) The accompanying executive summary for all contracts and allocations for funds submitted to the State Board of Elementary and Secondary Education for approval shall bear the following language and shall be signed by the appropriate submitting BESE/SDE personnel:

"I have reviewed the attached contractual and/or fiscal commitment and certify that the proposed expenditure is in compliance with all applicable federal and state laws and regulations and BESE policy. I am aware that I am subject to disciplinary action if my assurance is knowingly in violation of public laws or BESE policy."

5.00.05(c) All contracts and allocations for funds submitted to the State Board for approval shall bear the following language:

"I have reviewed the attached contractual and/or fiscal commitment and am in agreement with all provisions set forth within. Based upon information and belief everything delineated within this contract or allocation is in keeping with all applicable federal and state laws and regulations and BESE policy."

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., April 10, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Accountability of expenditure of public funds.**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The cost to the state will be approximately \$50 in copying and disseminating this rule. Otherwise there will be no implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs and or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment. The only impact which may arise is the dismissal of an employee not adhering to the policy.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Computer Literacy to be Offered in Elementary Grades

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board approved the implementation of computer literacy being offered in the elementary grades rather than the secondary, with the revision to be phased in over the next two years. This is an amendment to Bulletin 741, page 67 to add the following standard and procedural block:

After Standard 2.090.05, add a standard to read:

“By completion of the eighth grade, students shall have received a minimum of one semester of instruction in computer literacy.”

Add as a procedural block:

“School Systems shall implement the standard prior to the 1992-93 school year. Each school system shall determine the grade level and the subject area in which computer literacy shall be taught”.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., April 10, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Implementation of Computer Literacy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that approximately \$100 would be needed to reprint page 67 of Bulletin 741 and to disseminate this information to local school systems.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collection at the state or local level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There should be no effect on costs or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revised Procedures for Appeals to BESE
to Include Chronological Age Waivers

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an addendum to Section 1.00.40.c of the Revised Procedures for Appeals to BESE to include Chronological Age Waivers, to begin with the 1990-91 school year:

Add to Section 1.00.40.c

Chronological Age Waivers

The Department of Education may waive chronological age requirements based upon the following:

a. A request from the parish or system superintendent for deviation of the standard on the required form provided by the Office of Special Educational Services.

b. A letter from the parish or system supervisor/director of special education stating a rationale for the deviation and assuring that parents have been made aware through documented notification procedures of the deviation from standard.

c. Technical assistance will be provided by the regional coordinator and a recommendation on the request will be made to the Office of Special Educational Services.

d. The OSES will notify the city or parish systems or schools of the recommendation.

e. If denied, the city or parish systems may ask for a waiver from the Board of Elementary and Secondary Education.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., April 10, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Chronological Age Waivers of Bulletin 741 Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Office of Special Educational Services currently spends approximately \$24,960 in federal funds per year in-

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Education's Rules for the Administrative
Code**

vestigating local school system requests for chronological age waivers. Adoption of these procedures regarding chronological age waiver requirements will not impact implementation costs or savings to state or local governmental units. Chronological age waivers have been authorized since 1979. During 1988-89, 237 chronological age waivers were granted to local school systems. Assuming that 237 fewer classroom teachers were required, state savings could be estimated at \$3,936,850 and local savings could be estimated at \$533,822 as a result of fewer special education classrooms due to waivers being granted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental agencies.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The Office of Special Educational Services will continue to be responsible for investigation and review of each request for waiver of Standard 2.037.01 of Bulletin 741. No new workload or paperwork will be required of local education agencies or the Office of Special Educational Services since these procedures have been in effect since 1979.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Because approval of age waivers would reduce the number of teachers that would be needed for classes, employment would be effected.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a one-time printing cost of approximately \$15,000 for printing the Board of Elementary and Secondary Education's previously advertised policies in a bound copy for inclusion in the Administrative Code. The *Louisiana Register*, through the Division of Administration has funds in its current year budget for printing the document(s).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Em Tampke
Executive Director

John R. Rombach
Legislative Fiscal Officer

Graig A. Luscombe
Deputy superintendent

John R. Rombach
Legislative Fiscal Officer

**NOTICE OF INTENT
Board of Elementary and Secondary Education**

**Title 28
EDUCATION
Part I. Board of Elementary and
Secondary Education**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education, pursuant to 49:954.1 of the Louisiana Revised Statutes, proposes to adopt Title 28, Part 1 which contains the board's existing rules and policies which have been converted and edited for admission into the Louisiana Administrative Code. Copies of Title 28, Part 1 of the Louisiana Administrative Code may be seen in the Office of the State Register or in the Office of the Board of Elementary and Secondary Education located in Room 104 of the Education Building in Baton Rouge, Louisiana. Copies of the document may be obtained from the Office of the State Register after final adoption and printing.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., April 10, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Independent Certification of
Student Count for MFP Funding

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education rescinded previous action on September 28, 1989 and adopted the following policy regarding independent certification of the student count submitted to the State Department of Education for MFP funding which will be implemented with the 1990-91 school year.

BESE Policy 5.01.41.a(2)

Reporting documents submitted by the local city and parish school systems shall be in accordance with the rules and regulations of the State Department of Education and the Louisiana Revised Statutes that pertain to the Minimum Foundation Program. This information is to be tested by the independent auditor(s) of the local city and parish school systems for compliance. The independent auditor(s) shall provide both positive and negative assurance that the student count and other information provided by the local city and parish school systems is free of material misstatements. Arrangements for providing this test of information shall be included in the engagement agreement for audit services.

This revised policy supersedes the policy previously advertised in the November, 1989 issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., April 10, 1990 at the following address: State Board of Elementary and

Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Independent Certification of the Student
count**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the implementation costs of this rule for the 66 local school systems will be approximately \$99,000 statewide. The additional cost will be a direct result of additional work to be performed by the Legislative Auditor or public accounting firms in the scope of the audit of local school systems. The estimate is based upon an average implementation cost of \$1,500 per system. This cost will vary per system based upon the number of schools and the number of students served by the individual system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Presently the Legislative Auditor audits 35 local school systems. Based upon the above estimate, the Legislative Auditor will collect an additional \$52,500 from local school systems which contract for auditing services. Public accounting firms will collect the remaining \$46,500 of revenues generated by this rule. There will be no effect on revenue collections of any local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Economic benefits resulting from this rule will accrue to the Legislative Auditor and public accounting firms in the form of payment for work performed on certification of the student count.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Air Quality and Nuclear Energy**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III. Chapter 27, Asbestos-containing Materials in Schools and Public Buildings.

These proposed revisions will change the accreditation period from the January 1 through December 31 to September

1 through August 31 of the following year. The change improves the department's ability to collect and utilize fees, and to improve compliance enforcement. Typographical errors in the chapter are also corrected.

These proposed regulations are to become effective on April 20, 1990, or as soon as thereafter practical upon publication in the *Louisiana Register*.

A public hearing will be held on March 6, 1990, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Wednesday, March 7, 1990, at 4:30 p.m., to Joan Albritton, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804. Commentors should reference this proposed regulation by the Log Number AQ07. 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, Sixth Floor, 333 Laurel Street, Baton Rouge, LA.

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.

Mike McDaniel
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 33:III.Chapter 27**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Additional cost to state is less than \$1,000 for reissuing accreditation certificates on September 1st. of first year's implementation. No local government costs are expected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No local government or state revenue changes will occur.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No cost or economic benefit to the regulated community.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition or employment.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor Division of Administration Office of State Uniform Payroll

Title 4 ADMINISTRATION Part III. Payroll

Chapter 1. Payroll Deductions

§101. Definitions

Administrative Contract is a contractual agreement entered into by the state with a company or corporation which meets or exceeds the requirements to manager a cafeteria plan.

Annual Listing referenced herein shall be the list maintained by the Office of State Uniform Payroll of Letters of Interest from which payroll deduction applicants may be selected.

Applicant referenced herein shall be any company, corporation, or organization selected from the annual listing to make application to be approved as a vendor for state payroll deduction.

Authorized Cafeteria Plan is one which has been entered into by the state with companies and/or corporations that meet or exceed the requirements of R.S. 42:455.

Control Number is the three digit identifier in UPS which serves as a key for processing and reporting. It may represent a single agency or a group of agencies.

Coordinator is a vendor representative who provides a single contact for communication between the vendor and the Office of State Uniform Payroll and systems independent of UPS.

Deduction shall be defined as any voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute.

Department/Agency as referenced herein shall be any one of the 20 major departments of state government or any subdivision thereof or any state university.

General Insurance Vendors are those insurance companies which market, through payroll deduction, non-tax qualified life and health insurance or annuity products.

Governing Board as referenced herein shall mean any one or all of: Board of Regents; Board of Supervisors of Louisiana State University Agricultural and Mechanical College; Board of Supervisors of Southern University; and The Board of Trustees for State Colleges and Universities.

Letter of Interest shall be defined as written notification (Form SED-1) from a company, corporation, or organization requesting an opportunity to become an applicant for payroll deduction authorization.

Non-Insurance Vendor is any vendor that offers a product or service that is not provided under definition of a general insurance vendor.

Organization as referenced herein shall be any charitable group qualified under Federal Code 501(c)(3), state agency credit unions, labor union councils, or other deduction "permitted" by state statute.

Payroll Reporting Number (PRN) is the eight digit number currently used in UPS to identify a payroll group - usually an agency; PRN replaced the six digit budget unit number.

Permitted deductions are allowed by state statute rather than mandated.

Provider shall be defined as the individual or organization which renders services, provides goods, or guarantees delivery.

Reconciliation referenced herein refers to the resolution of differences resulting from a monthly match or comparison of vendor accounts receivable/invoice records to the state deduction/remittance records.

Office of State Uniform Payroll is the section within the Division of Administration primarily responsible for the Uniform Payroll System and administration of the rules governing state employee payroll deductions.

Third Party is defined as any agent for or representative of a provider.

University is any one of the state higher education facilities which falls under the jurisdiction of appropriate "governing board."

UPS is the state Uniform Payroll System.

Vendor referenced herein shall be any company, corporation, or organization having met the requirements of this rule and participating in payroll deduction.

Voluntary Deduction shall be defined as any deduction which the employee is free to accept or decline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§103. Application Process

A. Application shall be made by the company, corporation, or organization which is the provider of coverage, product, service, or recipient of monies and shall be signed by two officers of the applicant company, corporation or organization.

B. Applications for the purpose of providing deductions for IRA'S are not permitted.

C. Any applicant requesting authority to implement a payroll deduction shall submit a completed application form to the Office of State Uniform Payroll. Companies requesting application for any state university shall submit the application to the governing board for that university. The application shall:

1. be submitted on currently approved Application (Form SED-2);

2. include certification (Form SED-3) from the secretary or undersecretary of the requesting department or university chancellor that said applicant has provided evidence that the vendor does meet the requirement of R. S. 42:455: that said deduction will not represent a duplication of product or service of comparable value already provided by payroll deduction: that there is a recognized need for same: and that a reasonable evaluation of the product/service was made by the department which substantiates the request: and that the applicant has been advised of the statute and the rule governing payroll deductions;

3. indicate whether the request is for participation within a specific agency, or campus by choice (ability to service or applicability), or for statewide authority limited to certain payroll system(s);

4. include Letter of Interest (Form SED-1) requesting to be placed on the Annual Listing for consideration for statewide authority (if current authority is limited) for next available deduction authorization;

5. designate a "coordinator" to represent the vendor as primary contact for: obtaining solicitation authorization for the vendor; dissemination of information and requirements among representatives presenting the product or service(s) to state employees; resolution of invoicing, refund, and reconciliation problems; and resolving claims problems for employees.

6. respond to all applicable terms (designated in instruc-

tions) on the form (SED-2) for new and annual renewal applications.

D. IntraAgency deductions for meals, housing, etc., will be permitted, provided the respective department head(s) certify that collection of funds from employees is required by and is a benefit to the agency/department.

E. All vendors shall file annual renewal applications with the Office of State Uniform Payroll or governing board as scheduled by that office.

F. Annual Listing shall be maintained by the Office of State Uniform Payroll as follows:

1. Each year as of July all entries to the Annual Listing resulting from Letters of Interest dated prior to April of the current year shall be stricken from the list.

2. A new list for the ensuing year shall be compiled from any Letters of Interest (Form SED-1) dated and received after April.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§105. Applicant and Vendor Requirements

A. Any applicant for payroll deduction which is not regulated by the Department of Insurance or federal or state Office of Financial Institutions and not permitted by state statute, except charitable organizations, shall:

1. possess appropriate license or other required certification for providing the particular product or service for a fee;

2. have been doing business in this state for not less than five years providing the product and/or services anticipated to be offered state employees;

3. be in compliance with all requirements of any regulatory and/or supervisory office of board charged with such responsibility by state statute or federal regulations;

4. provide a fidelity bond of \$100,000; an irrevocable pledge of a Letter of Credit in the amount of \$100,000; or an irrevocable pledge of Certificate of Deposit in the amount of \$100,000 to protect the state and any officer or employee from loss arising out of participation in the program or plan offered by the vendor. The company providing the bond shall be rated "A" or above by A. M. Best.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§107. Notification, Implementation, and Transition

A. 1. The Office of State Uniform Payroll or governing board shall notify applicants whether application, initial or renewal, has been approved.

2. The Office of State Uniform Payroll shall notify all UPS agencies and other departments and university governing boards that the application has been approved; governing boards shall notify universities.

3. Payroll systems independent of UPS will advise vendors whether the deduction will be established.

B. The vendor may elect to enroll employees for a bi-weekly or semi-monthly deduction amount, provided the invoicing cycle is in agreement with the deduction mode as authorized by the Office of State Uniform Payroll or governing board prior to implementation of the deduction. Vendors granted deduction authority on UPS after September 1, 1986 will be permitted to

use only semi-monthly deduction amounts. Payroll systems independent of UPS which permit monthly deductions may continue same.

C. Any vendor receiving payment through voluntary state employee payroll deductions on the effective date of this rule shall continue to be approved as a vendor under the following conditions:

1. has a currently approved application on file, provided:
a. general insurance vendors have met the rating requirements set forth in R. S. 42:455 B;

b. non-insurance vendors shall have met the requirements set forth in this rule as required in R. S. 42:455 B;

c. participation shall exceed 250;

d. proper monthly reconciliation is being accomplished.

2. All other permitted deduction vendors have filed application for informational purposes.

D. Vendors currently participating in payroll deduction which do not meet the minimum requirements set forth in R. S. 42:455 A or are not in compliance with the requirements of this rule within six months of the effective date of this rule will be denied deduction privileges.

E. Vendors will be allowed eighteen months after initial approval to meet the minimum participation requirements. Vendors currently participating in payroll with less than 250 participants must meet this requirement within six months or deduction authority will be revoked.

F. Companies, corporations, or organizations which have been placed on any waiting list for consideration of payroll deduction participation shall not be exempted from compliance with any part of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§109. Deduction Authorization

A. Vendors not exempted in §109. F of this Rule shall provide and use the standard deduction authorization format (Form SED-4) authorized by the Division of Administration.

1. The form provided by the vendor shall be no less than eight and one-half inches in width nor eleven inches in length with a top margin (top of page to top of blocked area) of one and one-eighth inches.

Within a blocked area (27/8" × 6 1/2") the form as illustrated herein shall include:

a. the employee name and Social Security Number;

b. the employer (agency) name and PRN or other appropriate I.D.;

c. vendor name and payroll deduction code;

d. amount of deduction, frequency, and beginning date;

e. employee signature and date of signature.

3. Space on the form outside the designated blocked area may be used for additional data to identify specific amounts, coverage, etc., provided that such space shall not be used to include any disclaimer or escape clause(s) in favor of the vendor. The authorization shall not stipulate any "contract" or "term of participation" requirements. However, employees may designate a 'cap' or annual maximum for a charitable organization deduction.

4. Vendors that are currently using the form as published in the November 20, 1986, *Louisiana Register* may continue using that form until June 30, 1990. As of July 1, 1990, these forms must be replaced with the currently authorized (Form SED-4).

5. Vendors that are not currently using the form as published in the November 20, 1986, *Louisiana Register* must use only the authorized (Form SED-4) as of July 1, 1990.

B. The authorization must specify the amount of deduction to be taken and the frequency of deduction (biweekly [26 annually] or semi-monthly [24 annually]). All "MS___" deductions in UPS must be semi-monthly only. Payroll systems independent of UPS which currently provide a monthly deduction cycle may continue same.

C. An employee shall have only one deduction (which may cover more than one benefit) authorization for a single vendor effective at any one time. (Total current deduction amount must be included on any new form). The form shall indicate:

1. a total monthly amount and the appropriate biweekly OR semi-monthly amount;
2. the pay period in which the deduction was calculated to begin.

D. Vendors shall be responsible for completing authorization forms prior to obtaining employee signature and for submitting forms to the appropriate payroll office designated by each employing department/agency.

E. Deduction forms must contain appropriate employer identification (PRN or other code/number for non UPS payrolls) to support monthly reconciliation process.

F. State Employee Group Benefits, LA Deferred Compensation, United Way, U. S. "EE" Savings Bond, and Cafeteria Plan deduction authorization forms may be used in lieu of standard deduction (Form SED-4).

G. An employee may discontinue any voluntary payroll deduction amount that is not committed for participation in a current Cafeteria Plan Year by providing written notification of that intent to his or her payroll office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§111. Solicitation of State Employees

A. Employees may be solicited for payroll deduction only:

1. after notification to the vendor and state department/agencies from the Office of State Uniform Payroll, or notification from the governing board for universities, that the application has been approved, and
2. upon written authorization from employer department head and agency administrator.

B. Solicitation of employees shall be conducted within the guidelines established by the employer/department.

C. The coordinator shall be responsible for obtaining solicitation authorization department policy from the department secretary or his designee.

D. Vendors may be barred by a department/agency from solicitation within that department/agency. Vendors may be barred from solicitation statewide by the Office of State Uniform Payroll.

E. Any vendor representative who has been barred from state participation by a vendor shall not be allowed to represent any vendor for payroll deduction for two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§113. Vendor Responsibility

A. Vendor coordinator shall be responsible for dissemination of information such as the requirements of this rule and department/agency policy and procedures to vendor representatives.

B. Vendor shall use invoice/billing identification structure that is compatible with payroll agency control groups to facilitate the monthly reconciliation.

C. Vendors shall be responsible for preparing a reconciliation of monthly payroll deduction/remittances to vendor invoices.

D. Monthly reconciliation shall include total monthly invoice amount, total remittance amount, and a listing of all exceptions between the invoice and deduction/remittance by employees within billing/payroll reporting groups.

E. Monthly reconciliation exception listing shall identify the employee by Social Security Number and payroll reporting number (PRN) and shall be grouped within payroll control numbers for UPS agencies and similarly for payroll systems independent of UPS as designated by that system.

F. Vendors shall furnish evidence of reconciliation to the Office of State Uniform Payroll as requested by that office. Like verification may be required by other payroll systems independent of UPS.

G. Monthly certification of reconciliation will not be required of vendors that provide participants/members with monthly or quarterly statements or activity and/or balances.

H. Vendors failing to provide accurate and timely reconciliation verification will be barred from active solicitation until satisfactory certification is submitted to the Office of State Uniform Payroll.

I. Vendors shall not be authorized to submit any deduction form which was obtained from an employee for the purpose of transmitting any part of that deduction to a third party.

J. Vendors must designate/identify specific products or basic services provided on the application form. Vendors must indicate whether the request (for each product or service) is for continuation/renewal or new/not previously approved for payroll deduction. Vendors shall not add products or services to payroll deduction which are not indicated on currently approved application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§115. Department/Agency Responsibility

A. Department secretary/undersecretary or his designee shall:

1. approve or reject requests for solicitation authorization presented only by designated coordinators of approved vendors;
2. provide vendor coordinators a copy of department policy relative to receipt, processing, and cancellation of payroll deduction forms, as well as guidelines prior to permitting access to employees.

3. certify the use of any IntraAgency deduction to collect funds from employees for meals, housing, etc., is required by and is a benefit to the agency/department;

4. insure that IntraOffice deductions such as flower, gift, and coffee funds will not be authorized.

B. Departments/agencies shall provide the Office of State Uniform Payroll a written report of acts of noncompliance by any

vendor to this rule or to the published guidelines of that department/agency.

C. Payroll personnel of UPS agencies will not refund amounts previously deducted from any vendors which receive consolidated remittance without authority from the Office of State Uniform Payroll. Payroll systems independent of UPS shall establish written policy for remittance and refund of deductions taken.

D. Agency payroll/personnel shall:

1. accept only authorization forms which conform to the standard deduction format (Form SED-4) from vendor representatives;

2. verify that the vendor name and the payroll code on any deduction form submitted are in agreement with the current approved list;

3. accept forms for employee deductions which contain no obvious alterations without employee's written acknowledgment of such change;

4. be responsible for verifying that the deduction amount is in agreement with the monthly amount shown on the authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§117. Reporting

A. Vendors shall promptly report within 10 days of final approval any change in the name, address, company status, principal officers, and designated coordinator to the Office of State Uniform Payroll.

B. Vendors shall provide as required by UPS data disks, mailers, labels, postage, or other supplies necessary to avoid cost to the state in providing deduction information. Like assistance shall be provided to other payroll systems as determined appropriate to control state cost of providing payroll deduction.

C. Annual renewal application shall list specific products/services provided. No new products or services shall be added without prior approval through the annual renewal process.

D. Departments/agencies shall be responsible for reporting any infractions of this rule and/or department policy committed by any vendor or vendor representative to the Office of State Uniform Payroll and/or appropriate governing board or boards.

E. Vendors shall be required to report the dismissal of any representative participating in state payroll deduction to the Office of State Uniform Payroll and/or appropriate governing board or boards.

F. Vendors with deductions "permitted" by statute shall provide annual renewal applications (Form SED-2).

G. Each governing board shall provide the Office of State Uniform Payroll an annual report relative to vendors currently approved for deductions within each system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§119. Fees

A. Data, information, reports, or any other services provided to any vendor or any other party by the Uniform Payroll System or other state payroll system shall be subject to payment

of a fee for the cost of providing said data, information, reports, and/or services in accordance with the Uniform Fee Schedule.

B. Fees assessed shall be satisfied in advance of receipt of the requested data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§121. Termination of Payroll Deduction

A. Unethical conduct or practices of the vendor will result in the termination of payroll deduction authority for that vendor.

B. Unethical or unprofessional conduct of any vendor representative shall result in that individual being barred from participation in state payroll deduction for any vendor.

C. Payroll deduction authority shall be revoked for any vendor that fails to maintain compliance with provisions of R. S. 42:455.

D. Payroll deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§123. General

A. Payroll deduction authorization shall not be transferred.

B. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor.

C. Group Benefits HMO pass-through deductions and credit union reciprocal agreement payments to other state agency credit unions for transferred employees shall be the only exception to §113.E.

D. Administrative responsibilities of this rule shall preclude the Division of Administration from sponsoring applicants for vendor deduction authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

§125. Appeal Process

A. Any vendor participating in payroll deduction debarred from participating for any reason by a department/agency or university shall have the right to have that action reviewed by filing a written request for review with the secretary of the department/agency, or the chairman of the respective governing board. This request for review shall be filed within 10 days from the notice of debarment.

B. A written decision shall be rendered on any request for review within 14 days of receipt.

C. Any vendor who is not satisfied with this decision has the right to appeal to the commissioner of administration. Any such appeal must be in writing and received by the commissioner within 10 days of receipt by the vendor. The commissioner shall issue a written decision on the matter within 14 days of receipt of the written appeal.

D. The decision of the commissioner shall be the final administrative review.

**LETTER OF INTEREST
FOR
PAYROLL DEDUCTION VENDOR**

**DEPARTMENT REQUEST
FOR
PAYROLL DEDUCTION VENDOR**

In accordance with the rule governing payroll deductions Title 4, (Chapter I, §103, C, 4 f, 2), I, _____, NAME TITLE
as duly authorized representative of _____, COMPANY NAME
hereby request that _____ be placed on
the Annual Listing to be considered as an applicant for statewide or
selected area state employee payroll deduction authorization.

This Letter of Interest submitted on behalf of:

A.

COMPANY NAME

ADDRESS

CITY/STATE/ZIP

PHONE (Area/Number/Extension)

To offer:

B.

PRODUCT/SERVICE NAME

Description

Product/Service

I have been advised of the statute and rule which govern payroll deductions for state employees. I attest that the company has been apprised of the requirements for application and deduction participation and has authorized this request. I further attest that the company supports the request, and possesses the capability to meet the reconciliation and/or reporting requirements to maintain the deduction.

Requested By _____
Signature _____
Title _____
Date _____

In accordance with the rule governing payroll deductions, Title 4 (Chapter I, §103, C, 2), I, _____, NAME TITLE
on behalf of the employees of _____, DEPARTMENT
hereby request favorable consideration of a payroll deduction application submitted by:

A. (APPLICANT)

To offer:

B. (PRODUCT(S)
of SERVICE(S))

I further certify: that this request does not represent a duplication of deductions currently available in the payroll system; that a review and/or survey conducted by this department has indicated a need for this particular deduction; that the above named company applicant has provided evidence of having met and/or exceeded all requirements of R. S. 42:455; and has knowledge the requirements of the rule governing payroll deductions.

Department _____
Signature _____
Title _____
Date _____

{ VENDOR NAME HERE }

State of Louisiana Employee Payroll Deduction Authorization		
EMPLOYEE NAME	SOC. SEC. NO.	PAYROLL REPORTING NO.
DEPARTMENT/AGENCY/Section		PAYROLL CODE ■ ■ ■ ■
I hereby authorize my employer to deduct \$ _____ from my salary until further notice and remit same to _____ { Vendor Name Here } Bi-weekly Deduction \$ _____ Semi-Monthly Deduction \$ _____ Monthly Deduction \$ _____ Begin deduction _____ Date _____ EMPLOYEE Signature: _____ Date _____		
(THIS FORM SUPERCEDES AND REPLACES ALL OTHER AUTHORITY FOR THIS DEDUCTION)		

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:763 (November 1986), amended LR 16:

Interested persons may comment on these proposed rules by contacting Frances Toney, Division of Administration, Office of State Uniform Payroll, Box 94095, Baton Rouge, LA 70804-9095. Telephone (504) 342-0718.

Dennis Stine
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Payroll Deduction**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The cost to the state for implementation of this rule is not anticipated to be appreciably more than the costs which are incurred in the administration of the present rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No direct generation of revenue will occur. There should

be a reduction in time loss of employees and administrators due to the elimination of problems by better control over activities and clearer definitions of responsibilities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no anticipated cost or economic benefits that can be quantified at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

State employees should benefit from assurance that the payroll deduction/remittance processes are more closely monitored. Agencies should benefit from a reduction in employee time loss.

Carl V. Berthelot
Deputy Commissioner

David W. Hood
Senior Fiscal Analyst

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

A. - D. ...

E. Application Process

1. Notification of the availability of funds for family fiscal year 1990-91 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 94095, 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, 1990.

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.

Interested persons may submit written comments on the proposed amendment until 4:30 p.m., March 20, 1990 to Glenda Parks, Executive Director, Office of Women's Services, Box 94095, Baton Rouge, LA 70804-9095.

Glenda 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 P. Parks
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Professional Counselors**

The Louisiana Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act R.S. 49:950 et seq., intends to adopt the following rule amendment governing the practice of mental health counseling in the state of Louisiana.

1. The Paragraph of 503(D) of Part LX of Title 46 of the Louisiana Administrative Code is amended so that, as amended, said Paragraph shall provide as follows:

§503. Definitions

A. - C. ...

D. *Practice of mental health counseling* - means rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which include but are not limited to:

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 16:

Interested persons may present their views on the proposed rules in writing at the following address: Susan S. Mayeaux, Executive Director, Licensed Professional Counselors

Susan S. Mayeaux
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: LA Licensed Professional Counsel Board of Examiners Amendment of Act 892

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs (savings) to other state or local governmental units as a result of this proposed amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of other state or local governmental units. There will be no difference in collection of fees for the fiscal years ending on June 30, 1990, 1991, nor 1992.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No costs and/or economic benefits will be felt by other persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition in the private sector.

Susan S. Mayeaux
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health intends to adopt the following rule pursuant to R.S. 40:34(A) to provide instructions for preparing a Louisiana Certificate of Death. The promulgation of the rule is authorized by R.S. 40:33C.

**Title 48
PUBLIC HEALTH - GENERAL
Part V. Preventive Health Services
Subpart 45. Vital Records**

**Chapter 123. Preparation of Certificates
§12307. Preparation of Certificate of Death (PHS 16)**

A. SECTION -- Personal Data of Deceased

1. Last Name of Decedent (Item 1A)

Enter the legal surname of the deceased. If unknown, enter "Unknown." Generation identifications, e.g. Jr., II, III, etc., shall appear immediately following and as a part of the surname. The surname of a married woman may be either her maiden name or that of her husband. Alias or "also known as" names should be entered immediately below the legal name in parenthesis (for example, AKA-Smith).

2. First Name (Item 1B)

Enter the first name of the deceased. If unknown, enter "Unknown." Alias or "also known as" names should be entered immediately below the legal name in parenthesis (for example, AKA-John).

3. Middle Name (Item 1C)

Enter the second name of the deceased. If unknown, enter "Unknown." Alias or "also known as" names should be entered immediately below the legal name in parenthesis (for example, AKA-George). If there is no middle name, enter "none."

4. Date of Death (Item 2A)

Enter the month, day and year using the following abbreviations: Jan., Feb., Mar., Apr., Aug., Sept., Oct., Nov., and Dec. Enter the complete spelling for the months of May, June and July.

Consider a death at midnight to have occurred at the end of one day rather than the beginning of the next. For instance, the date for a death that occurs at midnight on December 31 should be recorded as December 31.

If the exact date of death is unknown, it should be estimated by the person completing the medical certification. "Est." should be placed before the date.

5. Hour of Death (Item 2B)

Enter the hour of death indicating a.m. or p.m. If the institution operates on 24-hour or military time, the hour of death may be so expressed. If the exact hour of death is unknown, it should be estimated by the person completing the medical certification. "Est." should be placed before the hour.

6. Sex (Item 3)

Enter male or female. Do not abbreviate or use other symbols. If sex cannot be determined after verification with medical records, inspection of the body or other sources, enter "unknown." Do not leave this item blank.

7. Race (Item 4)

Enter the race of the decedent as stated by the informant.

For Asians and Pacific Islanders, enter the national origin of the decedent, such as Chinese, Japanese, Korean, Filipino, or Hawaiian.

If the informant indicates that the decedent was of mixed race, enter both races or ancestries. Generic designations of Oriental, Polynesian, European, etc., are not acceptable.

8. Marital Status (Item 5)

Enter married, never married, widowed or divorced. "Single" is not an acceptable entry.

9. Surviving Spouse (Item 6)

If the decedent was legally married at death, enter the name (maiden name in the case of a widow) of the survivor. If the deceased was single at death, enter "None."

10. Date of Birth (Item 7)

Enter the exact month, day, and year that the decedent was born. Enter the date using the following abbreviations: Jan., Feb., Mar., Apr., Aug., Sept., Oct., Nov., and Dec. Enter the complete spelling for the months of May, June and July. If the birth date is an estimation, enter the birth date as "est." then the date. If the birth date is unknown, enter "Unknown."

11. Age in Years (Item 8A)

Enter the decedent's exact age in years at his or her last birthday. If the decedent was under one year of age, leave blank.

12. Under One Year (Item 8B)

Enter the exact age in either months or days at time of death for infants surviving at least one month.

If the infant was 1-11 months of age inclusive, enter the

ENT
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age in completed months.

If the infant was less than one month old, enter the age in completed days.

If the infant was over one year or under one day of age, leave blank.

13. Under One Day (Item 8C)

Enter the exact number of hours and/or minutes the infant lived for infants who did not survive an entire day.

If the infant lived 1-23 hours inclusive, enter the age in completed hours.

If the infant was less than 1 hour old, enter the age in minutes.

14. Birthplace (Item 9)

If the decedent was born in the United States, enter the name of the city or location and state.

If the decedent was not born in the United States, enter the name of the location and country of birth whether or not the decedent was a U.S. citizen at the time of death.

If the decedent was born in the United States but the city or location is unknown, enter the name of the state only. If the state is unknown, enter "U.S.--unknown."

If the decedent was born in a foreign country but the city or location is unknown, enter the name of the country.

If the decedent was born in a foreign country but the country is unknown, enter "Foreign-unknown."

If no information is available regarding place of birth, enter "Unknown."

15. Usual Occupation (Item 10)

Enter the usual occupation of the decedent. This is not necessarily the last occupation of the decedent. "Usual occupation" is the kind of work the decedent did during most of his or her working life, such as claim adjuster, farmhand, coal miner, janitor, store manager, college professor, or civil engineer. Never enter "Retired."

If the decedent was a homemaker at the time of death but had worked outside the household during his or her working life, enter that occupation. If the decedent was a "homemaker" during most of his or her working life, and never worked outside the household, enter "Homemaker."

Enter "Student" if the decedent was a student at the time of death and was never regularly employed or employed full time during his or her working life.

If none of the above are applicable, enter "not applicable" or "na."

16. Kind of Business/Industry (Item 11)

Enter the kind of business or industry to which the occupation listed in 10 is related, such as insurance, farming, coal mining, hardware store, retail clothing, university, or government. Do not enter firm or organization names.

If the decedent was a homemaker during his or her working life, and "Homemaker" is entered as the decedent's usual occupation in item 10, enter "Own home" or "Someone else's home," whichever is appropriate.

If the decedent was a student at the time of death and "Student" is entered as the decedent's usual occupation in item 10, enter the type of school, such as high school or college, in item 11. If none of the above are applicable, enter "Not Applicable" or "NA."

17. Of Hispanic Origin? (Item 12)

Check "No" or "Yes." If "Yes" is checked, enter the specific Hispanic group. Item 12 should be checked on all certificates. Do not leave this item blank. The entry in this item should reflect the response of the informant.

For the purposes of this item, "Hispanic" refers to people whose origins are from Spain, Mexico, or the Spanish-speaking countries of Central or South America. Origin can be viewed as the ancestry, nationality, lineage, or country in which the person or his or her ancestors were born before their arrival in the United States.

There is no set rule as to how many generations are to be taken into account in determining Hispanic origin. A person's Hispanic origin may be reported based on the country of origin of a parent, a grandparent, or some far-removed ancestor. The response should reflect what the decedent considered himself or herself to be and should not be based on percentages of ancestry.

If the decedent was a child, the parent(s) should determine the Hispanic origin based on their own origin. Although the prompts include the major Hispanic groups of Cuban, Mexican, and Puerto Rican, other Hispanic groups may also be identified in the space provided.

If the informant reports that the decedent was of multiple Hispanic origin, enter the origins as reported (for example, Mexican-Puerto Rican).

If an informant identifies the decedent as Mexican-American or Cuban-American, enter the Hispanic origin as stated.

This item is not a part of the Race item. A decedent of Hispanic origin may be of any race. Each question, Race and Hispanic origin, should be asked independently.

18. Ever in U.S. Armed Forces (Item 13)

Enter yes or no in the blank.

19. Social Security Number (Item 14)

Enter the social security number of the decedent. If it is unknown, enter "unknown."

20. Decedent's Education (Item 15)

Elementary/Secondary (0-12)--College (1-4 or 5+)

Enter the highest number of years of regular schooling completed by the decedent in either the space for elementary/secondary school or the space for college. An entry should be made in only one of the spaces. The other space should be left blank. Report only those years of school that were completed. A person who enrolls in college but does not complete one full year should not be identified with any college education in this item.

Count formal schooling. Do not include beauty, barber, trade, business, technical, or other special schools when determining the highest grade completed.

B. SECTION -- Place of Death

1. Place of Death (Item 16A)

Check appropriate box.

2. Name of Facility (Item 16B)

Hospital or facility deaths:

If the death occurred in a hospital or other facility, enter the full name of the hospital or facility.

If death occurred en route to or on arrival at a hospital, enter the full name of the hospital. Deaths that occur in an ambulance or emergency vehicle en route to a hospital are in this category.

Non-hospital or non-facility deaths:

If the death occurred at home, enter the house number and street name.

If the death occurred at some place other than those described above, enter the number and street name of the place.

If the death occurred on a moving conveyance, enter the name of the vessel, for example, "S.S. Emerald Seas (at sea)" or

“Eastern Airlines Flight 296 (in flight).”

3. Place of Death in City Limits? (Item 16C)

Enter “yes” or “no” as appropriate.

4. City, Town or Location of Death (Item 17A)

Enter the full name of the city, town, village or location where death occurred regardless of size.

If the death occurred on a moving conveyance and the body was first removed from the conveyance in this state, complete a death certificate and enter as the place of death the address where the body was first removed from the conveyance but also enter in parenthesis the actual place of death insofar as it can be determined.

5. Parish of Death (17B)

Enter the name of the parish in full. If the death occurred on a moving conveyance, enter the name of the parish where the decedent was first removed from the moving conveyance.

C. SECTION -- Residence

1. Street Address (Item 18A)

Enter the number and the street name of the place where the decedent lived. If the place has no number and street name, enter the rural route number or box number.

2. Parish of Residence (Item 18B)

Enter the name of the parish/county in which the decedent lived.

3. State of Residence (Item 18C)

Enter the name of the state of residence. This may be different than the state in the mailing address. If the decedent was not a resident of the United States, enter the name of the country and the name of the unit of government that is the nearest equivalent of a state.

4. Usual Residence of Decedent (Item 18D)

Enter the full name of the city, town or location in which the decedent lived. This may differ from the city, town or location in the mailing address.

5. Zip Code (Item 18E)

Enter the Zip Code of the place where the decedent lived. This may differ from the Zip Code used in the mailing address.

6. Residence Inside City Limits (Item 18F)

Enter “yes” or “no” as appropriate.

D. SECTION -- Parents

1. Father's Last Name, First, Middle (Item 19A)

The name of the father shall refer to the husband of the mother of the deceased, unless the biological father had formally acknowledged or legitimated the deceased prior to his/her death. Enter the last, first and middle name of the father. If the father had no middle name, enter “none.” If not known, enter “unknown.”

2. Father's Place of Birth (Item 19B)

Enter the name of the city or location where the father was born. If unknown, enter “Unknown.”

3. Father's Place of Birth - State (Item 19C)

Enter the name of the state where the father was born. If born outside of the United States, enter the name of the country. If not known, enter “Unknown.”

4. Mother's Maiden Name, First, Middle (Item 20A)

The maiden surname of the mother is the name given at birth or adoption, not a name acquired by marriage. If the name is not known, enter “unknown.” If there is no middle name, enter “none.” If the middle name is unknown, enter “unknown.”

5. Mother's Place of Birth (Item 20B)

Enter the name of the city or location where the mother was born. If unknown, enter “unknown.”

6. Mother's Place of Birth -- State (Item 20C)

Enter the name of the state where the mother was born. If born outside of the United States, enter the name of the country. If not known, enter “unknown.”

E. SECTION -- Informant

1. Informant's Name (Item 21A)

Type or print the name of the person who supplied the personal facts about the decedent and his or her family.

In the event that the information is taken from the institutional records, the entry shall indicate (“name of institution” records and the name of the person extracting the information.)

2. Informant's Address (Item 21B)

Enter the complete mailing address of the informant whose name appears in item 21A. Be sure to include the zip code.

3. Date (Item 21C)

Enter the date that the informant provided the information.

F. SECTION -- Cause of Death

1. Cause of Death (Item 22 Part I) Enter the diseases, injuries or complications that caused the death. Do not enter the mode of dying such as cardiac or respiratory arrest. Enter only one cause on each line followed by the approximate interval between onset and death.

2. Other Significant Conditions (Item 22 Part II) All other important diseases or conditions that were present at the time of death and that may have contributed to the death but did not lead to the underlying cause of death listed in Part I should be recorded.

3. If Deceased was Female 10-49, was She Pregnant in the Last 90 Days? (Item 23)

Check yes, no or unknown, or leave blank if not applicable.

4. Was An Autopsy Performed? (Item 24A)

Enter yes or no.

5. Were Autopsy Findings Available Prior to the Completion of Cause of Death? (Item 24B)

Enter yes or no.

6. Manner of Death (Item 25)

Complete this item for all deaths. Check the box corresponding to the manner of death. Deaths not due to external causes should be identified as “Natural.” Usually, these are the only types of deaths a physician will certify. “Pending investigation” and “Could not be determined” refer to coroner cases only.

If the manner of death checked in item 25 is anything other than natural, items 26a-f must be completed.

7. Date of Injury (Item 26A)

Enter the exact month, day, and year that the injury occurred. Enter the full name of the month, a standard abbreviation or a numeric value. If the exact date is not known, enter an estimated date (enter “est.” before the date).

The date of injury may not necessarily be the same as the date of death.

8. Time of Injury (Item 26B)

Enter the time of injury (hours and minutes) according to local time. If daylight saving time is the official prevailing time where death occurs, it should be used to record the time of death. Be sure to indicate whether the time of death is a.m. or p.m.

Enter 12 noon as “12 noon.” One minute after 12 noon is entered as “12:01 p.m.”

Enter 12 midnight as “12 mid.” A death that occurs at 12 midnight belongs to the night of the previous day, not the start of

the new day. One minute after 12 midnight is entered as "12:01 a.m." of the new day.

If the exact time of death is unknown, the time should be estimated by the person who pronounces the body dead. "Est." should be placed before the time.

9. Injury at Work (Item 26C)

Enter yes or no.

10. Describe How Injury Occurred (Item 26D)

Enter a brief description of how the injury occurred. As examples: "shot in robbery," "fall from catwalk," "electrocuted installing wiring," "crushed by falling beam," etc.

11. Place of Injury (Item 26E)

Specify where the injury occurred.

12. Location (Item 26F)

Enter the complete address where the injury took place.

G. SECTION -- Certifier

This section is to be completed only by the physician or coroner.

1. Certification of Attendant (Item 27A)

Enter dates of medical attendance of deceased if appropriate. In accordance with R.S. 40:49B(5), if the death occurred more than 10 days after the decedent was last treated by a physician, the case shall be referred to the coroner for investigation to determine and certify the cause of death.

2. Signature of Physician or Coroner (Item 27B)

The person legally responsible shall sign in the space in permanent black ink indicating professional status, i.e., M.D. or coroner. The physician or coroner shall limit his signature to the space provided. NOTE: This section shall only be completed by the attending physician or coroner (including assistants) certifying death. No one else may sign for him and facsimiles or stamps shall not be acceptable.

If accident, suicide or homicide is checked, the signature shall be that of the coroner or his assistant in the parish where death due to external violence occurred.

3. Date (Item 27C)

Enter the date that the certification statement was completed.

4. Type or Print Name of Physician or Coroner (Item 27D)

The name of the physician or coroner certifying the death shall be typed (or printed) in permanent black ink.

5. Address of Physician or Coroner (Item 27E)

Enter the street address, city and state of the attending physician or coroner.

H. SECTION -- Funeral Director

This section is to be completed by the funeral director or a person authorized to act in behalf of the funeral director.

1. Method of Disposition (Item 28A)

Check the appropriate block. If "other" is checked, specify method of disposition.

If the decedent was removed from the state and the cemetery or crematorium name and location are known, check burial or cremation and enter appropriate name and location in 28C. If decedent was removed from this state and the name and location of the crematorium or cemetery are unknown, check "removal."

2. Date Thereof (Item 28B)

Enter the date in the specified format.

3. Name and Location of Cemetery or Crematorium (Item 28C)

Enter the official name, address or location, including city or location and state of the cemetery or crematorium where final

disposition is to be made.

4. Signature and Address of Funeral Director (Item 29A)

The funeral director or person authorized to act in behalf of the funeral director, or other person managing the body shall sign in black, permanent ink and include the establishment name and the business address.

5. Facility Number (Item 29B)

Enter the facility license number.

6. License Number (Item 29C)

Enter the license number of the funeral director or funeral director/embalmer who signed the death certificate.

I. SECTION -- Registrar

1. Burial Transit Permit (Item 30A)

The number of the Burial Transit Permit is entered here by the local registrar or special agent issuing it at the time of issuance. Note that permits are only issued upon presentation of a properly completed Death Certificate. However, if a funeral director presents a Death Certificate completed to the limits of his ability and resources and for reasons beyond his control he is unable to submit an entirely completed Death Certificate, a permit shall be issued. The permit is issued with the provision and understanding that the funeral director will present a completed document as soon as humanly possible. In the event that the funeral director abuses his privilege, the privilege will be withdrawn.

2. Parish of Issue (Item 30B)

Enter the parish name in full where the permit was issued.

3. Date of Issue (30C)

Enter the date that the Burial Transit Permit was issued.

4. Signature of Local Registrar (Item 31)

Enter the signature of the local registrar of the parish where the certificate is filed. The signature shall be in permanent black ink.

5. Alterations (Item 32)

Enter annotations to document the reason for an alteration which occur after a death certificate is filed with either the local registrar or in the state registry. The annotations should indicate the evidentiary basis for alteration, the date of the alteration and the signature of the official who altered the certificate.

Interested persons may submit written comments at the following address: William H. Barlow, Director and State Registrar, Division of Records and Statistics, DHH-OPH, Box 60630, New Orleans, LA 70160.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Preparation of a Certificate of Death**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment modifies an existing rule to eliminate conflicts created by the implementation of a new Certificate of Death in April of 1989. There is no anticipated implementation costs (savings) to state or local government other than costs inherent in the rulemaking process.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated impact on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no anticipated costs and/or economic benefits to directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Dr. Joel L. Nitzkin, M.D., M.P.H., John R. Rombach
D.P.A., Assistant Secretary Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the laws of the state of Louisiana, R.S. 40:4, 40:5, and the provisions of Chapter XIII of the Louisiana Sanitary Code, the state health officer is proposing that the following amendment to the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes--Acceptable Units" be made:

Amend the listing to cause to reflect a superseding corporate entity in lieu of a currently listed manufacturer of mechanical wastewater treatment plants, specified as follows:

MANUFACTURER	PLANT DESIGNATION	RATED CAPACITY
*Delta Fiberglass and Environmental Products, Inc. P.O. Box 969 Denham Springs, LA 70727-0969 (504) 665-1666	Models HU-0.5 HU-1.0 HU-1.5	500 GPD 1000 GPD 1500 GPD
*(NOTE: Formerly "Delta Process Equipment, Inc.")	HU-0.5D HU-1.0D HU-1.5D	500 GPD 1000 GPD 1500 GPD

This amendment to the listing is necessitated in view of the assumption of certain business interests of Delta Process Equipment, Inc. (a currently listed manufacturer) by Delta Fiberglass and Environmental Products, Inc. (the superseding corporate entity).

The specified change is in compliance with the requirements set forth in Section 6.6 of Appendix A of Chapter XIII of the Louisiana Sanitary Code.

Comments regarding the proposed rule should be addressed to Joseph D. Kimbrell, Deputy Assistant Secretary-Programs, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160. A public review hearing will be held on March 1, 1990 at 10 a.m. at 325 Loyola Avenue, Room 511, New Orleans, LA to hear comments on the rule.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: "Mechanical Wastewater Treatment Plants for Individual Homes-- Acceptable Units;" Amended Listing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs. This proposed rule merely amends the listing of manufacturers of acceptable mechanical wastewater treatment plants for individual homes.

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)

No estimated costs and/or economic benefits are projected to accrue to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected, adversely or otherwise, as a result of this rule.

Joel L. Nitzkin, M.D., M.P.H., John R. Rombach
D.P.A., Assistant Secretary Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Section 1919 (h)(2)(A)(ii) of the Social Security Act requires that a civil money penalty be assessed and collected, with interest, for each day in which the facility is or was out of compliance with federal, state and Department of Health and Hospitals' requirements. Under this statute, the state is required to adopt criteria specifying when and how such remedy is to be applied effective October 1, 1989.

Under prior policy established by R.S. 40:2009.1 and 40.2009.11, civil fines of \$100 per day for the first violation and \$1,000 per day for confirmed repeat violations for each day that such violations continue are authorized.

In order to properly administer application of these fines, the Department of Health and Hospitals establishes guidelines concerning severity of violations and other factors which will be considered in assessment of civil fines.

PROPOSED RULE

The Department of Health and Hospitals establishes guidelines concerning factors which will be considered in assessment of civil fines. Specific classifications of violations are defined as follows:

Class A - Violations which create a condition or occurrence relating to the operation and maintenance of a nursing facility which results in death or serious harm to a resident.

Class B - Violations which create a condition or occurrence relating to the operation and maintenance of a nursing facility which created a substantial probability that death or serious physical harm to a resident will result from the violation.

Class C - Violations that create a condition or occurrence relating to the operation and maintenance of a nursing home facility which create a potential for harm by directly threatening the health, safety, rights, or welfare of a resident.

Class D - Violations related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a resident.

Class E - Failure of any nursing facility to submit a statistical or financial report in a timely manner as required by regulation.

A copy of the complete set of regulations may be viewed at the Office of the State Register, 900 Riverside North, Baton Rouge, LA, or may be obtained by writing the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095, or by calling (504) 342-5015.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on March 7, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Classifications of Civil Fines**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost will be \$100 for manual revisions and provider notification, of which \$50 is the projected cost to the state for FY 89/90.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs associated with adoption of this proposed rule will result in increased revenues of \$50 for the provision of manual materials and provider notification.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed rule will have no economic impact on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

In accordance with R.S. 39:950 et seq., the Administrative Procedure Act, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing intends to adopt a rule in the Medical Assistance Program. This rule can be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

This rule was previously adopted under Emergency Rule-making Provisions of R.S. 49:953 B effective September 14, 1989 and published in the *Louisiana Register*, Vol. 15, No. 10 on October 20, 1989.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on March 7, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Eliminate Closed Restricted Drug Formulary

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of Act 403 of the 1989 Legislature will result in a cost to the state of \$5,680,911 for FY 89/90, \$7,793,206 for FY 90/91, and \$8,380,910 for FY 91/92.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Under this rule, elimination of the closed restricted drug formulary will result in increased federal funding of \$15,059,912 in FY 89/90, \$22,342,933 in FY 90/91, and \$24,459,646 in FY 91/92.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Economic benefits to recipients in need of medications under this provision are estimated to be \$20,740,823 in FY 89/90, \$30,136,139 for FY 90/91, and \$32,840,556 for FY 91/92.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Section 1919 (h)(2)(A)(ii) of the Social Security Act requires that a civil money penalty be assessed and collected, with interest, for each day in which the facility is or was out of compliance with federal, state and Department of Health and Hospitals' requirements. Under this statute, the state is required to adopt criteria specifying when and how such remedy is to be applied effective October 1, 1989.

Prior to adoption of Section 1919 (h)(2)(A)(ii) of the Act, nursing facilities violating any state or federal regulation or Department of Health and Hospitals rule where such violations posed a serious threat to the health, safety, rights, or welfare of a nursing home applicant/recipient were liable for civil fines in addition to any criminal action which may have been brought under other applicable law. The facility was afforded the right to request an administrative hearing and judicial review.

Under this rule, the mandatory provisions of the statute are adopted. The following provisions are incorporated into the bureau's regulations.

1. The head of the survey team shall give the facility administrator or his designee oral notice of all alleged violations before leaving the facility.
2. Guidelines for determination of whether a violation is a repeat violation are given.
3. Provision is made for an administrative reconsideration of the existence of the violation(s). This does not include determination of the correction of a violation, and is not in lieu of the appeals process.
4. The administrative hearing shall be limited to those issues specifically contested and shall not include any claim or argument that the violation(s) have been corrected.
5. Administrative appeals not involving alleged violations jeopardizing the health, safety, rights, or welfare of the facility's residents shall be held within 30 days of the receipt of the request.
6. The hearing officer may assess attorney's fees and costs against the facility if it is determined that the facility's appeal was frivolous.
7. Further guidelines concerning repayment of civil penalties are established, including determination of finality of civil fines, the deadline for payment, and consequences if payment is not promptly remitted.

CIVIL FINES

NOTICE, APPEAL AND COLLECTION

I. Notice to Facility of Alleged Violation

A. When the Department of Health and Hospitals has reasonable cause to believe through an on-site survey, a complaint investigation, or other means that there exists or has existed a serious threat to the health, safety, welfare, or rights of a nursing home resident, the department shall give notice of the alleged violation(s) in the following manner:

1. The head of the survey team shall give the facility administrator or his designee oral notice of all alleged violations before leaving the facility.
2. The department shall follow the on-site oral notice with

confirmed written notice by certified mail to the facility administrator.

- B. The written notice given by the department shall:
1. specify the alleged violation(s);
 2. cite the legal authority which establishes such violation(s);
 3. cite any sanctions which may be assessed if the violation(s) are confirmed;
 4. advise the administrator that the facility has 10 days from receipt of notice sent by certified mail within which to request an administrative appeal and what that appeal must specify;
 5. explain that the consequences of failing to timely request an appeal will be that the determination made by the department is final and no further administrative or judicial review may be had; and
 6. inform the administrator if the department has elected to regard the alleged violation(s) as confirmed repeat violation(s) or as continuing violation(s) and the manner in which sanctions will be imposed.

C. The Department of Health and Hospitals shall have the authority to determine whether a violation is a repeat violation and shall inform the facility in its notice of that determination. Violations may be considered repeat violations by the Department of Health and Hospitals if the following conditions are found to exist:

1. Where the Department of Health and Hospitals has established the existence of a violation as of a particular date and the violation is one that may be reasonably expected to continue until corrective action is taken, the department may elect when circumstances warrant to treat said continuing violation as a confirmed repeat violation subject to appropriate fines for each day following the date on which the initial violation is established, until such time as there is evidence establishing a date by which the violation was corrected.

2. Where the Department of Health and Hospitals has established the existence of a violation and another violation occurs within 18 months which is the same or substantially similar to the previous violation, the subsequent violation and all others thereafter shall be considered repeat violations subject to fines appropriate for confirmed repeat violations.

D. If the facility does not request an administrative appeal in a timely manner or does not submit satisfactory evidence to rebut the allegations of a violation, the secretary may determine the existence of a violation and assess civil fines as provided in these regulations. The Department of Health and Hospitals shall forward its findings to the facility by certified mail, and any fines imposed shall commence as of the date such determination is received by the facility.

E. The facility may request an administrative reconsideration of the alleged violations within seven days of receiving notice of the violation. This reconsideration shall be conducted by a designated official of the department who did not participate in the initial decision to impose the penalty. Reconsideration shall be made solely on the basis of documents before the official and shall include the survey report and statement of violations and all documentation the facility submits to the department at the time of its request for reconsideration. Correction of a violation shall not be a basis for reconsideration. A hearing shall not be held. Oral presentations can be made by DHH spokespersons and facility spokespersons. This process is not in lieu of the appeals process, and the time will continue to run for filing of an appeal. The designated official shall have authority only to affirm the

decision, to revoke the decision, to affirm part and revoke part, or to request additional information from either the department or the facility. The official shall be without authority to waive any penalty or to compromise the dollar amount of any penalty. The official shall render a decision on the reconsideration within three days from the date of receipt of the facility's request.

F. If the facility requests an administrative appeal, such request shall:

1. state which alleged violation the facility contests and the specific reasons for disagreement; and

2. be submitted to the Department of Health and Hospitals within 10 days of receipt of the secretary's notice sent by certified mail.

The administrative hearing shall be limited to those issues specifically contested and shall not include any claim or argument that the violation(s) have been corrected. Any violations not specifically contested shall become final, and civil fines shall be assessed at the expiration of the time for appeal. All violations/fines not contested shall become final at the expiration of the appeal request time period.

II. Administrative Appeal Process

A. When an administrative appeal is requested in a timely and proper manner, the Department of Health and Hospitals shall provide an administrative hearing in accordance with the provisions of the Louisiana Administrative Procedure Act. The hearing officer conducting the hearing may require the pre-filing of any motions by either party no later than the close of business on the third working day prior to the hearing.

B. When it is alleged that the violation(s) jeopardize the health, safety, rights, or welfare of the facility's residents, the requested hearing shall be held within 14 days of the receipt of the request. The hearing officer shall review all relevant evidence and make its final written determination within six days after the administrative hearing.

C. In all other cases, the requested hearing shall be held within 30 days of the receipt of the request. The hearing officer shall review all relevant evidence and make a final written determination within 15 days after the administrative hearing. The hearing officer may continue the matter when such continuance will not jeopardize the health, safety, rights, or welfare of the facility's residents and good cause is proved by the party requesting the continuance.

D. The hearing officer may assess attorney's fees and costs against the facility if it is determined that the facility's appeal was frivolous.

E. At the conclusion of the administrative hearing, the hearing officer shall make specific written findings as to each alleged violation that was contested by the facility. The hearing officer shall have authority to affirm, reverse, or modify the findings or penalties of the department. The hearing officer shall transmit such findings by certified mail to the facility at the last known address within the time periods stated above in Subsections B and C and by regular mail or hand delivery to the department and other affected parties. Any civil fines assessed shall commence as of the date the findings are received by the facility. Interest on the amount of the fines assessed shall begin accruing on the eleventh day following commencement of the fines at the then current rate of judicial interest.

III. Judicial Review

A. If the results of the administrative hearings are adverse to the facility, the facility may request a judicial review of such matters to the Nineteenth Judicial District Court within 15 days of receipt of such findings. Such appeal shall be suspensive.

B. The facility shall furnish, with the appeal, a bond in the minimum amount of one and one-half times the amount of the fine imposed by the Department of Health and Hospitals. The bond furnished shall provide in substance that it is furnished as security that the facility will prosecute its appeal, then any judgment against it will be paid or satisfied from the amount furnished, or that otherwise the surety is liable for the amount assessed against the facility.

C. The appeal shall be heard in a summary proceeding which shall be given precedence over other pending matters.

D. At the conclusion of the judicial review, the court shall enter an appropriate order either reversing, modifying, or upholding the Department of Health and Hospitals' findings. If the Department of Health and Hospitals' findings are upheld, the court shall order the payments of all fines imposed. Any party aggrieved by the decision may seek further appeals as authorized by the Administrative Procedure Act.

IV. Collection of Civil Fines Assessed

A. Civil fines assessed shall be final if:

1. no timely or proper appeal was requested;

2. the facility admits the violations and agrees to pay;

3. the administrative hearing is concluded with findings of violations and no timely judicial appeal was requested; or

4. the judicial appeal confirms the findings of violations by the facility.

B. When civil fines become final, they shall be paid in full within 10 days of their commencement, unless the department allows a payment schedule in light of a documented financial hardship.

C. If payment of assessed civil fines is not received within 10 days after they are deemed final, the Department of Health and Hospitals shall deduct the full amount plus interest from money otherwise due to the facility as Medicaid reimbursement in its next (quarterly or monthly) payment.

D. No nursing facility may claim imposed fines as reimbursable costs, nor increase charges to residents as a result of such fines. Any audits performed by the Department of Health and Hospitals shall monitor this prohibition.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on March 7, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Civil Fines - Notice, Appeal, and Collection

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this proposed rule will result in an expenditure of \$100 for manual revisions and promulgation of this proposal with an increase of \$50 in federal funding for administrative costs to the Title XIX Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs associated with adoption of this proposed rule will result in increased revenues of \$50 from federal administrative matching funds for the provisions of manual materials and provider notification.

It is estimated that, for FY 89/90 there will be two \$100 civil fines imposed for initial single-day violations (\$200 total). For FY 90/91 and 91/92, it is estimated that civil fines for an average of one first violation day and one repeat violation day per month will be imposed (\$1,100 per month, \$13,200 for 12 months). It is assumed that all fines will be paid by the tenth day, so that no interest due to late payment will be imposed. Fines collected will be deposited in the Residents' Trust Fund as required by Section 1919 (h)(2)(A)(ii) of the Social Security Act.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is estimated that, for FY 89/90, the total amount of civil fines levied against nursing facilities violating a state or federal regulation or Department of Hospitals' rule will be approximately \$200. For FY 90/91 and FY 91/92, the annual impact is estimated at \$13,200.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Under current policy, a change in income reported by an eligible pregnant woman could result in termination of cash assistance benefits. However, in each instance Title XIX medical coverage would normally be continued under one of the other categories of medical eligibility such as SOBRA/CHAMP, Medical Assistance Only, or Spend Down Medically Needy.

The provisions of the Medicare Catastrophic Coverage Act of 1988, (Public Law 100-360) eliminate reporting changes in income for pregnant women, thereby clarifying current procedures used in eligibility determinations. CHAMP/SOBRA legislation previously removed this requirement for those pregnant women eligible under the CHAMP/SOBRA regulations. Public Law 100-360 makes clear that any Title XIX eligible pregnant woman who is not CHAMP/SOBRA eligible who has a change in income will be treated in the same manner as a CHAMP/SOBRA pregnant woman, i.e., would have such income disregarded.

The period of time to which such disregard applies is defined as through the period of pregnancy and for 60 days postpartum.

PROPOSED RULE

All pregnant women covered under Title XIX shall be exempt from reporting income changes during the period of pregnancy and for 60 days postpartum.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on March 7, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Pregnant Women Exempt from Reporting Income Changes**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost will be \$100 for manual revisions and provider notification, of which \$50 is the projected cost to the state for FY 89/90.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs associated with adoption of this proposed rule will result in increased revenues of \$50 for the provision of manual materials and provider notification.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Pregnant Title XIX recipients would be the only persons or group directly affected by this proposal as it would exempt them from the requirement that changes in income be reported.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Medicaid currently reimburses for skilled nursing facility

(SNF) and intermediate care facility (ICF I and II) services on a prospective per diem basis. This does not adequately address the costs of state facilities which frequently accept the more difficult and intensive patient for care. State facilities are currently in jeopardy of being closed due to inadequate reimbursement. As federal regulations permit a different reimbursement methodology for services provided by state-operated facilities, reimbursement to state-operated nursing facilities is being modified effective for cost reporting periods ending June 30, 1990 to provide for a retrospective cost-based reimbursement which will address the additional costs of such facilities. This proposed rule was implemented via emergency rulemaking as published in the October 20, 1989 *Louisiana Register* (Vol. 15, Issue No. 10, Page 804).

PROPOSED RULE

Skilled Nursing Facility (SNF) and Intermediate Care Facility (ICF I and II) services provided by state-operated facilities shall be reimbursed allowable costs based on Medicare (Title XVIII) principles of reimbursement and methods of cost apportionment for skilled nursing facilities. An interim per diem for each facility shall be established subject to cost settlement. Cost reports shall be filed and subject to desk review and audit by agency personnel or their contractual representative. Desk reviews shall be performed on all cost reports, while full-scope on-site audits shall be performed in accordance with the established criteria for nursing facilities.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on March 7, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Reimbursement for Public Long Term Care Facilities (SNF, ICF I and ICF II)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs for the proposed change are projected to equal \$1,702,030 in FY 89-90; \$1,770,116 in FY 90-91; and \$1,840,932 in FY 91-92.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
State-operated long term care facilities (SNF and ICF) shall receive additional federal revenues of \$1,235,844 in FY 89-90; \$1,317,143 in FY 90-91; and \$1,371,126 in FY 91-92.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Closure of state-operated facilities will be avoided due to the additional reimbursement engendered by the proposed

change and these facilities will remain available to Medicaid recipients requiring such services who would not be accepted by private facilities due to the more intensive or difficult care required by them.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Section 1919 (h)(2)(A)(ii) of the Social Security Act requires that civil money penalties collected by a state from a facility that is or was out of compliance with a federal, state, or Department of Health and Hospitals regulation shall be applied to certain activities. The activities specified are the protection of the health or property of residents of nursing facilities that the state or the secretary finds deficient, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

In order to implement this requirement, the Residents' Trust Fund is established as a fund segregated from other funds of the state or the department and designated exclusively for the uses and purposes specified. All monies of the Trust Fund shall be deposited in an interest bearing account under the supervision of the state treasurer. Interest on these monies shall be retained in the Trust Fund.

The Trust Fund shall be administered by the secretary of the department or his designee. Requests for monies from the Trust Fund may be made by a nursing home administrator or owner, a resident of the facility, or a resident's relative, conservator, guardian or representative, with a decision provided within seven days of the request. The applicant may request immediate consideration by telephone if an emergency exists.

Terms of repayment, if any, shall be determined by the secretary. Failure to repay the funds according to the established schedule may prevent future disbursements to the applicant until all monies are repaid. Repayment shall accrue interest at a rate of two percent above the prime lending rate, unless a different rate is specified in the repayment agreement. Funds owed by the department to a nursing home facility may be transferred into the Trust Fund in order to reimburse amounts owed.

An annual accounting to the Division of Administration of monies received and disbursed shall be made.

RESIDENTS' TRUST FUND

A. The Residents' Trust Fund, hereinafter referred to as the "Trust Fund", is hereby established in the Department of Health and Hospitals to receive monies collected from civil fines levied against nursing homes found to have been in violation of regulations of the department. Monies deposited in the Trust

Fund shall be used to support social welfare programs for the aid and support of the needy residents of nursing homes, and to achieve that purpose the department is hereby authorized to enter into cooperative endeavor agreements with public and private entities. The monies deposited shall be segregated from other funds of the state or the department and shall be designated exclusively for the uses and purposes of this Section. All monies of the Trust Fund shall be deposited in an interest bearing account under the supervision of the state treasurer. Interest on these monies shall be retained in the Trust Fund.

B. The monies in the Trust Fund may be used for the following purposes:

1. to protect the health or property of residents of nursing homes which the department finds deficient;
2. to pay for the cost of relocation of residents to other facilities;
3. to maintain operation of a facility pending correction of deficiencies or closure;
4. to reimburse residents for personal funds lost.

C. Monies from the Trust Fund shall be utilized only to the extent that private or public funds, including funds available under Title XVIII and Title XIX of the Social Security Act, are not available or are not sufficient to meet the expenses of the facility. The secretary of the department shall conserve the resources of the Trust Fund and shall only authorize expenditures that are consistent with usual and customary charges. Disbursements may be approved for charges in excess of usual and customary charges if the secretary provides adequate written explanation of the need for such disbursement to the House and Senate Health and Welfare Committees.

D. The existence of the Trust Fund shall not make the department responsible for the maintenance of residents of a nursing home facility or maintenance of the facility itself.

E. The Trust Fund shall be administered by the secretary of the department or his designee. Requests for monies from the Trust Fund may be made by a nursing home administrator or owner, a resident of the facility, or a resident's relative, conservator, guardian, or representative. The applicant must submit a completed fund request form to the secretary of the department. Forms may be obtained from the department, which shall maintain an adequate supply of such forms in all state and parish offices. A decision shall be provided within seven days of the request.

F. If an emergency exists, the applicant may request immediate consideration by notifying the secretary of the department by telephone, indicating the seriousness and immediate nature of the request. The secretary may orally authorize immediate disbursement, but proper documentation or reasons for the disbursement and all completed forms must be filed in the office of the secretary within five days thereafter.

G. The department shall make an annual accounting to the Division of Administration of all monies received in the Trust Fund and all disbursements of those monies.

H. The terms of repayment, if any, of monies disbursed from the Trust Fund shall be determined by the secretary of the department and may, where appropriate, be set forth in a contract signed by the secretary and the applicant or other party responsible for repayment.

I. Failure to repay the funds according to the established schedule may, at the discretion of the secretary, prevent future disbursements to the applicant from the Trust Fund until all monies are repaid. Monies due and owing to reimburse the Trust Fund shall accrue interest at a rate of two percent above the

prime lending rate, unless a different rate is specified in the repayment agreement. The secretary may authorize funds owed by the department to a nursing home facility to be transferred into the Trust Fund in order to reimburse amounts owed by the facility to the Trust Fund.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on March 7, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Establishment of Residents' Trust Fund**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs are estimated to be \$100 for manual revisions and provider notification, of which \$50 is the projected cost to the state for FY 89/90.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs associated with adoption of this proposed rule will result in increased revenues of \$50 for the provision of manual materials and provider notification.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The amount of economic benefit to Title XIX recipients who are residents of nursing facilities which have been found to be deficient cannot be predicted as occurrences which would necessitate such action are unpredictable in frequency and severity.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Section 1919 (h)(2)(A)(iii) of the Social Security Act re-

quires the appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while there is an orderly closure of the facility, or improvements are made in order to bring the facility into compliance with federal, state and Department of Health and Hospitals' requirements. Under this statutory provision, the state is required to adopt criteria as to when and how such remedy is to be applied effective October 1, 1989.

Under this rule, written notice of such temporary management is effective upon receipt by the owner and/or administrator of the facility. Guidelines for establishing an effective date are specified based upon the severity of the condition or practice which may pose a threat to the health, safety, or welfare of recipients, or the consistent pattern of violating residents' rights or financial stability of the institution.

Powers and duties, including financial responsibility for acceptance of payments to the facility, are specified, as are qualifications and compensation, and personal liability of a temporary manager.

Temporary management shall be terminated when it is determined that the conditions which gave rise to the temporary management no longer exist, all of the Title XVIII and XIX residents in the nursing facility have been transferred or discharged and the facility is no longer certified as a provider in the Title XVIII or XIX programs, or the temporary manager has concluded all financial and patient care responsibilities, but not before determination has been made that the party assuming responsibility for continued operation of the facility is capable of competently managing the facility in compliance with all requirements.

Provision is made for administrative hearing in accordance with provisions of the Administrative Procedure Act when requested on a timely basis.

PROPOSED RULE TEMPORARY MANAGEMENT

I. Notice of Appointment of Temporary Manager

A. When the Secretary of the Department of Health and Hospitals determines that a nursing facility is in need of a temporary manager, he shall provide written notice which shall include:

1. the date the appointment shall take effect;
2. a statement setting forth grounds for the appointment;
3. the name of the person within the Department of Health and Hospitals who has the responsibility for responding to inquiries about the appointment;
4. the name of the person appointed temporary manager, if such designation has been made;
5. a statement explaining the procedure for requesting a hearing.

B. Notice shall be delivered by hand or by certified mail to the owner and administrator of a nursing facility and shall be effective upon receipt.

II. Grounds; Effective Date of Appointment

A. Appointment of a temporary manager based on one or more of the following grounds will be effective immediately upon receipt of notice, unless a later effective date is specified in the notice:

1. the facility is operating without a current Louisiana license;
2. the licensee has abandoned the facility;
3. the nursing facility is closing within 30 calendar days and the Department of Health and Hospitals has reasonable cause to believe that inadequate arrangements designed to mini-

mize the adverse effects of transfer have been made to relocate its residents;

4. a condition or practice in a facility poses a serious and imminent threat to the health, safety, or welfare of the residents or presents a substantial probability that death or serious physical harm would result therefrom. The facility owner may request approval from the secretary to be put on 23-day fast track in lieu of temporary management. However, such request may only be granted when the secretary determines that an adequate plan to protect the health, safety, and welfare of residents has been devised by the facility to prevent an imminent threat of harm to the facility's residents and when the secretary has provided satisfactory means for the department to monitor subsequent implementation of such corrective measures by the facility.

B. Appointment of a temporary manager based on one or more of the following grounds shall become effective only upon the later of the expiration of the period for seeking appeal or upon the entry of a final administrative determination by the Department of Health and Hospitals or a hearing officer:

1. The nursing facility exhibits a consistent pattern of violating residents' rights established pursuant to Louisiana or federal laws or regulations.

2. The nursing facility is experiencing financial difficulties that present a substantial probability the facility will be compelled to terminate operation.

III. Powers and Duties of Temporary Manager

A. The licensee and administrator shall be divested of administration of the nursing facility in favor of the temporary manager from the effective date of appointment.

B. The temporary manager shall have the following powers and duties:

1. Exercise those powers and perform those duties set out by the Department of Health and Hospitals in accordance with these and any other applicable provisions.

2. Operate the nursing facility in such manner as to assure safety and adequate health care for the residents.

3. Take such action as is reasonably necessary to protect or conserve the assets or property of the facility for which the temporary manager is appointed, or the proceeds from any transfer thereof, and use them only in the performance of authorized powers and duties.

4. Use the building, fixtures, furnishings, and any accompany consumable goods in the provision of care and services to residents and to any other persons receiving services from the nursing facility.

5. Collect payments for all goods and services provided to residents or others during the period of the temporary management at the same rate of payment charged by the owners at the time the temporary manager was appointed or at a fair and reasonable rate as otherwise approved by the Department of Health and Hospitals.

6. Correct or eliminate any deficiency in the structure or furnishings of the nursing facility which endangers the safety, health, or welfare of residents, provided the total cost of correction does not exceed \$5,000. The Department of Health and Hospitals may order expenditures for this purpose in excess of \$5,000 on application from the temporary manager after notice to the owner and an opportunity for informal hearing by the secretary or his designee to determine the reasonableness of the expenditures.

7. Let contracts and hire employees at rates reasonable in the community to carry out the powers and duties of the temporary management.

8. Honor all leases, mortgages, and secured transactions governing the building in which the nursing facility is located and all goods and fixtures in the building of which the temporary manager has taken possession, but only to the extent of payment which, in the case of a rental agreement, are for the use of the property during the period of temporary management, or which, in the case of a purchase agreement, become due during that same period.

9. Have full power to direct, manage, and discipline employees of the nursing facility, subject to any contract rights they have. The temporary manager shall not discharge employees without authorization from the Department of Health and Hospitals and notice to the owner. Temporary management shall not relieve the owner of any obligation to employees made prior to the appointment of a temporary manager and not carried out by the temporary manager.

10. Preserve all property or assets of residents which are in the possession of a nursing facility or its owner; preserve all property or assets and all resident records of which the temporary manager takes possession; and provide for the prompt transfer of the property, assets, and records to the new placement of any transferred resident. An inventory list certified by the owner and temporary manager shall be made at the time the temporary manager takes possession of the nursing facility.

IV. Procedure for Payments to Temporary Manager

As soon as possible after the effective date of appointment of the temporary manager but in no event later than 10 days thereafter, the owner or administrator shall inform the temporary manager of the name and addresses of all persons owing money to the facility and of the amounts owed. The temporary manager shall be the proper recipient of all funds due and owing to the facility from and after the effective date of appointment, regardless of whether such funds are for goods or services rendered before or after the effective date of appointment. The temporary manager shall notify persons making payments to the home of the appointment of a temporary manager.

A person who is notified of the Department of Health and Hospitals' appointment of a temporary manager and of the temporary manager's name and address shall be liable to pay the temporary manager for any goods or services provided by the temporary manager after the date of the appointment, if the person would have been liable for the goods and services as supplied by the owner. The temporary manager shall give a receipt for each payment and shall keep a copy of each receipt on file. The temporary manager shall deposit amounts received in a separate account and may make disbursements from such account. The temporary manager may bring an action to enforce liabilities created by the foregoing provisions. A payment to the temporary manager of any sum owing to the nursing facility or to its owner shall discharge any obligation to the nursing facility to the extent of the payment.

V. Qualifications and Compensation of a Temporary Manager

The Department of Health and Hospitals shall appoint to serve as a temporary manager any person qualified by education and the requisite experience in nursing home administration and who is licensed in accordance with Louisiana law. A temporary manager shall have no financial or fiduciary interest in the facility or any affiliated entities. No temporary manager shall be appointed who is affiliated with a management firm under an order of decertification in Louisiana or another state. The Department of Health and Hospitals shall set the necessary expense of the temporary management. Said compensation shall be in line with the prevailing wage in the nursing home field and shall be

charged as an expense to the facility for which the manager is appointed. The department may seek reimbursement for such expenses by deducting the appropriate amount from funds due or payable to the facility.

VI. Personal Liability of Temporary Manager

A temporary manager may be held liable in a personal capacity for the temporary manager's gross negligence, intentional acts, or breach of fiduciary duty, but otherwise, the acts and omissions of such temporary manager will be defended and discharged by the department. The Department of Health and Hospitals shall secure a bond to cover any acts of negligence or mismanagement committed by the temporary manager when not covered by the facility's insurance.

VIII. Termination of Temporary Management

The Department of Health and Hospitals may terminate a temporary manager when it determines that the temporary management is no longer necessary because the conditions which gave rise to the temporary management no longer exist, all of the Title XVIII and XIX residents in the nursing facility have been transferred or discharged and the facility is no longer certified as a provider in the Title XVIII or XIX programs, or the temporary manager has concluded all financial and patient care responsibilities. However, the department shall not terminate a temporary management without first determining that the party assuming responsibility for continued operation of the facility is capable of competently managing the facility in compliance with all requirements of federal and state law.

VIII. Notice of Appeal

Within seven days from its receipt of certified mail notice, the nursing facility may appeal the decision to appoint a temporary manager by delivering notice to the person within the Department of Health and Hospitals who has responsibility for responding to inquiries about the appointment and to the Department of Social Services, Appeals Bureau, 755 Riverside Mall, Baton Rouge, LA 70802.

IX. Administrative Hearing

If an appeal is requested on a timely basis, a hearing officer from the Department of Social Services, Appeals Bureau shall conduct an administrative hearing in accordance with provisions of the Administrative Procedure Act. Such hearing shall be held within 10 days of the receipt of the request. The hearing officer shall review all relevant evidence and make a final determination in such matters no later than seven days after the conclusion of the administrative hearing.

X. Administrative Hearing Conclusions

At the conclusion of an administrative hearing, the hearing officer shall make specific findings of fact and conclusions of law regarding each alleged condition concerning the appointment. The hearing officer's findings shall be delivered by hand or shall be posted via certified mail to the owner and administrator of the nursing facility or to its counsel no later than seven days after the hearing and shall constitute a final administrative determination of the matter. Either the department or the nursing facility may seek judicial review of the determination in accordance with the provisions of the Administrative Procedure Act.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held March 7, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be

afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Temporary Management**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated implementation cost will be \$100 for manual revisions and provider notification, of which \$50 is the projected cost to the state for FY 89/90.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs associated with adoption of this proposed rule will result in increased revenues of \$50 for the provision of manual materials and provider notification.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
It is anticipated that approximately three nursing facilities per year will require one month each of temporary management. For FY 89/90, no occurrences of temporary management are anticipated. It is estimated that monthly salary for a temporary manager will be approximately \$3,000. Annual cost for FY 90/91 and 91/92 to long-term care facilities as a group is estimated at \$9,000 (\$3,000 monthly salary × 3 months = \$9,000).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Title XIX (Medicaid) Program.

Federal guidelines require that blood banks test for the AIDS virus prior to acceptance of a blood donation. This proposed rule clarifies compliance with R.S. 40:1299.141 et seq. which also requires AIDS testing prior to blood donation.

PROPOSED RULE

The Department of Health and Hospitals approves only the following tests for screening blood donors, to detect antibodies to the probable causative agent for the disease acquired immune deficiency syndrome:

1. the enzyme-linked immunoassay initial-screening test, and, if positive,

2. the Western blot test, for confirmation.

Both of these tests also have the approval of the federal Food and Drug Administration.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Director, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on March 7, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Approved AIDS Tests for Blood Banks**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs or savings to state or local governmental units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units are anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Title XIX (Medicaid) Program.

Currently, ICF/MR facilities who enroll in Title XIX (Medicaid) for payment must be certified prior to initiation of payments. The Health Care Financing Administration (HCFA) has issued policy interpretations which mandate that all facilities be operational a minimum of two weeks prior to the initial certification survey being conducted. HCFA has defined "operational" to mean admission of at least one client, completion of functional

assessment(s), development of individual program plan(s) for the client(s), and implementation of the program plan(s) in order that the facility actually demonstrate the ability, knowledge, and competence to provide active treatment.

Under this proposed rule the bureau is clarifying its compliance with federal requirements established by HCFA.

PROPOSED RULE

Facilities which wish to participate in the Medicaid Title XIX program must be operational a minimum of two weeks (14 calendar days) prior to the initial certification survey. "Operational" is defined as admission of at least one client, completion of functional assessment(s) and development of individual program plan(s) for the client(s), and implementation of the program plan(s) in order that the facility actually demonstrate the ability, knowledge, and competence to provide active treatment.

Fire and health approvals must be obtained from the proper agencies prior to a client's admission to the facility. The facility must comply with all standards of the State of Louisiana Licensing Requirements for Residential Care Providers. A state licensing survey will be conducted to verify that the facility meets all of these requirements. With this approval, the facility may begin operation.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA, 70821-9030. She is the person responsible for responding to inquires regarding this proposed rule.

A public hearing on this proposed rule will be held on March 7, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amendment to ICF/MR Certification Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Savings to the state of \$4,128 for FY 1989/90, \$16,757 for FY 90/91, and \$17,502 for FY 91/92 are anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Loss of revenue as federal matching funds is anticipated to be \$11,027 for FY 89/90, \$48,043 for FY 90/91, and \$51,078 for FY 91/92.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The cost to owners of new ICF/MR facilities is anticipated to be \$15,255 for FY 89/90, \$64,800 for FY 90/91, and \$68,580 for FY 91/92.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Justice Office of the Attorney General Electronic Video Bingo Panel

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the attorney general's Electronic Video Bingo Panel intends to amend its rules and adopt revised permanent rules relative to the operations of Electronic Video Bingo Machines. Permanent rules were adopted April 26, 1988. Emergency rules were adopted on July 8, 1988; February 3, 1989, and February 13, 1989. (See *Louisiana Register*, Vol. 14, No. 6, June 20, 1988 pp. 354-360; *Louisiana Register*, Vol. 14, No. 7, July 20, 1988 pp. 422-423; *Louisiana Register*, Vol. 15, No. 2, February 20, 1989. Permanent rule changes were adopted on May 25, 1989.

The revised permanent rules to be adopted will be in the same form and substance as the permanent rules with the following additions which are attached hereto and designated as "Proposed Rule Change to Sections 105, 107 and Section 113 of Title 7 Corrections, Criminal Justice and Law Enforcement Part VII. Department of Justice, Chapter 1. Electronic Video Bingo Rules dated 8-88.

Section 105 was rewritten in its entirety for clarity and to include written notification to the department before EVB machines are shipped into the state of Louisiana. This will prevent illegal machines from being shipped, and the ability to keep an accurate accounting of the actual number of machines in our state of Louisiana. Paragraph 10 of this Section also allows the denial, restrictions, suspension of limitation of an applicant if it is determined that an applicant has solicited EVB business prior to the approval of his application by the department. Subsection B has been deleted in its entirety.

Section 107, Permitting Process, was rewritten in its entirety for clarity to explain the permitting process in order to prevent the shipment or movement of any EVB machines until all elements of this Section have been satisfied. Subsection F of this Section was added to establish a procedure of the issuance of a Special EVB permit.

Section 113, Fees, was amended to include late charges for delinquent fees, and a revocation of license and possible reinstatement procedure.

The proposed rules will be made available for public inspection between the hours of 8:30 a.m. and 5 p.m. on any working day after January 22, 1990 at the Office of the Attorney General, 234 Loyola Avenue, Suite 700, New Orleans, LA.

Interested persons may submit their views and opinions to William J. Guste, Jr., Attorney General, 234 Loyola Avenue, Suite 700, New Orleans, LA.

The attorney general's Electronic Video Bingo Panel will hold a public hearing on this matter on Tuesday, March 6, 1990 at 10 a.m. at 234 Loyola Avenue, Suite 700, New Orleans, LA 70112.

The Electronic Video Bingo Panel shall, prior to the adoption of permanent rules, afford all interested parties the opportunity to submit data, views, or arguments orally or in writing.

Inquiries concerning these proposed permanent rules should be directed to Sidney H. Cates, III, Director, Electronic Video Bingo Section, 234 Loyola Avenue, Suite 700, New Orleans, LA 70112, telephone (504) 568-5575.

William J. Guste, Jr.
Attorney General

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Electronic Video Bingo**

Rouge, LA, 70804, Telephone (504) 342-0122, and must be received by March 20, 1990.

Ron Gomez
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Fishermen's Gear Compensation Fund-Fee
Notice**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no cost for implementation of these proposed rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes impose a \$25 fee on applications for special permits to allow for use of a charitable organization's electronic video bingo facilities by another charitable organization. Because this has happened infrequently in the past, the impact on revenues is expected to be minimal.

Also proposed is a 10 percent penalty charge for late payment of fees, which is expected to ensure prompt payment. Additional revenues, if any, from this provision cannot be estimated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Electronic Video Bingo fees paid on a timely basis will ensure the continued operation of EVB machines without interruption thereby guaranteeing participating charities the opportunity to benefit economically.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change would delete existing provisions which prohibit manufacturers or distributors, except charitable organizations, from operating or assisting in the operation of electronic video bingo machines. Elimination of this restriction could have a potential effect on competition, although the impact cannot be estimated at the present time.

Dale C. Wilks
Chairman, EVB Panel

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is given by the Department of Natural Resources that the balance in the Fishermen's Gear Compensation Fund is under \$100,000, and, as provided in R.S. 56:700.2, an additional fee will be assessed on April 20, 1990. The fee, in the amount of \$500 for each state mineral lease and \$500 for each state pipeline right-of-way, will apply to all state mineral leases and state pipeline rights-of-way located in the Coastal Zone of Louisiana.

The previous assessment was imposed on June 20, 1989.

Questions or comments relative to this fee may be directed to Gerald P. Theriot, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Capitol Station, Baton

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional implementation cost (savings) to state or local government units being that existing staff can handle the related workload.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Commercial fishermen may file claims for reimbursement (not to exceed two each fiscal year) for damages sustained while operating in coastal waters. Reimbursement is paid from the Fishermen's Gear Compensation Fund, whose revenues are generated by an assessment on each holder of a state mineral lease and each grantee of a pipeline right-of-way located within the coastal zone. Assessments are not imposed annually, only periodically (when the Fund's balance is below \$100,000). No revenues will be received until May, 1990, and the approximately \$950,000 derived for the assessment of \$500 on each of 1900 leases and rights-of-way, will be used to pay claims throughout FY 90-91.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The assessment will be borne by the petroleum exploration, production and transmission industry. Legislation which established the Fishermen's Gear Compensation Fund authorizes assessments of fees not to exceed \$1000 per year per lease or right-of-way. The proposed rule announces an assessment of \$500 on each of 1900 lease and rights-of-way, with the resulting \$950,000 used to pay claims for reimbursement filed by eligible commercial fishermen.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment, being that this rule simply announces a fee authorized by an act of the legislature.

Mary Mitchell
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Weatherization Assistance Program

The Department of Social Services - Office of Community Services will submit a State Plan to the U.S. Department of Energy on February 19, 1990 for the Weatherization Assistance Program pursuant to 10 CFR 440. As a requirement of this plan,

a public hearing must be held.

The purpose of the public hearing is to receive comments on the proposed State Plan for the Weatherization Assistance Program for low-income persons, particularly the elderly and handicapped, in the state of Louisiana. The public hearing has been scheduled for Tuesday, March 6, 1990 at 10 a.m. in Baton Rouge, LA at the Capitol Annex at 900 Riverside North in the third floor committee room.

Copies of the plan can be obtained prior to the hearing by contacting the Department of Social Services - Office of Community Services at (504) 342-2272 or Box 44367, Baton Rouge, LA 70804-4367. Interested persons will be afforded an opportunity to submit data, views and arguments, orally or in writing, at said hearing, or may submit written comments by March 6, 1990 to the Office of Community Services at the above address.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Department of Energy Weatherization Assistance for Low-Income Persons

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost of this plan is \$2,102,035 in federal funds (\$764,725 from Department of Energy) and 15% (1,337,310) transferred from LIHEAP. An additional amount of \$4,000,000 will be used from the Petroleum Violation Escrow-Exxon (oil overcharge funds). Administrative cost is limited to 10 percent (\$617,243) of the total available funds to the state. No more than five percent can be retained by the state for administration. No state general funds will be utilized in the implementation of this plan. No additional costs or savings will be incurred by the state or local governments in 1990-91.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A total of \$6,102,035 will be available to the state for the Weatherization Assistance Program from April 1, 1990 through March 31, 1991. The Department of Natural Resources will transfer (IAT) \$4,000,000 from the PVE-EXXON oil over-charge funds. These funds will be administered by the Office of Community Services to provide weatherization assistance to low income persons through contractual agreements with local community action agencies or parish governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

Approximately 3130 dwelling units will be weatherized at an overall average cost of \$1,600 per dwelling unit. Clients consist of low income elderly, handicapped, native Americans, and other low income persons. Weatherization of dwelling units will assist the recipients in cutting energy costs and energy consumption. Approximately 122 billion BTU's will be saved as a result of weatherization of these dwelling units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT (Summary)

Some Community Action agencies use existing staff, others use contractors. Procurement procedures require free and open competition. Through the use of these funds, local agencies have been able to keep persons employed and put additional persons to work.

Brenda L. Kelley
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Eligibility Determinations

The Department of Social Services, Office of Eligibility Determinations, proposes to adopt the following rule.

Prior to enactment of Act 226 of the 1989 Regular Session of the Louisiana Legislature, state law governing confidentiality was more restrictive than the corresponding federal confidentiality regulations. Act 226 brings state law into conformity with federal regulations and would allow the agency to share information with other needs-based programs and law enforcement agencies, as necessary for the administration of the program.

RULE

Information of the Department of Social Services pertaining to financial assistance programs may be released in accordance with the federal laws and regulations governing the release of information of the financial assistance programs.

Applicable federal laws include:

Social Security Act - Sec. 1106 (42 U.S.C. 1306);

Freedom of Information Act (5 U.S.C. 552 added by P.L. 90-23 and amended by P.L. 93-502 and P.L. 94-409);

Privacy Act of 1974 (5 U.S.C. 552a), P.L. 93-579;

Drug Abuse Office and Treatment Act (P.L. 92-255, 21 U.S.C. 1175) as amended by the Comprehensive Alcohol and Alcoholism Prevention, Treatment and Rehabilitation Act Amendment of 1974 (P.L. 93-282) (42 U.S.C. 4582) Section 6103 of the Internal Revenue Service Code (26 U.S.C. 6103), as amended by the Tax Reform Act of 1976 (P.L. 94-455).

"Government in the Sunshine Act" (P.L. 94-409);

The Family Education Right and Privacy Act (FERPA) (P.L. 93-568);

HHS Public Information Regulation (45 CFR Part 5);

HHS Privacy Act Regulations (45 CFR Part 5b)

SSA Regulation No. 1 (20 CFR Part 401);

SSA Regulation No. 22 (20 CFR Part 422);

The Tax Reform Act;

The Right to Financial Privacy Act of 1978;

Part B, Title XVI of the Federal Coal Mine and Safety Act;

7 CFR Part 272.1(c) - Disclosure (Food Stamps);

42 CFR Part 431 Subpart F - Safeguarding Information on Applicants and Recipients;

45 CFR Part 74 Subpart D Retention and Access;

Part 74.25 - Restrictions on Public Access;

Part 205.50 - Safeguarding Information (AFDC);

Part 302.15 - State Plan Requirements - Reports and

Maintenance of Records;

- Part 303 - Standards for Program Operations;
- Part 303.2 - Maintenance of Case Records;
- Part 303.21 Safeguarding Information;
- Part 305 - Audit and Penalty;
- Part 305.35 - Reports and Maintenance of Records.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Eligibility Determinations, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held March 7, 1990 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Confidentiality**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The cost of implementing is \$50 (\$25 state and \$25 federal) in FY 89-90, for printing manual material.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no anticipated economic costs or benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Howard L. Prejean
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Social Services
Office of Eligibility Determinations**

The Department of Social Services, Office of Eligibility Determinations, proposes to adopt the following rule in the Food Stamp and Assistance Payments programs.

This rule is necessary in order to implement the provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988.

RULE

Due process will be provided to applicants for and recipients of benefits in the Food Stamp, Aid to Families With Dependent Children, and Refugee Cash Assistance programs who are subject to computer matches.

A. Any adverse information developed in a computer match must be subjected to investigation and verification before action is taken.

B. Recipients may not have their benefits suspended or reduced based on the information received in a computer match until the expiration of a 30-day adverse action notice period. If an individual contacts the agency within the notice period and indicates acceptance of the validity of the adverse information, the agency may take immediate action to deny or terminate. The agency may also take action if the period expires without contact.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Eligibility Determinations, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held March 7, 1990 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Computer Matching - Due Process**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The implementation cost is \$50 (\$25 state and \$25 federal) in FY 88-89, for printing manual material.
Because Food Stamp benefits are 100 percent federally funded, in-kind benefits which do not flow through the state budget, the fiscal impact on the Food Stamp program affects only the federal budget.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Persons who are subject to computer matches may not have their benefits suspended or reduced until the expiration of a 30-day adverse action period, which could result in their receiving an additional month's benefits before a change is made.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition or employment.

Howard L. Prejean
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Social Services
Office of Eligibility Determinations**

The Department of Social Services, Office of Eligibility Determinations, proposes to adopt the following rule in the Food Stamp Program.

The policy change is mandated by federal regulations as published in the *Federal Register* of Wednesday, February 15, 1989, Vol. 54, No. 30, pages 6990-7017, mandated a January 1, 1990, implementation date.

PROPOSED RULE

Effective January 1, 1990, households who have applied for initial month's benefits after the fifteenth of the month, completed the application, provided all required verification, and have been determined eligible to receive benefits for the initial month of application and the next subsequent month shall receive their prorated allotment for the initial month of application and their first full month's allotment at the same time.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Eligibility Determinations, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held March 7, 1990, in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Food Stamp Program - Initial Month's Benefits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on expenditures for the Office of Eligibility Determinations. This rule only affects the time frame used to issue benefits.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Food Stamp households who have applied for benefits after the fifteenth of the month and have been determined eligible for the month of application and the subsequent month will receive benefits for both months at the same time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Howard L. Prejean
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of State Office of Uniform Commercial Code

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and R.S. 49:230(C)(2) relative to the authority of the Department of State, Office of The Uniform Commercial Code, to promulgate rules and regulations, notice is hereby given that the Department of State proposes to adopt the following rules relative to the implementation and administration of Chapter 9 of The Louisiana Commercial Laws (R.S. 10:9-101, et seq.), otherwise known as the "UCC".

Title 10

BANKS AND SAVINGS AND LOANS Part V. Uniform Commercial Code

Chapter 1. Secured Transactions

§101. Policy

R.S. 10:9-401, et seq, the Commercial Laws-Secured Transactions, (hereinafter referred to as the "UCC") adopts Article 9 of the Uniform Commercial Code. The UCC adopts the "notice filing" approach under which an abbreviated notice is filed with the appropriate filing officer evidencing that a debtor and a secured party intend to engage in or have engaged in a secured transaction using specified collateral as security. Effective January 1, 1990, the UCC applies to transactions occurring on and after that date.

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

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

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

A. The proper place to file in order to perfect a security interest is with the clerk of court of any parish, or, in the case of Orleans Parish, with the recorder of mortgages thereof (the "filing officer").

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

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

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

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

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

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

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

§105. Formal Requisites of Financing Statement

A. To be effective, a financing statement must:

1. give the debtor's name, mailing address, and Social Security Number or employer identification number, as applicable;

- a. A financing statement sufficiently shows the name of

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

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

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

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

ii. Employer Identification Number (EIN) means the taxpayer identifying number of an individual, trust, estate, partnership, association, company, or corporation that is assigned pursuant to Section 6011(b) of the Internal Revenue Code of 1986, or corresponding provision of prior law, or pursuant to Section 6109 of the Code. The EIN has nine digits separated by a hyphen as follows: 00-0000000.

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

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

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

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

i. show that it covers this type of collateral;

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

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

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

4. be signed by the debtor.

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

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

that the debtor's location was changed to this state;

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

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

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

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

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

B. When a debtor so changes his name or in the case of an organization its name, identity or corporate structure and the debtor also changes its Social Security or employer identification number so that a filed financing statement becomes seriously misleading to third parties, a new UCC-1 financing statement must be filed within four months after the change to perfect a security interest in collateral acquired by the debtor more than four months after the change. This UCC-1 may be filed by the secured party without the debtor's signature, as explained in §105 A.4.a.iv.

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

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

§107. Forms to be Used in Filing

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

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

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

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

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

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

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

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

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

1. A filing which is made in any form other than on the

UCC-1 prescribed by the Louisiana Secretary of State.

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

Note: See fee schedule for nonstandard filing fees.

G. A consignor, lessor, depositor or bailor of goods has the option of filing a financing statement using the terms "consignor", "consignee", "lessor", "lessee", "depositor" (or "bailor"), and "depository" (or "bailee"), instead of the terms "secured party" and "debtor". The filer may indicate that the financing statement is filed as a lease, consignment, deposit, or bailment either by indicating the same in the statement describing the types, or items, of the secured collateral or by designating the status of the parties to the transaction in the appropriate debtor and secured party name blocks and in the space designated for signatures, or both.

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

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

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

§109. Presentation of Filing

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

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

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

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

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

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

D. The filing officer shall transmit the information contained in the financing statement together with the date and time of filing and file number thereof, no later than 4:30 p.m. on the

second business day following filing, to the Secretary of State for inclusion in the master index. Note that a summary of the collateral described in the financing statement may be included in the information transmitted to the Secretary of State. This summary is for informational purposes only and is not a substitute for the description of the collateral contained in the financing statement.

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

F. Any questions regarding the filing information reflected in the written notice of acknowledgment from the Secretary of State should first be directed to the filing officer which accepted and recorded the filing.

a. Data entry errors will be corrected by the filing officers at no charge to the secured party. The filing officer shall make each correction and transmit the same to the Secretary of State for inclusion in the master index, together with the date and time such correction was made, no later than 4:30 p.m. on the second business day after receiving written request for the correction. Upon such correction, the Secretary of State will send written notice to the secured party confirming receipt of the same.

b. Errors committed by the secured party in preparing the financing statement must be corrected by filing an amendment or by filing a new financing statement.

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

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

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

§111. Indexing

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

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

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

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

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

number, as applicable, of the debtor and shall include all of the information transmitted to the Secretary of State by all filing officers.

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

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

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

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

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

2. Filings may be made with the clerk of court of any parish, or, in the case of Orleans Parish, with the Recorder of Mortgages thereof.

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

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

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

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

§115. Duration

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

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

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

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

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

§117. Subsequent Filings

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S.10:9-409.

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

§119. Procedure for Filing a UCC-3

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

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

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

§121. Place of Filing a UCC-3

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

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

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

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

§123. Preparation of a UCC-3 Filing

A. Any UCC-3 filing changing the original financing statement must be signed by the secured party of record.

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

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

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

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

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

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

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

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

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

A. Continuation Statement

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

achieved by filing successive continuation statements in this manner.

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

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

B. Release

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

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

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

C. Assignments

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

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

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

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

D. Termination

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

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

E. Amendment

1. An amendment may be used to change or add to the name(s) of the debtor or the secured party, the address of either the debtor or the secured party, the Social Security Number or

employer identification number of the debtor, or to add collateral. If an amendment adds collateral, a description of the collateral must be included; this filing is effective as to the added collateral only from the filing date of the amendment.

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

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

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

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

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

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

§127. Reinscription of Pre-Chapter 9 Filings

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

B. Assignments of Accounts Receivable

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

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

C. Chattel Mortgages and Collateral Chattel Mortgages

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

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

mortgage or Notice of Security interest.

D. The filing officers shall collect fees applicable for the filing of a UCC continuation statement. Additionally, the uniform fee for filing a termination statement shall be prepaid at the time the reinscription is filed. Fees collected shall be allocated between the filing officer and the Secretary of State as set forth in R.S. 9:2770(A)(1)(a).

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

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

§129. Request for Information or Copies

A. Background: The Secretary of State's master index of information is composed of UCC filing data submitted by the 64 filing officers statewide. The data base is a composite of all presently effective financing statements, as well as any statements of assignment, continuation, release, or amendment, and original financing statements which have been terminated within the one-year period prior to a request for a certificate. All UCC filings are indexed according to the name and Social Security Number or employer identification number, as applicable, of each particular debtor.

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

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

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

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

C. Information Request (Certificate)

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

2. The requesting party must be sure to submit a request for a certificate with the correct spelling of the debtor's name and

the correct Social Security Number or employer identification number, as applicable. A deviation or error in the debtor's name or taxpayer identification number may result in a failure to disclose all of the desired information.

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

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

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

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

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

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

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

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

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

§131. Schedule of Fees for Filing and Information Requests (Certificates)

UCC-1	*Financing Statement	\$15
	*Financing Statement with Assignment	\$20
	*Financing Statement relating to fixture or mineral filings.	\$25
UCC-3	*Amendment.	\$15
	*Assignment (Full or Partial)	\$15
	*Continuation	\$15
	*Reinscription of Pre-Chapter 9 Filing	\$15
	*Release	\$15
	**Termination	\$ 5

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

*Nonstandard form penalty (UCC-1 and UCC-3)	\$15
(plus \$1 per page in excess of 10 pages)	
UCC-11 ***UCC Certificate (per name)	\$15
Copies of Documents	\$ 1 per page
(Minimum \$3 per request)	

***If a certificate contains listings for more than 10 statements, add \$1 for each statement in excess of 10.

Interested persons may submit written or verbal comments or inquiries to Jan Whitehead Swift, Deputy Secretary, Office of Uniform Commercial Code, Department of State, Box 94125, Baton Rouge, LA 70804-9125. Telephone (504) 922-1314.

W. Fox McKeithen
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: UCC Administrative Rules**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

An estimated \$894,000 in state self-generated revenues will be needed to implement and administer the Uniform Commercial Code in 1989-90. Approximately \$1,206,764 in state self-generated revenues will be needed for fiscal year 1990-91. There is no estimated effect on local governmental units inasmuch as the Department of State purchased all necessary computer equipment and assumed responsibility for ongoing communication expenses.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that self-generated revenues attributable to the Department of State for operations conducted January 1, 1990 through June 30, 1990, will total approximately \$894,000. We project self-generated revenues of approximately \$1,175,000 to \$2,100,000 for fiscal year 1990-91, the first full year of U.C.C. operations. All monies generated which exceed the Department of State's appropriated budget will revert to the State General Fund. There is no estimated revenue effect on local governments inasmuch as the filing fees attributable to the parish clerks of court remain approximately the same.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Overall, the net increase in costs may total \$2,100,000 in state self-generated revenues, which monies will be collected from U.C.C. filing fees. If, in fact, consumer related filings and multiple parish filings decrease as anticipated, there may be little net increase in the cost of securing a transaction.

Economic benefits include a statewide master index of mortgage information which is accessible by any of the 64 parish clerks of court.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

We do not anticipate an immediate impact on competition and employment. However, adoption of Article 9 of the U.C.C. has been long awaited in the commercial sector and puts Louisiana on an equal footing with the other 49 states insofar as the regulation of security interests (commercial mortgages) is concerned. It is hoped that a direct benefit to the commercial climate in Louisiana will be realized.

Jan W. Swift
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of the Treasury
Teachers' Retirement System of Louisiana**

The Board of Trustees of the Teachers' Retirement System of Louisiana intends to adopt the following procedure concerning corrections to salary and contributions reports effective June 30, 1990:

Proposed Rule

Check list corrections will be allowed for a period of three fiscal years after the end of any fiscal year.

Corrections will be allowed without penalty anytime during the first year immediately following a fiscal year.

Corrections will be allowed the second and third years after a fiscal year, but interest at the current actuarial valuation rate will be charged on the additional contributions beginning the first of the first year subsequent to the year being corrected.

Interested persons may submit written comments on the proposed change until 4:30 p.m., March 5, 1990, to Dr. Carleton C. Page, Secretary-Treasurer, Teachers' Retirement System of Louisiana, Box 94123, Capitol Station, Baton Rouge, LA 70804-9123.

Carleton C. Page, D.B.A.
Secretary-Treasurer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Corrections to Salary Reports**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

None
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

None
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Possible interest charge at actuarial valuation rate to reporting employers for period not to exceed three years on additional salaries reported as corrections to previous reports. Service credit lost through incorrect salary reports not corrected within three years will have to be purchased. Costs not estimable as corrections vary as does actuarial valuation rate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
None

Carleton C. Page
Secretary-Treasurer

John R. Rombach
Legislative Fiscal Officer

conomic benefits of approximately \$53,000 annually in the form of increased health and accident benefits payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be impacted by this rule change.

James D. McElveen
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend language in the Plan Document of Benefits, as follows:

Amend Article 3, Section I (8) as follows:

8. Drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist, except for birth control medication and dietary supplements, provided, however, that Vitamin B₁₂ injections for the treatment of Addisonian Type-A Pernicious Anemia shall not be considered a dietary supplement;

Amend Article 3, Section IX (W):

W. Birth control medication or devices, appetite suppressant drugs, dietary supplements and vitamins, except Vitamin B₁₂ injections for the treatment of Addisonian Type-A Pernicious Anemia.

Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m. on April 11, 1990, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Addisonian Pernicious Anemia

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule change will increase the health and accident benefits payments of the State Employees Group Benefits Program by approximately \$53,000 annually according to our actuary, the Martin E. Segal Company.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule change will not have any effect on the 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 directly affected persons, the plan members of the State Employees Group Benefits Program, will realize eco-

NOTICE OF INTENT

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

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend its Plan Document of Benefits to remove language mandated by the Tax Reform Act of 1986, Section 89 (k) of the Internal Revenue Code, which was repealed by Congress, as follows:

1. Article 1, Section V substitute the following language:
V. Contributions

Pursuant to the provisions of R.S. 42:851 the state of Louisiana may make a contribution toward the cost of accident and health coverage, as determined on an annual basis by the Legislature.

2. Amend Article 3, Section III Subsections B and C:
III. Utilization Review

B. Pre-Admission Certification (PAC) and Continued Stay Review (CSR) refer to the process used to certify the medical necessity and length of any hospital confinement as a registered bed patient. PAC and CSR are performed pursuant to a contract between the Board of Trustees and August International Corporation (AIC). PAC should be requested by plan members or plan member's dependents through the treating physician for each inpatient hospital admission.

C. PAC shall include a second surgical opinion when required by AIC the PAC Contractor. Such second surgical opinion shall be rendered by a physician approved by AIC the contractor and the cost for the second opinion will be covered at 100 percent. AIC the contractor may, at its option, require a third opinion which will be covered at 100 percent. Benefits provided for a second or third surgical opinion shall be subject to applicable limitations of the Fee Schedule.

Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m. on April 11, 1990, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Section 89(k)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule change will not affect the costs and/or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will not impact the 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 contribution rate is subject to change at the discretion of the Legislature.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be impacted by this rule change.

James D. McElveen
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend language in the Plan Document of Benefits as necessitated by the Congressional passage of the Omnibus Budget Reconciliation Act of 1989, as follows:

Amend Article 1, Section III (E) (2) and (4).

(2) coverage under another group health plan, except as provided under Article 2, Section III (K) (4);

(4) eighteen months from the date coverage would have terminated in the absence of this Section III (E), except as provided under Article 2, Section III (K) (6);

Amend Article 1, Section III (F) (2) (surviving spouse) and (2) (surviving dependent child).

Coverage for the surviving spouse under this Section III (F) will continue until the earliest of the following events occurs:

...(2) coverage under any group health plan, except as provided under Article 2, Section III (K) (5);...

Coverage for a surviving dependent child under this Section III (F) will continue until the earliest of the following events occurs:

...(2) coverage under any group health plan, except as provided under Article 2, Section III (K) (4);...

Amend Article 1, Section III (G) (2).

(2) coverage under any group health plan, except as provided under Article 2, Section III (K) (4);

Amend Article 1, Section III (H) (2).

(2) coverage under any group health plan, except as provided under Article 2, Section III (K) (4);

Amend Article 1, Section III (K) by adding Subsections (4) (5) and (6):

(4) Effective January 1, 1990, if a covered person under this plan becomes covered under another group health plan and the latter plan contains a pre-existing condition limitation or exclusion with respect to a medical condition such covered person had prior to the effective date of the latter coverage, then such

covered person may continue coverage under this plan AT HIS OR HER OWN EXPENSE, until such time as he or she would no longer qualify for benefits under the applicable provisions of Section III (E) (F) (G) or (H) or, if earlier, until such time as the pre-existing condition limitation or exclusion under the latter health plan no longer applies. The covered person shall furnish to the program any information that may be required to document the provisions of any pre-existing condition limitation.

(5) Effective January 1, 1990, if a surviving spouse under this plan becomes covered under another group health plan and the latter plan contains a pre-existing condition limitation or exclusion with respect to a medical condition such surviving spouse had prior to the effective date of the latter coverage, then such surviving spouse may continue coverage under this plan AT HIS OR HER OWN EXPENSE, until the earlier of the following events:

1. the date the pre-existing condition limitation or exclusion of the latter group health plan no longer applies;

2. thirty-six months from the date coverage would have otherwise terminated under the provisions of Article 2, Section II (A); or

3. pursuant to the other termination provision of Article 2, Section III (F).

The surviving spouse shall furnish to the program any information that may be required to document the provisions of any pre-existing condition limitation.

(6) Effective July 1, 1990, if a covered employee or covered dependent is determined by Social Security to have been totally disabled on the date the employee no longer meets the definition of employee as defined in Article 1, Section I (E) and such person elects to continue coverage pursuant to the provisions of Article 2, Section III (E) or (J), coverage under this plan for the covered person who is totally disabled may be extended AT HIS OR HER OWN EXPENSE up to a maximum of 29 months from the date coverage would have otherwise terminated in the absence of Article 2, Section III (E). To qualify under this Section III (K) (6) the covered person must submit a copy of his or her Social Security disability determination to the program before the initial 18 month continued coverage period as described in Article 2, Section III (E) or (J) expires and within 60 days after the date of issuance of the Social Security determination. Coverage under this Section III (K) (6) will continue until the earliest of the following events:

1. thirty days after the month in which Social Security determines that the covered person is no longer disabled; covered persons must report any such determination to the program within 30 days after the date of issuance by Social Security.

2. twenty-nine months from the date coverage would have terminated in the absence of Article 2, Section III (E) or (J); or

3. pursuant to the other termination provision of Article 2, Section III (E).

Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m. on April 11, 1990, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: OBRA Amendments**

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Sturgeon, Taking and Possession**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Any costs or savings to state or local governmental units as a result of the implementation of this proposed rule change is not determinable according to the Martin E. Segal Company, our consulting actuary.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The impact, if any, on the revenue collections of state or local governmental units as a result of the implementation of this proposed rule change will be insignificant.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The impact, if any, on the costs and/or economic benefits of the directly affected persons as a result of this proposed action will be insignificant.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment as a result of the implementation of this proposed action.

James D. McElveen
Executive Director

John R. Rombach
Legislative Fiscal Officer

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out by existing enforcement personnel through routine patrol activities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant effect on revenue collections to state or local governments. A very small amount of funds could be received by local governments if citations are issued for illegal fishing.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There have been no reported commercial landings of sturgeon recorded in Louisiana since 1951. It is not expected that this closure will have any significant impact to economic benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have a negligible impact on competition and employment.

Bettie Baker
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life**

**Chapter 1. Freshwater Sports and Commercial Fishery
§145. Sturgeon, Taking and Possession**

The Louisiana Wildlife and Fisheries Commission hereby expresses intent to prohibit the taking and possession of the Gulf Atlantic Sturgeon, *Acipenser oxyrinchus*; the Pallid Sturgeon, *Scaphirhynchus albus*; and the Shovelnose Sturgeon, *S. platyrhynchus*; or sturgeon body parts, including eggs (roe) is hereby prohibited for a three-year period beginning May 1, 1990 and ending at sunset April 30, 1993.

Interested persons may submit written comments on the proposed rule until 4:30 p.m., February 23, 1990, at the following address: Bennie Fontenot, Administrator, Freshwater Fish Division, Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:

Warren Pol
Chairman

Committee Report

COMMITTEE REPORT

**House Judiciary Subcommittee
Oversight Review**

Pursuant to the provisions of the Administrative Procedure Act, specifically R.S. 49:968, the House Judiciary Subcommittee on Oversight of the Department of Public Safety and Corrections met on January 19, 1990 to review certain proposed rules by the Louisiana State Board of Private Security Examiners. The rules, adopted to regulate the occupation of private security companies and agents were promulgated pursuant to the authority given the board by the Private Security Regulatory and Licensing Law (R.S. 37:3270, et seq.).

With respect to the proposed rules and pursuant to R.S. 49:968(D) and (E) the subcommittee made the following determinations and recommendations:

1. Based on the testimony of the board's executive secretary, the board's legal counsel and remarks and statements by the

staff of the subcommittee, relative to the procedure followed in promulgating the rules, the proposed rules were found to be unacceptable to the subcommittee. Prior to making this determination, the subcommittee was made aware that a notice of intent to adopt rules must include, among other things, the time when, the place where, and the manners in which interested persons may present their views on the proposed rules (R.S. 49:953(A)(1)(a)(v)). The notice of intent in this instance did not include such a statement and the subcommittee determined that an important process in the promulgation of the rules, the opportunity for interested persons to voice their opinion on such rules, had been omitted. Thus, the determination of unacceptability.

2. The subcommittee also recommended that the board in its next promulgation and adoption of rules review its method used in the assessment and collection of administrative fines.

Please be advised that, under the provisions of R.S. 49:968(G) you have 10 calendar days in which to disapprove the subcommittee's actions and in accordance with R.S. 49:968(F) copies of this report are being forwarded on this day to the agency proposing the rules and the State Register.

Representative John C. Diez
Chairman

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

The next Uniform National Exam for licensure in Landscape Architecture will be given at Louisiana State University, Baton Rouge, Louisiana on June 18, 19, and 20, 1990. The deadline for getting in application and fee is March 1, 1990. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone 504/925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

The next retail floristry examinations will be given at 10 a.m. daily at the Shreveport Bossier Vo-Tech School in Shreveport, LA. The deadline for getting in application and fee is

March 30, 1990. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be April 17-20, 1990.

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

Office of the Governor Division of Administration Office of State Uniform Payroll

A notice of intent which proposes revisions to the current rule on payroll deductions is published in this issue of *Louisiana Register*.

Interested parties should forward comments to Carl Berthelot, Deputy Commissioner at the Division of Administration. Phone (504) 342-7008.

Carl Berthelot
Deputy Commissioner

POTPOURRI

Department of Health and Hospitals Board of Embalmers and Funeral Directors

The Louisiana State Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, March 17, 1990 at Delgado Community College, 615 City Park Ave., New Orleans.

Interested persons may obtain further information from the Louisiana State Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Confidential Assistant

POTPOURRI

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1, notice is given that 37 claims amounting to \$70,045.23 were received during the month of January, 1990, 44 claims in the amount of \$87,932.97 were paid, and none were denied.

Claim No. 88-89-500, included in the November 20,

1989 *Louisiana Register*, reported a loss of \$3611.71. In fact, the amount eligible for reimbursement is \$5000.

Pursuant to the provisions of Act 33 of 1988, the following claims with the Fishermen's Gear Compensation Fund have been validated by the Fund's hearing examiner and the secretary of DNR will approve payment, effective March 1, 1990.

Written comments from interested parties may be addressed to: Department of Natural Resources, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, and must be received on or before March 1, 1990.

Claim No. 89-90-62

Charles Pugh, Box 555, Cameron, LA. 70631, SSN 466-25-0903, Old River (Waterbody), Cameron (Parish). Amount \$2089.78.

Ron Gomez
Secretary

POTPOURRI

Department of Social Services Office of Community Services

The Louisiana Department of Social Services (DSS) is applying for federal funding allocated to the state for federal Fiscal Year 1990 under the Emergency Shelter Grant Program (ESGP) of the U.S. Department of Housing and Urban Development (HUD). The application for ESGP funds and program administration are undertaken in accordance with Public Law 100-77, the Stewart B. McKinney Homeless Assistance Act, as amended, and with federal regulations for the Emergency Shelter Grant Program set forth at 24 CFR part 576 and published as a final rule in the *Federal Register*, Vol. 54, No. 214, Tuesday, November 7, 1989, pages 46794 - 46810. Funding authorized under the Emergency Shelter Grant Program is dedicated for the purposes of rehabilitation or conversion of buildings for use as emergency shelters for the homeless, for certain operating and social services expenses in connection with emergency shelter for the homeless, and for homeless prevention activities. In compliance with federal requirements, allocated funds shall be distributed by DSS to units of local government which may make all or part of grant amounts available to private nonprofit organizations for use in eligible activities.

In an endeavor to target grant assistance to areas of greatest need, DSS shall issue application packages to units of local government (parishes and cities) for jurisdictions with minimum

30,000 population and shall award grants to successful applicants based on evaluation and ranking of funding proposals according to the following criteria:

1. nature and extent of demonstrated unmet need for emergency shelter in the applicant's jurisdiction;
2. the extent to which proposed activities will address the unmet needs;
3. methodology and time frame to implement proposed activities;
4. fiscal accountability and financial responsibility;
5. experience of project sponsor organization(s) or proposed subgrantee(s) in provision of homeless services or similar activities;
6. specificity of activities and cost estimates.

In accordance with federal regulations, obligation of grant amounts by DSS shall be concluded within 65 days of approval by HUD of the state's ESGP application. Each recipient of a grant award from the state shall be required to secure matching funds in an amount at least equal to its ESGP grant amount. The value of donated materials and buildings, voluntary activities and other in-kind contributions may be included in the calculation of matching funds.

For federal Fiscal Year 1990, the anticipated ESGP allocation to the state, pending final federal apportionment, is \$770,000. Eligible applicants for grant awards from the state's ESGP allocation are defined as those units of general local government having individual jurisdictions with a minimum 30,000 population. Approximately 10 to 12 grants will be awarded for a minimum grant amount of \$45,000 and a maximum of \$150,000. Individual grant awards shall not exceed \$65,000 for jurisdictions of less than 50,000 population. For governmental units of over 50,000 and less than 250,000 population, grant awards shall not exceed \$110,000. Jurisdictions of more than 250,000 population may be awarded the maximum \$150,000 grant amount. Funding awards shall be based on evaluation and ranking of each grant application.

Qualifying units of local general government shall be notified by mail of grant application requirements and deadlines. Availability of funding is contingent on HUD approval of the state's ESGP application.

Inquiries and comments regarding the Emergency Shelter Grant application may be submitted in writing to the assistant secretary, Office of Community Services, Box 44367, Baton Rouge, LA, 70804, or telephone (504) 342-2277.

May Nelson
Secretary

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