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This public document was published at a total cost of \$5,569.53. 1,475 copies of this public document were published in this monthly printing at a cost of \$3,569.53. The total cost of all printings of this document including reprints is \$5,569.53. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-970. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Executive Orders

EXECUTIVE ORDER EWE 87-36

Executive Order EWE 87-34, ordering a five percent reduction of appropriations from the state general fund for certain departments and budget units, is hereby amended to exempt the Office of Elderly Affairs from the reduction of appropriations imposed under said order.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 29th day of July, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 87-37

Section II of Executive Order No. EWE 84-36 specifying the membership of the Governor's Community Action Agency Task Force, is hereby amended to add one member to the task force, said member to be appointed by the governor from the membership of the Louisiana Association of Community Services Organizations, Inc.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, in the City of Baton Rouge, on this the 4th day of August, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Commerce Racing Commission

Pursuant to R.S. 4:41 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

amend any rule of racing which provides for bleeder medication and time limitations of horses to be indicated on the bleeder's list.

The Louisiana State Racing Commission, pursuant to the authority contained in R.S. 49:953B adopted the following emergency rule at its meeting of August 28, 1987 by unanimous resolution, and made such findings that necessitated the amendment of a rule to reduce the time limitation (in days) of horses placed on a bleeder's list for the first time. (A bleeder is a horse that is witnessed to have bled from the nostrils during or after a race or workout.)

For Amendment:
LAC 35:I.1507.E "Bleeder Medication"

Title 35 Horse Racing

Part I. General Provisions

Chapter 15. Permitted Medications

§1507. Bleeder Medication (Paragraph E Only)

E. When a horse is placed on the bleeder's list for the first time, it shall be eligible to enter to run on and after the fifteenth day following the date he bled and only after a recorded workout. Should a horse bleed a second time within a year, it shall be placed on the bleeder's list for 90 calendar days from the date of its second bleeding. Should a horse bleed a third time within a year, it shall be placed on the bleeder's list for 180 days from the date of its third bleeding. Should a horse bleed a fourth time, or anytime thereafter, it shall be placed on the bleeder's list for 365 days from the date of such bleeding.

John P. Davis, DVM
Secretary

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

8(g) Policy and Procedure Manual

The state board of Elementary and Secondary Education, at its meeting of August 27, 1987, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B and adopted the 8(g) Policy and Procedure Manual for the Louisiana Quality Education Support Fund - 8(g) for Elementary and Secondary, and Vocational-Technical Education.

This emergency adoption is necessary because the document contains a calendar of events which needs to be in place for immediate action. Effective date of emergency rule is September 20, 1987.

SECTION I. Legislation and Purpose

The Louisiana Education Quality Trust Fund [Permanent Trust Fund] was established in September of 1986 by Louisiana Constitution Article VII, Section 10.1; La R.S. 17:3801. The Permanent Trust Fund is to receive the bulk of the proceeds from an offshore oil revenue settlement with the federal government. A separate Louisiana Quality Education Support Fund [Support Fund] was created in the Louisiana State Treasury to receive and hold the interest earnings from the Trust. Fifty percent of the earnings in the Support Fund are constitutionally mandated to be appropriated by the Legislature and allocated by the Louisiana State Board of Elementary and Secondary Education (BESE) for the enhancement of elementary, secondary and

vocational-technical education. The remaining 50 percent will be allocated by the Louisiana Board of Regents. To accomplish the goal of enhancement, the Constitution establishes the following as the purposes for which the BESE can allocate funds:

- a. To provide compensation to city or parish school board or postsecondary vocational-technical professional instructional employees;
- b. To insure an adequate supply of superior textbooks, library books, equipment, and other instructional materials;
- c. To fund exemplary programs in elementary, secondary, or vocational-technical schools designed to improve elementary, secondary, or vocational-technical student academic achievement or vocational-technical skill;
- d. To fund carefully defined research efforts, including pilot programs, designed to improve elementary and secondary student academic achievement or vocational-technical skill;
- e. To fund school remediation programs and pre-school programs;
- f. To fund the teaching of foreign languages in elementary and secondary schools;
- g. To fund an adequate supply of teachers by providing scholarships or stipends to prospective teachers in academic or vocational-technical areas where there is a teacher shortage.

The Constitution and Statutory Law provide that the BESE must annually submit a program and budget to the legislature and the governor at least 60 days prior to the regular session, the program and budget for the expenditures for which it will make allocations. The allocations must not displace, replace or supplant appropriations from the general fund for the purposes of implementing the Minimum Foundation Program or displace, replace or supplant funding for vocational-technical education.

Contained in this manual is the policy adopted by the BESE to govern activities for the allocation of monies from the Support Fund - 8(g) under its control. From these funds the BESE will make allocations to enhance elementary, secondary and vocational-technical education programs in Louisiana.

SECTION II. Support Fund Policy Activity Definitions

1. Louisiana Education Quality Trust Fund [Permanent Trust Fund] - a fund in the Louisiana State Treasury which is derived from settlement with the federal government under 43 USC 1337 (g), as specified in Article VII, Section 10.1 of the Louisiana Constitution and R.S. 17:3801. Earnings of the Permanent Trust Fund accrue to the Louisiana Quality Education Support Fund, as specified by law.

2. Louisiana Quality Education Support Fund [Support Fund]-8(g) - a special fund in the Louisiana State Treasury, as specified in Article VII, Section 10.1 of the Louisiana Constitution and R.S. 17:3801. Fifty percent of the monies accruing to the Support Fund will be imbursement by the treasurer on an annual basis in accordance with legislative appropriation for allocation by the Louisiana State Board of Elementary and Secondary Education (BESE) and the remaining fifty percent by the Louisiana Board of Regents.

3. Board - Louisiana State Board of Elementary and Secondary Education, also referred to as BESE and SBESE.

4. 8(g) Program and Budget - consists of the broad categories of programs within constitutional categories or within sub-categories (i.e. kindergarten projects under pre-school programs - Constitutional Category E), and the total dollars the board proposes to fund in each category.

5. Administrative Costs - an amount equal to or less than three percent of the annual legislative appropriation utilized

for employment of personnel and associated travel and other benefits, the operation of the 8(g) advisory council activities, costs associated with monitoring and administration of funded activities, and the necessary evaluations and preparation of the annual program and budget for the allocation process.

6. Projects - the specific projects which are approved under each program and the dollar amounts. These are awards each year to recipients selected from applications received by the board.

7. Budgets - a detailed budget for each project which must be approved by the board prior to the expenditure of any 8(g) monies.

8. Applicant - a local education agency, nonpublic provider, state agency or any other entity which submits a proposal for funding in response to a request for projects based on the program for 8(g) activities as adopted by the BESE.

9. Recipient - an applicant who is allocated funds by the BESE to perform activities based upon an approved project submitted in response to a request for projects issued by the BESE.

10. 8(g) Advisory Council - an advisory council to the BESE which annually makes recommendations on the program, budget and recommended projects for funding to be allocated by the BESE. The council shall operate in accordance with the BESE policy concerning the operation of advisory councils and shall serve without compensation, except for reasonable and necessary expenses for attending meetings and performing duties.

11. Request for Projects - the document issued to elicit plans from applicants who intend to conduct an activity from 8(g) funds which meets the priorities and program and budget established by the BESE. The document will contain the mandatory components established by the BESE as a basis for funding eligibility, i.e. project goals, objectives, activities, budget, projected project evaluation and project timelines.

12. Project/Application - the document submitted by an applicant requesting Support Fund monies which meets the requirements established by the BESE.

13. Project/Application Deadline/Timeline - the date(s) by which an applicant must submit a project to be considered for funding by the BESE from Support Fund monies.

14. Fiscal Year (FY) - the fiscal year shall begin on July 1 and end June 30.

15. Project Year/Term - the project year/term shall be the time established by an applicant/recipient in the project for the accomplishment of activities.

16. Priorities - the areas of focus/need as established by the BESE which will be utilized in the determination of the program and budget. Examples of priorities might be - programs of state-wide impact, regional impact, local impact or reading, discipline, mathematics, foreign languages, textbooks, etc.

17. Supplant/Displace/Replace - legally prohibited types of expenditures for 8(g) funds. For purpose of this policy "supplant, displace, and replace" refer to the process whereby 8(g) funds would be utilized in lieu of funds available from a source other than 8(g) funds, or 8(g) funds would be utilized to fund activities previously funded by a source other than 8(g) funds. The prohibition specifically refers to state general fund monies utilized to fund the Minimum Foundation Program in elementary and secondary education and SGF funded activities in vocational-technical education. The terms shall apply to the two fiscal years prior to the effective date of funding.

18. Excess Costs - funds which may be assessed by an applicant to conduct the activities listed in a proposal for 8(g)

funds. All assessments must relate directly to the proposed 8(g) activities and reflect costs to the applicant which are above and beyond costs for normal operating activities.

19. Superior Textbooks - textbooks approved by the board which are supplementary to regularly approved textbooks or used to enhance instruction.

20. Library Books - any books to be available for circulation among the general school population, or a specific component of the general school population, for research or enhancement.

21. Equipment - equipment used for day-to-day, direct instruction of students. The term includes vocational equipment used in specific vocational training programs, computers and micro-computers used in Computer Assisted Instruction programs, projectors used for illustrating specific instructional materials, monitors used to receive instructional television programs broadcast over the Louisiana Public Broadcasting System, recorders used in music instruction, and so forth. The term does not include equipment used in any manner for administrative purposes, such as copiers, office file cabinets and/or office furniture, kitchen equipment except in Home Economics classrooms, and so forth.

22. Other Instructional Materials - any materials used in the direct instruction of students which are not included under the annual per-student allocation for "materials of instruction" through the Department of Education, Bureau of Textbooks and Materials of Instruction, including but not limited to computer software, art and music supplies, instructional films, records, slides, and other materials of a similar nature.

23. Exemplary Program - is defined as a model program or project which is worthy of imitation and which has been previously implemented, in this state or elsewhere, with the following results:

- a. there was ample objective evidence of effectiveness;
- b. the stated objectives were obtained;
- c. the educational needs of the students were met; and
- d. there was a clear and attributable connection between treatment and effect.

24. Research - a procedure to investigate conditions existing within specific school populations which is structured in accordance with the accepted standards of the American Educational Research Association.

25. Pilot Program - an educational program which will implement educational procedures, activities, objectives, standards, curricula, methodology, content, and so forth which do not presently exist in the school or school system seeking Support Funds for the program.

26. Remediation Program - program which teaches an educational skill which is normally taught at a lower grade level, such as basic education provided for teenagers or adults, elementary grade level reading instruction provided at middle or secondary school levels, and so forth. The term also includes social services provided in alternative school settings, special programs for "high risk" or potential drop-outs, and other ancillary support services designed to elevate any student or group of students to appropriate grade level performance.

27. Pre-school Program - any educational program provided for children who have not attained their fifth birthday. The term includes any and all types of educational readiness activities.

28. Foreign Language Instruction - academic instruction in any language other than English. The term does not include instruction in English as a second language.

29. Scholarships - payment of a specific lump sum of money for a specified period of study at an institution of higher education within this state. The sum of money paid to scholarship recipients may be utilized by recipients to meet any expenses of the said study.

30. Stipends - payment of specific costs associated with specific coursework at institutions of higher education within this state. The term also includes tuition reimbursements.

31. Approved Nonpublic School - any nonpublic school which has been certified by the board to meet nonpublic school standards and is approved for state funding under *Brumfield vs. Dodd*.

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SECTION III. Rules and Regulations for the Administration of the Louisiana Quality Education Support Fund - 8(g)

Part 100. 8(g) Advisory Council

100. Establishment of 8(g) Advisory Council

The board shall establish an advisory council, to be known as the 8(g) Advisory Council, consisting of 17 members. Twelve members of the 8(g) Advisory Council shall be appointed by the board in accordance with board policies governing the appointment of other advisory councils of the board. Five members of the 8(g) Advisory Council shall serve *ex-officio*, as follows: (1) the chairman of the House Committee on Education, or his designee; (2) the chairman of the Senate Committee on Education, or his designee; (3) the chairman of the House Appropriations Committee, or his designee; (4) the chairman of the Senate Finance Committee, or his designee; and (5) the State Superintendent of Education.

101. Composition of 8(g) Advisory Council; Term of Office

Membership of the 8(g) Advisory Council shall include one person representing each of the following groups who will serve a one-year or two-year term as indicated:

A. Chairman, Senate Education Committee, or designee

B. Chairman, House Education Committee, or designee

C. Chairman, Senate Finance Committee, or designee

D. Chairman, House Appropriations Committee, or designee

E. State Superintendent of Education

F. Elementary Principal (1 year)

G. Secondary Principal (1 year)

H. College President (2 years)

I. Representative of Business (2 years)

J. Representative of Labor (2 years)

K. Elementary Teacher of the Year (1 year)

L. Secondary Teacher of the Year (1 year)

M. Vocational-Technical Director (2 years)

N. Representative of Nonpublic Schools (2 years)

O. School Superintendent (2 years)

P. State PTO President (1 year)

Q. Secondary Student (1 year)

No appointed member will serve more than one consecutive term. Terms of office shall begin July 1st.

102. Filling of Vacancies

Appointments to fill vacancies shall be considered interim appointments and shall be for the unexpired portion of the original term. Interim appointments to fill vacancies shall be ratified by the board.

103. Organizational Meeting; Election of Officers; Adoption of Regulations for Conduct of Council Affairs

The 8(g) Advisory Council shall select from among its membership a chairperson and a vice-chairperson. Elections shall be annually at its first meeting after July 1, and the council shall report election results to the board.

The council shall adopt its own regulations for the conduct of its business in accordance with existing board policy.

104. Duties and Responsibilities of the 8(g) Advisory Council

The 8(g) Advisory Council shall have the following responsibilities:

A. To make recommendations with respect to the board's annual establishment of priorities;

B. To make recommendations concerning any Support Fund policies, procedures, and/or activities;

C. To participate in any public hearings conducted by the board relative to the Support Fund;

D. To undertake and perform such other responsibilities as may from time to time be delegated by the board.

105. Meetings of the 8(g) Advisory Council

A. The council shall meet upon the call of the Chairman or the request of the board.

B. Official minutes must be kept of all council meetings and shall be made available to the public upon request.

C. All council meetings and agenda items must be publicly announced prior to the meeting and meetings shall be conducted according to the Open Meetings Law.

106. Reimbursement of Council Expenses

The Advisory Council shall serve without compensation but shall receive reimbursement for reasonable and necessary expenses for attending meetings and performing duties. Such reimbursement shall be made in accordance with the regulations promulgated by the state commissioner of administration.

Part 110. Public Participation

110. Public Participation in Establishment of Priorities for Expenditure of Support Fund Monies

The board shall conduct one or more hearings annually to receive public input, ideas, and suggestions for programs and objectives for the expenditure of Support Fund proceeds for elementary and secondary schools and postsecondary vocational-technical institutions.

111. Public Notice of Hearings

The board shall publish the date(s), time(s), and location(s) of such hearing(s) at least two weeks prior to each scheduled hearing in order to provide adequate notice to the public.

112. Deadline for Completion of Public Hearings

Public hearings as authorized by Section 110 hereof shall be completed no later than August 15 of each year.

113. Compilation of Recommendations Made at Public Hearings

The recommendations tendered at any such public hearing(s) shall be compiled by the board staff for review by the board at its August meeting, and shall be available to the 8(g) Advisory Council and the public no later than September 15th.

Part 120. Establishment of Annual 8(g) Program and Budget

120. Establishment of Annual 8(g) Program and Budget; Priorities

At its September meeting, the board shall establish the 8(g) program and budget for the expenditure of Support Fund monies which are anticipated to become available in the subsequent fiscal year. In delineating the educational programs and objectives which shall constitute its 8(g) program, the board may establish one or more priorities. In developing the 8(g) budget, the board shall assign dollar amounts to each category program included in its proposed 8(g) program.

121. Establishment of Priorities through the Allocation of Support Fund Monies within Constitutional Categories

The board shall establish its annual priorities for the expenditure of Support Fund monies by allocating a specific dollar amount and/or a specific percentage of the total Support Fund monies appropriated for any fiscal year to one or more of the categories of educational programs eligible to receive Support Fund monies, as follows:

A. To provide compensation to city or parish school board or postsecondary vocational-technical professional instructional employees;

B. To insure an adequate supply of superior textbooks, library books, equipment, and other instructional materials;

C. To fund exemplary programs in elementary, secondary, or vocational-technical schools designed to improve elementary, secondary, or vocational-technical student academic achievement or vocational-technical skills;

D. To fund carefully defined research efforts, including pilot programs, designed to improve elementary and secondary student academic achievement;

E. To fund school remediation programs and pre-school programs;

F. To fund the teaching of foreign languages in elementary and secondary schools; and

G. To fund an adequate supply of teachers by providing scholarships or stipends to prospective teachers in academic or vocational-technical areas where there is a critical teacher shortage.

In establishing annual priorities for the expenditure of Support Fund monies, the board may specify types of educational programs or projects which shall receive preference for funding. For example, the Board may elect to give preference in the award of Support Fund monies, within the constitutional category of "exemplary programs", to exemplary projects designed to reduce drop-outs.

122. Allocation of Support Fund Monies for Statewide Purposes

The board, in its sole discretion, may allot a specific amount or a percentage of Support Fund monies for expenditures necessary to implement specific statewide educational projects mandated by the board. For example, the board may elect to allot a specific percentage of the total Support Fund monies available in any given fiscal year to the implementation of foreign

language instruction in the elementary grades, as previously mandated by the board. The board may issue general or specific requests for projects for the development and/or implementation of any statewide educational project.

123. Set Aside for Administrative Purposes; Limitation on Amount; Purposes for which Set Aside may be Expended

The board shall determine the percentage of anticipated Support Fund revenues which shall be set aside to pay costs associated with the administration of the program. Such administrative set aside shall not exceed three percent of the total Support Funds anticipated for the subsequent fiscal year. The administrative set aside shall be used to pay costs including, but not limited to: the salaries and related costs of 8(g) personnel; the expenses of the 8(g) Advisory Council; the costs of public hearings; the expenses of review committees which may assist the board in necessary determinations as to eligibility of applicants and/or feasibility of projects; necessary monitoring and evaluation of funded projects; preparation and dissemination of annual reports; and materials, supplies, furniture and equipment.

124. Notice of Adoption of Annual 8(g) Program and Budget

The board shall publish a notice of its adoption of the annual 8(g) program and budget in the October issue of the *Louisiana Register*. Such notice shall consist of a summary of the educational objectives and/or programs to receive budgetary priorities including the proposed allocation. Such report shall include, but not be limited to, the following:

A. The amount set aside for administrative purposes;

B. An explanation of specific priority(ies), if any, established by the board, and the dollar amount allocated for each program; and

C. Any additional information relative to board actions which has a direct bearing upon the eventual awarding of Support Fund monies to eligible recipients.

125. Advertisement of Request for Projects

Following the September board meeting and the establishment of the annual 8(g) program and budget, the executive director will issue a Request for Projects outlining the educational goals and objectives, including any priority areas, along with the total dollar amounts assigned to each program. A copy of the Request for Projects will be mailed to the official state newspaper and at least one other newspaper in the state for publication.

126. Allocations of the Board to be Reported to the Governor and the Legislature

The decisions of the board relative to the expenditure of Support Fund monies in the fiscal year next following establishment of the annual 8(g) program and budget shall be reported to the legislature and the governor not less than 60 days prior to each regular session of the legislature.

Part 130. Eligibility Criteria

130. Eligibility Criteria

The following eligibility criteria apply to all applications for Support Fund monies:

A. The project to be funded must be within a category specified under Article VII, Section 10.1 (D) (2) of the Louisiana Constitution and the Annual Program adopted by the board. (See Section 121 hereof for a verbatim listing of the educational categories authorized in said provision).

B. No project in an elementary or secondary school can be approved through the Support Fund if the project replaces a program funded through the Minimum Foundation Program or State General Fund unless there has been a lapse of at least two

fiscal years.

C. No project in a vocational-technical school can be approved through the Support Fund if State General Funds have been appropriated within the two prior fiscal years.

D. All applicants must also comply with eligibility requirements, if any, established for each constitutional category. Program category requirements are set forth in the sections of these regulations, relative to each constitutional category.

131. Eligible Applicants

The following are eligible to apply for an award of Support Fund monies:

A. High school graduates enrolled, or intending to enroll, in a college of education at a public or nonpublic institution of higher education located within the state of Louisiana;

B. Certified teachers, including teachers employed under a temporary certificate, employed in a public or nonpublic elementary/secondary school system within the state of Louisiana, and instructional personnel employed in any public postsecondary vocational-technical institution within the State of Louisiana;

C. Any public or approved nonpublic elementary/secondary school system located within the state of Louisiana, provided that applications for Support Fund monies may be made by a school system on behalf of a specific classroom teacher, a department within a school, a school, a group of schools, or on a system-wide basis;

D. Any approved nonpublic school located within the state of Louisiana which is not a part of a school system, provided that application may be made by an independent school on behalf of a specific classroom teacher, a department, or an entire school;

E. Any public postsecondary vocational-technical institution;

F. Any accredited college or university, or department thereof, within the state of Louisiana, provided that such applicant must clearly demonstrate, to the satisfaction of the board, that the award of Support Fund monies to the applicant will result in improved academic achievement in elementary/secondary schools and/or improved vocational skills for students enrolled in postsecondary vocational-technical institutions; and

G. Any private or public organization or individual who proposes to perform services in compliance with the aims and purposes of the annual program and law.

Part 140. Application for Support Fund Monies

140. Application for Support Fund Monies

It is required that eligible recipients desiring to apply for Support Fund monies in any constitutional category, except the category of scholarships and stipends for teachers, submit an application.

A. Applicants for scholarships shall complete the application form secured by written request to the Office of the Governor's Commission on Education Services, Box 44127, Baton Rouge, Louisiana 70804.

B. Applicants for stipends shall complete the application form secured by written request to the Office of Continuing Education, State Department of Education, Box 94064, Baton Rouge, Louisiana 70804-9064.

C. All other applications shall contain the following:

1. Cover page providing:

a. Name and address of the applicant;

b. Descriptive title of the proposed project;

c. Constitutional category in which the application is submitted (La. Const., Art. VII, Sec. 10.1 (D) (2); see Section 121

of these regulations for full listing of constitutional categories);

d. Type of educational program (such as early childhood development or drop-out prevention);

e. Name and business address, including business telephone number, of the individual who will administer the program, if funded;

f. Duration of the project, i.e., beginning and ending dates for the period for which funding is requested;

g. Number of participants to be served through the project;

h. Abstract consisting of a brief description of the proposed project; and

i. Dated signatures of appropriate applicant personnel, including the signature(s) of the principal officer(s) of the applicant's governing authority.

2. Rationale for the proposed project - a concise statement of the fundamental bases of the program.

3. Needs assessment - an explanation of the educational problem(s) which may be alleviated, or the potential for student academic improvement which may be enhanced through implementation of the proposed project. It is recommended that this section of the application include as much quantitative information as possible.

4. Number and description of participants to be served - identify the target population and include such educational and/or demographic data concerning the target population as may be pertinent to the proposed project.

5. Purpose of the project - an explanation of the results expected upon completion of the project, which should include, to the maximum extent possible, goals which can be measured by objective standards.

6. Design of the project - a full description of the methodology to be followed, the activities to be initiated, and all other related information. Reference to any literature pertinent to the project design should be included in the section; alternatively, a bibliography of related literature may be attached if referenced in this section. Reference to pertinent literature is not required for funding; however, particularly in the categories of "exemplary programs", "pilot programs" and "research", reference to the literature may result in a preference for the awarding of Support Fund monies.

7. Method of evaluation - an explanation of both programmatic and fiscal procedures to be employed in determining the degree to which anticipated results are achieved during the funded year. If an independent evaluator will be employed, the applicant should provide the name and address of the evaluator, if selected, or an explanation of the qualifications which will be required of an evaluator employed subsequent to receipt of the grant award. Evaluation should include a cost/benefit analysis.

8. Proposed budget, showing the amounts to be expended in each of the following categories:

a. Salaries of administrative personnel;

b. Salaries of instructional personnel;

c. Salaries of ancillary/support personnel;

d. Related benefits of all personnel, including explanation of benefits provided;

e. Travel;

f. Operating costs, broken down into specific categories, such as rent, equipment maintenance, postage, etc.;

g. Expendable materials and supplies, broken down into operating and instructional categories;

h. Professional services, identifying the specific type of professional service to be purchased (e.g., evaluation, legal, ac-

counting, etc.);

i. Equipment which is used for the direct instruction of students, including a list of all equipment costing more than \$300 per unit; and

j. Indirect costs, including the applicant's approved indirect cost recovery rate and the name of the applicant's cognizant agency for establishment of the indirect cost rate.

9. Dated certificate, signed by the principal officer(s) of the applicant's governing authority, in the following form:

"I hereby certify () that no Minimum Foundation Program funds or state general funds have been allocated for support of the proposed project or any program closely similar to the proposed project during the preceding two fiscal years (if the proposed project will be located in an elementary or secondary school); or () that no state general funds have been appropriated to support the proposed project or a closely similar program during the preceding two fiscal years (if the proposed project will be located at a postsecondary vocational-technical institution).

(Mark appropriate block with an "X" to indicate the project category for which funding is required.)

"I further certify that the information contained herein, on page 1 through _____ hereof, is true and correct to the best of my knowledge and belief."

Applicants should submit 15 copies of the complete Support Fund application, including all attachments to the State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

141. Limitation on Length of Support Fund Application

The entire Support Fund application, including cover page and budget, but exclusive of attachments, should not exceed 20 typed, double-spaced, letter-sized pages. Applicants are put on notice that points will be subtracted for applications exceeding 20 typed, double-spaced, letter-sized pages in length.

Applicants may include attachments such as vitae of project personnel, if selected; bibliographies of relevant literature; site plans of the project location; etc. However, applicants are put on notice that attachments should be strictly limited to information which is directly related to the project and will serve to provide additional information necessary to make a determination with respect to the quality of the proposed project.

142. Use of Support Fund Application Form

At such time as the board shall adopt an application format for Support Fund applications, the applicant must complete the prescribed form. Upon the board's adoption of a prescribed application format, applications which are not submitted on the prescribed form will not be considered for funding.

143. Deadline for Submission of Application for Support Fund Monies

A. All applications for Support Fund monies must be received in the board office no later than January 31 of each year.

B. All applications for scholarships must be received in the Office of the Governor's Commission on Education Services, Box 44127, Baton Rouge, Louisiana 70804 no later than March 1 of each year.

C. All applications for stipends for teachers must be received by the director of Continuing Education, State Department of Education, Box 94064, Baton Rouge, Louisiana 70804-9064 no later than April 1 of each year.

D. Any application which does not fall into one of the above three categories must be in the board office no later than January 31 of each year.

144. Period to be Covered by Application for Support

Fund Monies

Applications for Support Fund monies may be submitted by eligible applicants for varying periods of time, as follows:

A. For periods of less than one fiscal year.

B. For periods which correspond with the beginning and ending dates of one fiscal year. No projects will be funded for a period which begins in one fiscal year and ends in a different fiscal year.

C. For periods of two or more fiscal years. It should be clearly understood by applicants, however, that no project will be funded for more than one fiscal year. Funding for any subsequent years contained in the project proposal is subject to reconsideration by the board in each subsequent fiscal year. The award of Support Fund monies will, in all cases, be guaranteed for one fiscal year only.

145. Identification of Applications by Board Staff

Immediately upon receipt of any application for Support Fund monies in the board office, the application shall be dated with an official date stamp to show the date of receipt and shall be assigned a unique identifying number, which shall be affixed to all copies.

Part 150. Evaluation of Support Fund Applications

150. Determination of Eligibility

An application for Support Funds must demonstrate that the project for which Support Funds are requested complies with the constitutional eligibility factors enumerated in Section 121 hereof, and that the project conforms to the priorities and objectives delineated in the annual 8(g) program and budget adopted by the board for that specific funding period.

All applications received in the board office on or before January 31 shall be reviewed by a minimum of two employees of the board or the department to determine compliance with the constitutional requirements established under Article VII, Section 10.1 (D) (2) and enumerated at Section 121 hereof. Following the review for compliance with the constitutional requirements, the applications shall be reviewed by the 8(g) Advisory Council for conformity to priorities and objectives established by the board in the Annual 8(g) Program.

The procedure for performance of the eligibility review shall be as follows:

A. Review of constitutional eligibility

1. A staff member of the board or the department shall be designated as the coordinator for performance of the eligibility review and such employee shall be responsible for the timely completion of the review process set forth below.

2. An appropriate number, dependent on the total number of applications received, of employees of the board or the department shall be designated as Review Committee members.

3. The coordinator shall distribute equal numbers of applications among Review Committee members. Each reader shall complete an eligibility worksheet on each application. The review of applications may be commenced at any time when a sufficient number of applications have been received by the board and shall be completed within two weeks after the closing date for receipt of applications in the board office. Immediately upon completion of the eligibility review of all applications allotted to the Review Committee members, the applications together with completed worksheets shall be returned to the coordinator.

4. Whenever the eligibility determination differs between the first and second readings, the coordinator shall assure that a third reading is performed. Any necessary third readings shall be completed within three weeks following the closing date for re-

ceipt of applications in the Board office.

5. The coordinator shall prepare a comprehensive report setting forth the eligibility determinations established as set forth above, which report shall be placed upon the official board agenda for action by the board at its February meeting.

B. Review of conformity to the established 8(g) program priorities and objectives.

The 8(g) Advisory Council shall review all applications for conformity to the established 8(g) program priorities and objectives, and shall make recommendations concerning eligibility determinations to the board at its February meeting.

C. Applicants whose applications are disapproved by the board shall be notified in writing within one week following the board's February meeting, the notification to provide the reason(s) for disapproval and a full explanation of the board's procedure for appeal of its decisions.

151. Establishment of 8(g) Evaluation Committee

The 8(g) Evaluation Committee shall be comprised of 33 readers to be appointed by the board, 22 of which shall be assigned to read elementary and secondary proposals and 11 of which shall be assigned to read vocational-technical proposals. Members shall be appointed for one-year terms. No one may serve more than two consecutive terms. Readers must be apprised in writing and through workshops as to the educational priorities established by the board, and shall also be given training in the granting process.

152. Reimbursement of Expenses

Members of the 8(g) Evaluation Committee shall be reimbursed for their expenses in assisting the board in accordance with the State Travel Regulations. Committee members shall be eligible for reimbursement of expenses only for those days when they are absent from their usual domicile; no reimbursement shall be paid to members who elect to perform their duties in other than a called committee meeting.

Members may receive \$50 per diem pending the availability of funds. The board will abide by the rules set forth by the State Ethics Commission which allows salaried public employees to receive per diem payments as long as they are on annual leave.

153. Evaluation Review Procedure for Eligible Applications

Eligible applications for Support Fund monies shall be subjected to an evaluation review and points shall be assigned by reviewers in accordance with a numerical point system.

A. The board shall designate an employee of the board or the department as coordinator for the evaluation of Support Fund applications, which employee shall be responsible for the performance of all activities of the evaluation review in a timely manner.

B. The coordinator shall schedule a date, time and place for the meeting of the 8(g) Evaluation Committee for the purpose of reading and ranking applications for Support Funds and shall notify, in writing, the members of the committee. The first meeting of the committee shall occur within 30 days after the closing date for applications for Support Fund monies.

C. Each application for Support Fund monies must be read by a minimum of three different readers. Each member shall complete, sign and date an evaluation worksheet for every application assigned to the member.

D. All work of the committee members must be completed by March 31.

E. Upon completion of the work of the committee, a report shall be prepared for review by the 8(g) Advisory Council.

The report shall be completed no later than April 15. The 8(g) Advisory Council shall meet and prepare recommendations to the 8(g) Committee of the Board at its May meeting.

F. The 8(g) Committee of the board will make recommendations to the full board at its June meeting.

154. Award of Support Fund Grants

Funding determinations shall be finalized at the June meeting of the board for projects to be funded as of July 1.

The board staff shall notify all applicants of the disposition of their projects by July 15.

Part 160. General Provisions; Clarifications

160. Provisions Relative to Compensation for City or Parish School Board or Postsecondary Vocational Technical Professional Instructional Employees

A. Proposals which provide routine across-the-board salary increases for all or any class of employees of a single school or school system are not eligible for Support Fund monies. The board, however, may elect to provide across-the-board salary increases for all certificated instructional personnel throughout the state in its annual establishment of priorities for the expenditure of Support Fund monies.

B. The following types of compensation programs are also eligible for Support Fund monies in this category:

1. Programs which provide for additional compensation associated with the performance of additional work over and above that work required under an existing school contractual arrangement.

2. Programs which provide for additional compensation associated with work performed outside of the normal instructional day or normal school year.

3. The projects must fulfill the following guidelines:

a. The project must contain documentation which shows that all affected personnel have been informed in full of the proposed project and that the affected personnel have agreed, in writing, to participate.

b. The project must contain specific information as to the amount of additional compensation to be provided to each participant.

c. The project must clearly describe any differing terms and conditions, procedures, and compensation scales which will be implemented for nine-month, ten-month, eleven-month and twelve-month employees if other than nine-month teachers are to be affected.

d. The project must clearly show that employees will not be paid through the proposed program for work being paid for under the regular compensation received by the participating employee, unless the employee in question will be performing duties not normally required under his/her routine contract (e.g., a principal paid on a twelve-month basis cannot be paid under the proposed program for work that the principal would normally perform during the summer months).

e. When the additional compensation is associated with the performance of work of any nature over and above the work required under the regular teaching contract, the proposal must show the relationship between the work performed and the compensation earned (e.g., teachers developing a specific curriculum guide are to be paid a specific hourly rate and/or a set fee upon completion of the curriculum guide; teachers providing after-school tutoring are to be paid a specific hourly rate, etc.).

C. The project must clearly show the relationship between the additional compensation and the anticipated increase in student achievement.

161. Provisions Relative to Superior Textbooks, Library

Books, Equipment, and Other Instructional Materials

A. Projects which anticipate across-the-board increases in the per-student allocation for textbooks, library books, and other instructional materials for a single elementary/ secondary school or school system are not eligible for funding in this category, since such allocations will be addressed by the board on a state-wide basis. In the annual establishment of priorities for the expenditure of Support Fund monies, the board may allocate Support Funds for an across-the-board increase in the per-student allocation for textbooks, library books, and other instructional materials.

B. The following types of projects are eligible for Support Funds in this category:

1. Textbooks

a. Projects which provide for the purchase of textbooks for a specific instructional program which is not offered to an entire student body, such as textbooks for advanced study in any scientific or mathematic field, or other programs of a similar nature at any grade level;

b. Projects which will provide necessary textbooks for Advanced Placement programs in any secondary school;

c. Projects which provide for the purchase of textbooks suitable to a program of independent study for an academically gifted student at any grade level, provided that evidence must be provided in the proposal of the academic standing of any student engaged in independent study for whom special materials will be acquired with Support Funds;

d. Projects which provide for the purchase of textbooks not included on the Textbook Adoption List, such as textbooks which are appropriate for handicapped students, provided that such textbooks must be listed in the proposal.

2. Library books

a. Projects which provide for the purchase of current encyclopedias, world atlases, etc. where no similar resource materials are available within a given school;

b. Projects which will permit the acquisition of appropriate library resource materials to be used in any specific instructional program, such as texts in a foreign language offered in the school which will acquire the additional library volumes, additional volumes in a specific field of science or mathematics, and so forth;

3. Equipment

Projects which provide for the purchase of instructional equipment, provided that only equipment which is used for the direct instruction of students on a daily basis is eligible for Support Funds in this category.

4. Other instructional materials

a. Projects which provide for the purchase of instructional software programs marketed by commercial firms to be used in existing computer equipment;

b. Projects which provide for the purchase of art or music supplies, such as oil paints, paint brushes, sheet music, records, etc.;

c. Projects which provide for the purchase of instructional supplies such as saws, hammers, nails, etc., to be used in vocational training;

d. Projects which provide for the purchase of foodstuffs to be used in Home Economics instructional programs funded with 8(g) monies;

e. Projects which provide for the purchase of instructional films and slides; and

f. Projects which provide for the purchase of other recognized instructional materials which are not available under the

annual per-student allocations for materials of instruction, provided that such other instructional materials must be fully described in the project.

C. The project must include the number, ages, and grade levels of students who will have access to the items purchased.

D. The project must contain the school site where items purchased will be housed.

E. The project must include the name and title of the school employee responsible for proper usage of the items purchased.

F. Whenever the purchases are for the use of a specific population within a school, such as Advanced Placement students, the project must name the specific population and must illustrate, in the "Needs Assessment" section of the application, the reasons for selecting the specific population to receive Support Fund monies.

162. Provisions Relative to Exemplary Programs in Elementary and Secondary Schools and Postsecondary Vocational Technical Institutions

A. The same or an appreciably similar program must have been in operation for a period of at least two years in another school system in this or another state.

B. The same or a closely similar program must have clearly demonstrated that appropriate implementation resulted in improved student achievement at the elementary/secondary level and/or improved vocational skills on the part of students at the postsecondary vocational-technical level.

C. In the program which serves as a model for the proposed program, there must be a clear correlation between the activities implemented and the results achieved.

D. Independent verification, in the form of extracts of the literature or other similar documentation, must be provided to support the exemplariness of the program which serves as a model for the program proposed.

163. Provisions Relative to Research and Pilot Programs Designed to Improve Elementary and Secondary Student Academic Achievement

A. An eligible applicant may receive funding for a program which is limited to educational research. However, any applicant seeking funds for a "pilot program" must either: (1) incorporate a "research" component within the pilot program in order to verify that program activities do, in fact, result in improved academic performance; or (2) must include documentation that legitimate research available in the literature already demonstrates that the activities to be implemented in the pilot program have resulted in improved student academic performance.

B. The following requirements apply to research to be funded with Support Fund monies:

1. The activities to be undertaken must meet or exceed the standards established by the American Education Research Association.

2. There must be clear guarantees that the rights of participants will be protected throughout the research activities.

3. There must be a clear correlation between the anticipated results of the research and improved academic performance by elementary and/or secondary students.

4. The applicant must assure that the board will receive interim reports and a comprehensive final report of all research findings.

C. The following requirements apply to pilot programs to be funded with Support Fund monies:

1. The program must either: (a) include a research com-

ponent; or (b) include documentation that the design of the pilot program is based upon validated research findings.

2. There must be clear guarantees that the rights of participants in any research component of the pilot program will be protected throughout the program period.

164. Provisions Relative to School Remediation Programs

A. The population to be served must be clearly identified in the proposal.

B. The need for remediation of the identified population must be clearly documented by the provision of educational performance data acceptable to the board.

C. The location in which the services will be provided must be included in the proposal, e.g., the location of an alternative school setting.

D. If financial or personnel support will be received from any source other than the applicant (e.g., volunteer instructors from the community, "big brother" type support provided by a civic or religious organization, etc.), the source and type of such assistance, including the level of financial support, must be included in the proposal.

165. Provisions Relative to Pre-school Programs

A. The population to be served must be clearly identified.

B. The need of the target population for pre-school instruction must be substantiated by test or demographic data acceptable to the board.

C. If other than a regular school setting, the location in which services will be provided must be included in the project.

D. The certification to be required of instructional personnel must be included in the project.

166. Provisions Relative to Foreign Language Instruction in Elementary and Secondary Schools

The following types of projects are eligible in this constitutional category:

A. Programs which offer foreign language instruction designed to improve overall academic performance of students, provided that proposals relying on improved academic performance must include evidence from validated research to support the anticipated improvements;

B. Programs designed for a specific target population, provided that projects for such programs must clearly identify the population to be served;

C. Expansion of the regular foreign language program offered at the elementary or secondary level in any school system.

167. Provisions Relative to Scholarships for Teachers and/or Prospective Teachers; Limitation on Use of Scholarship Proceeds

A. Eligibility for scholarships:

1. Prospective teachers

a. The applicant must have graduated from a fully accredited secondary school within the state of Louisiana, or be in the final semester of his/her senior year at an accredited secondary school within the state of Louisiana at the time of application;

b. The applicant must have maintained an overall 3.0 grade point average on a 4.0 scale during his/her secondary school career;

c. The applicant must score 20 or above on the ACT;

d. The applicant must have been accepted as a student at a Louisiana institution of higher education;

e. The applicant must enroll in and continue enrollment in a curriculum which has been identified by the board as a "critical teacher shortage area";

f. The applicant must be willing to enter into a binding contract with the board, assuring that he/she will work as a teacher in a Louisiana public or nonpublic school for a period of time equal to the amount of time covered by a scholarship granted by the GSCES; if the contract is not fulfilled, all scholarship money must be repaid with interest as determined by the board.

2. Teachers

a. The applicant must be certified to teach in Louisiana; teachers holding temporary teaching certificates meet this requirement;

b. If certificated subsequent to School Year 1979-80, the applicant must have successfully attained the score required for his/her area of certification on the National Teachers Examination;

c. The applicant must have been accepted as a graduate student at a Louisiana institution of higher education, and must have attained a minimum score of 850 on the Graduate Record Examination.

d. The applicant must enroll in and continue enrollment in a curriculum which has been identified by the board as a "critical teacher shortage area";

e. The applicant must be willing to enter into a binding contract assuring that he/she will work as a teacher in a Louisiana public school for a period of time equal to the amount of time covered by a scholarship granted by the GSCES; if the contract is not fulfilled, all scholarship money must be repaid with interest as determined by the GSCES.

B. Limitations

1. Scholarships shall not exceed \$666 for one standard quarter of study at institutions on the quarter system, \$1000 for one standard semester of study at institutions on the semester system, or \$2,000 for a nine-month period of study.

2. Scholarships must be spent at an accredited institution of higher education located within the state of Louisiana.

3. Whenever a scholarship is awarded for a nine-month period of study, the scholarship recipient must be continuously enrolled in an institution of higher education in order to be eligible to receive payments for the second and/or third term during the nine-month period.

4. Scholarship recipients must maintain an overall grade point average of 3.0 or better on a 4.0 scale throughout the period covered by a scholarship granted by the GSCES to maintain continuing eligibility for receipt of scholarship proceeds. A scholarship recipient who fails to achieve an overall 3.0 grade point average in the first term of a nine-month scholarship shall be ineligible to receive the scholarship for the remaining terms of the scholarship period. A recipient of a scholarship who fails to maintain the required overall grade point average during the period covered by the scholarship will be eligible for a subsequent scholarship at a later date.

5. Scholarship recipients not fulfilling the contractual obligations shall repay all scholarship funds received with interest as determined by the GSCES.

C. Procedure for application for scholarships

1. The applicant must complete the application form prescribed by the GSCES, including attachment of all required documentation.

2. The application must be received by the Office of the Governor's Commission on Education Services on or before March 1 (Refer to Section 143).

3. Applicants should contact the Office of the Governor's Commission on Education Services, Box 44127, Baton Rouge,

Louisiana 70804 for all information relative to scholarship programs.

168. Provisions Relative to Stipends for Teachers

A. Eligibility for stipends

Information on eligibility requirements for stipends can be secured from the Office of Continuing Education, State Department of Education, Box 94064, Baton Rouge, Louisiana 70804-9064. The applicant must enroll in and continue enrollment in a curriculum which has been identified by the board as a "critical teacher shortage area".

B. Procedure for payment of stipend

1. Eligible candidates shall present the completed application form to the appropriate higher education official at the time of registration. Eligible candidates who submit a completed application form after the final date for registration will not be eligible for payment of the stipend. Participants shall be eligible for tuition payment solely for courses approved by number and title by the Louisiana Department of Education, Office of Continuing Education; the institution of higher education is responsible for ensuring that the applicant is eligible for participation and that the application form is complete, accurate, submitted on time and in accordance with an appropriate program of studies (course title and number).

2. At the completion of the term for which the stipend was awarded, the institution of higher education shall bill the department for approved courses of study for all approved stipend recipients. The listing to be submitted by the institution of higher education shall consist of the names of all stipend recipients attending the institution of higher education, together with a list of all courses taken (course title and number) and the grade achieved in each course by each stipend recipient. The institution of higher education shall include a separate listing of all stipend recipients who failed to complete the approved course(s), dropped the approved course(s), or received a failing or incomplete grade in the approved course(s). Institutions of higher education shall bill the department no later than 30 days following the final day of any term in which reimbursement for tuition costs is due to the institution of higher education; billings received later than 30 days following the close of the term for which billed shall not be entitled to the guarantees of Subsection 3 hereof.

3. The board or, at the discretion of the board, the department shall verify that all stipend recipients for whom reimbursement is claimed by the institution of higher education were previously approved by the Louisiana Department of Education, Office of Continuing Education. Upon such verification, the Department shall pay to the institution of higher education the amount due for study undertaken by approved stipend recipients. The amount to be paid to any institution of higher education is subject to the limitations contained in Section 167 hereof. Reimbursement to the institution of higher education shall be made no later than 30 days after the final date for receipt of billings from all institutions of higher education.

4. Reimbursement shall be made to the institutions of higher education for approved stipend recipients whether or not the stipend recipients maintain eligibility for payment as required under this Section.

C. Obligations of stipend recipients who fail to maintain eligibility for payment of stipends

1. Any approved stipend recipient who fails to maintain eligibility for payment of stipends shall be liable for repayment to the department for all monies paid to an institution of higher education on his/her behalf.

2. Upon receipt of a listing of stipend recipients who failed to complete any approved course, the department shall immediately issue a demand letter to every stipend recipient whose name appears on the listing. The demand letter shall provide that repayment to the department for all costs paid to the institution of higher education on behalf of the stipend recipient must be repaid within 10 days after receipt of the demand letter.

3. Whenever any stipend recipient fails to repay the department in full compliance with the terms and conditions set forth in the demand letter, the department shall initiate legal action to recover all costs paid on behalf of the stipend recipient failing to maintain eligibility. Such stipend recipient shall be liable for repayment to the department for all costs of such collection activities.

D. Report to the board

Within 60 days after the close of any term in which stipends are paid, the department shall submit to the board a report showing all stipend recipients who successfully completed the approved course of study and all stipend recipients who failed to successfully complete the approved course of study. Such report shall also contain the results of any action taken to recover any amounts owing to the department by stipend recipients who failed to successfully complete the approved course of study.

E. Appeal from denial of eligibility for payment of stipend

1. Any person meeting the eligibility requirements may appeal (a) the denial of approval of an application for a stipend, or (b) the denial of eligibility for reimbursement of tuition costs after enrollment in an institution of higher education.

2. Appeal as set forth in Paragraph (1) above shall be made to the Louisiana Department of Education, Office of Continuing Education, no later than 15 days following the date of notification of denial.

3. Any applicant who is denied tuition exemption by the Louisiana Department of Education, Office of Continuing Education for a college course shall have a right to a due process appeal before the State Board of Elementary and Secondary Education.

4. The applicant should contact the executive director of the State Board of Elementary and Secondary Education no later than 15 days following the notification of denial from the Department of Education.

F. Suspension of time for repayment

When an appeal of the denial of reimbursement is filed with the board as provided in Subsection E above, the time for repayment otherwise required by the Section shall be suspended until such time as the appeal is heard by the board's Due Process Committee. Upon a finding by the Due Process Committee that the reimbursement will be denied, the time for repayment required under Subsection C shall be reinstated and the time remaining at the time of the filing of the appeal shall be in effect.

Part 170. Administration of Annual 8(g) Program and Budget

170. Procedure for Payment to Support Fund Grantees

A. The board shall authorize payment to each Support Fund grantee in accordance with the approved project budget.

B. In the second and subsequent months of the grant period, each grantee shall submit a claim for reimbursement, in the form prescribed by the board. Grantees may request reimbursement of expenditures on a monthly basis.

C. Claims for reimbursement must conform to the budget approved by the board for each project.

D. Budget amendments which do not exceed 20 percent

of the line item of the budget not to exceed 5 percent of the total budget cumulatively may be approved routinely by the board staff. Any line item amendment to an approved budget which exceeds 20 percent of the approved line item must be submitted to the board for its approval.

E. Each grantee shall submit to the board a summary report showing all expenditures during the approved project period no later than 60 days after the close of the project period.

F. Any grantee not in compliance with sections (D) or (E) listed above shall be required to repay the grant money with interest upon demand of the board.

171. Quarterly Report to the Board

The department shall submit to the board a quarterly report showing all expenditures in each project no later than 30 days after the close of each quarter.

172. Final Programmatic Report

Each Support Fund grantee shall submit a final programmatic report to the board within 60 days after the close of a project period. The final programmatic report shall include, but not be limited to, the following:

A. Benefits achieved by the program.

B. Evidence of compliance with timelines established in the project application.

C. Data showing the degree of success achieved by the project.

D. Feasibility of replication of the project.

E. Such other information as may be beneficial to the board in its consideration of continuation of the project.

173. Monitoring and Evaluation of Approved Support Fund Projects

A. Each project approved for Support Funds shall be monitored at least once during the project period.

B. The board may elect to conduct monitoring through the use of employees of the board or department.

C. The board may elect to employ the services of independent monitors to conduct some or all of the monitoring of projects. Whenever the board utilizes an independent consultant to conduct monitoring, such consultant shall be paid from the funds set aside for administration of the Support Fund program.

D. The board may employ one or more independent consultants to conduct an indepth evaluation of such projects as may be selected by the board.

174. Annual Report of Each Fiscal Year Support Fund Activities

No later than December 31 of each year, the department shall prepare and submit to the board a comprehensive report of all projects funded during the previous fiscal year. The report shall contain such information as may be required by the board. The report shall be submitted to the legislature and the governor at such time as may be deemed appropriate by the board.

SECTION IV. Calendar Of Activities

- JULY
 - (01) 8(g) Advisory Council members begin term of office
 - (15) Notification to all applicants of the disposition of their projects
 - () Advertise public hearing(s) to be held in August
- AUGUST
 - (15) Deadline to hold public hearing(s)
 - () Board meeting - review of report on public hearing(s)

- SEPTEMBER
 - (01) Support Fund grantees to submit final fiscal/programmatic reports on all 8(g) projects funded during previous fiscal year.
 - (15) Report of public hearing(s) mailed to Advisory Council and available to public
 - () Board meeting - Board shall establish 8(g) Program and Budget
- OCTOBER
 - () Publish Notice of Intent of 8(g) Program and Budget in *Louisiana Register*
- NOVEMBER
- DECEMBER
 - (31) SDE to submit comprehensive fiscal/programmatic report to Board on projects funded during previous fiscal year.
- JANUARY
 - (31) Deadline to receive all applications requesting 8(g) monies
- FEBRUARY
 - (15) Report 8(g) Program and Budget to Governor and Legislature
 - (1-21) Review of eligibility of applications
 - () Board meeting - Board action on eligibility of applications
 - (28) Implement evaluation by 8(g) Evaluation Committee
- MARCH
 - (01) Deadline to receive applications for scholarships
 - (07) Written notification concerning ineligible applications
 - () Due Process Committee meeting - hear appeals on ineligible applications
 - () Board meeting - Board action on appealed applications
 - (31) Deadline for completion of work by 8(g) Evaluation Committee
- APRIL
 - (01) Deadline to receive applications for stipends
 - (15) Deadline to prepare report of 8(g) Evaluation Committee
- MAY
 - () Board meeting - Board to receive recommendations of 8(g) Advisory Council on report of 8(g) Evaluation Committee
- JUNE
 - () Board meeting - 8(g) Committee of the Board will make recommendations to Board on 8(g) proposals
 - () Board meeting - Board will award 8(g) grants for subsequent fiscal year
 - (30) Expiration of term of office of portion of 8(g) Advisory Council members

Dr. James Mesa, Jr.
Executive Director

DECLARATION OF EMERGENCY

Office of the Governor Governor's Office for Minority Business Enterprises

The Governor's Office for Minority Business Enterprise has exercised the emergency provisions of the Administrative Procedure Act, R. S. 49:953B to amend LAC 19:III.505 relative to certification procedures.

Add Subsection to §505 as follows:

Chapter 5. Certification Procedures

§505. Completion of Certification Application

A. Vendors must complete all portions of the certification materials and return them as specified in the following subsections, in order to be considered for certification under the minority set-aside program.

B. The following documents plus any specified attachments constitute the certification materials required from minority vendors interested in providing goods, services or supplies under R. S. 39:1551-1755:

1. Certification Resumé (Form #DA 3302; Revised 4/85) which must be completed and returned to the State Central Purchasing Section of the Division of Administration at Box 94095, Baton Rouge, LA 70804-9095. The following attachments must accompany the Certification Resumé when it is submitted:

a. Legal ownership documents (articles of incorporation, partnership agreements, stock ownership/distribution agreements, financial statements of the company which indicate the ownership of major assets as well as the principle stockholders in the corporation, company balance sheets prepared by a CPA, income (business and personal) tax statements for the past three years, Louisiana, state, and city licenses (whichever applicable), resumé of corporate shareholders and employees, organizational chart, equipment - ownership and rental certificates, supplier contract and relationship between distributor and prime contractor, any additional legal documents that would reflect ownership and control).

b. Birth certificates must be provided for all minority vendors for which certification is being sought, regardless of type of business structure.

c. All information requested on the Certification Resumé must be supplied, and the document itself must be notarized as indicated prior to submittal.

2. Bidders Application (Form #DA 3327/FACS Form 722; Revised 3/83), which is to be completed by the vendor and returned to the State Central Purchasing Section of the Division of Administration along with the Certification Resumé.

Misrepresentation of any of the information submitted is in violation of Act 713.

C. For minority vendors interested in providing professional, personal or consulting services under R. S. 39:1481-1526 or who are interested in construction contract work in connection with public works projects under R. S. 38:2184-2317, the following documents plus specified attachments shall constitute the required certification materials:

1. Certification Resumé (Form #DA 3302 Revised 4/85) plus attachments as specified in §505.B.1.a-c above.

2. A listing, on company letterhead, of the subject areas of expertise of the vendor company, to include resumé of key personnel, plus a list describing previous work done in each subject area with sufficient identification of the client and a contact person (name, title, business address, telephone number) for each client listed, such that references might be obtained.

3. All of the above materials must be submitted directly to

the Office of Minority Business Enterprises for certification of these types of vendors.

D. The Louisiana Department of Transportation and Development will continue to certify, in accordance with its own procedures, minority-owned business contractors who wish to perform work under Chapter 1 of Title 48. The Office of Minority Business Enterprises will accept such certifications as equivalent to its own.

AUTHORITY NOTE: Promulgated in accordance with R. S. 39:1951-1969 and R. S. 39:1981-1991.

Maxine Cormier
Director

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, 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 current dispensing fee for pharmacy providers who participate in the Pharmacy Program under Medicaid is \$3.30. Effective for services beginning August 1, 1987, the dispensing fee allowance for prescriptions under the pharmacy services program of the Office of Family Security has been increased to \$3.51. This increase is mandated by the 1987-88 Appropriations Bill in which the Legislature inserted specific language that the dispensing fee would be \$3.51. Under this emergency rule the Louisiana Pharmacy Program dispensing fee will be increased to \$3.51. This rule is allowed under 42 CFR 447.333.

RULE

Effective August 1, 1987, the dispensing fee for pharmacies participating in Medicaid shall be \$3.51 per prescription. The dispensing fee shall be utilized by the agency in its determination of the lesser of Estimated Acquisition Cost plus a dispensing fee or the pharmacy's usual and customary charge.

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.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Preventive and Public Health Services

The Department of Health and Human Resources, Office of Preventive and Public Health Services has exercised the emergency provision of the Administrative Procedure Act, (R.S. 49:953 B) to notify the public of supplemental Maternal and Child Health Services Block Grant funding year 1987-88.

The supplemental Maternal and Child Health Block Grant appropriation will be used as follows: To continue Maternal and Child Health services previously specified in the Block Grant application for FY 1987-88 to 6500 additional patients; to

provide special diagnostic tests for genetic disorders; to provide resource development, case management, and parent support services to "high tech" children with special needs and families in the Lafayette area; and to provide Family Planning medical services and case management services to adolescents in the Baton Rouge area.

This emergency rule is necessary to comply with Public Law 99-509 and receive supplemental Block Grant funds authorized by Congress in July, 1987 in October, 1987.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of State Police Division of Charitable Gaming Control

Adoption of emergency rules to supplement the Charitable Raffles, Bingo and Keno Law, R.S. 33:4861.1 et seq. and Acts 85, 389 and 526 of the 1987 Regular Legislative Session.

1. Statement of Emergency

The Regular Session of the 1987 Louisiana Legislature enacted Acts 85, 389 and 526 which enhanced the responsibilities of the Division of Charitable Gaming Control within the Office of State Police. The Acts require the Division of Charitable Gaming Control to increase the number of gaming days an organization may conduct, gaming, authorizes cable television bingo in the city of New Orleans, and authorizes the licensing of organizations which currently do not possess tax exempt status from the Internal Revenue Service. The Acts became effective on August 1, 1987, July 8, 1987, and July 9, 1987 respectively.

Implementation of these Acts necessitates the Department of Public Safety and Corrections, Office of State Police, Division of Charitable Gaming Control to adopt rules and regulations governing the conduct of this gaming.

The department has had insufficient time and information provided to the division between the close of the Legislative Session and the effective date of the law to promulgate permanent rules.

The provisions of the Louisiana Administrative Procedure Act for promulgating administrative rules prevent the adoption of permanent rules before certain hearings, publications, and delays all as provided by the Act.

The Department of Public Safety and Corrections finds that the lack of permanent rules between the effective date of the law and the adoption of permanent rules poses an imminent peril to the public health, safety and welfare. These emergency rules are needed in order to protect the health, safety and welfare of the public, to prevent economic hardships to potential manufacturers, operators, local governments and to provide the cable television bingo industry with minimal guidelines in this new area of law. The permanent rules will be promulgated by the Department of Public Safety and Corrections at a later date with opportunity for public comment and participation in a public hearing.

RULE ONE

The public health, safety and welfare is the primary consideration in promulgating these rules and shall continue to be the primary consideration in their application and enforcement.

RULE TWO

No applications to conduct games of chance more often than 12 days in any one month, in accordance with Act 85, shall be received or acted upon by the division until such time as permanent rules pertaining thereto have been promulgated.

RULE THREE

All charitable organizations, manufacturers, lessors, distributors, contractors, enterprises receiving any benefit, and employees or agents of the above intending to be involved in, or actually involved in, any aspect of the conducting of cable television bingo shall apply to the Division of Charitable Gaming Control and be licensed by the division before beginning any such activity associated with cable television bingo.

Applications shall comply with the existing rules and regulations of the Division of Charitable Gaming Control. In addition, full disclosure shall be made as to all parties involved in or associated with the proposed activity, including particularly any private contractors associated with the applicant, and full disclosure shall be made of all contracts, written or verbal, affecting the conduct of cable television bingo in any manner.

Completed applications shall be submitted to, and filed with, the division at least six months prior to the intended conducting of cable television bingo. Applications shall not be considered complete until such time as the division has received all information and disclosures.

Applicants shall supply immediately to the division any information or documents which changes in any manner or affects in any way the operation or the parties involved in the conducting of cable television bingo.

All contractors, manufacturers, distributors, lessors and charitable organizations shall upon making application submit to the division a nonrefundable fee of \$1,000 for the initial screening and processing of the application. The submitted fee shall be by certified check or money order. In addition, all applicants shall bear any and all reasonable investigative expenses incurred by the division required to disclose the applicant's suitability and otherwise assess the application to conduct or be associated with cable television bingo.

All applicants shall be required to fully cooperate with the division in providing information. All applicants shall agree to abide by and comply with all permanent rules and regulations which may hereafter be promulgated. Any such failure to provide the division with any information or to adequately satisfy the division's inquiries shall be cause for denial.

RULE FOUR

The division shall require the applications of a nonprofit organization eligible under R.S. 33:4861.4 as amended by Act 526 but not otherwise eligible for tax exempt status, to be submitted to the division on forms provided by the division and may contain at a minimum certain records including, but not limited to: minutes of meetings, checking account records, past history of organization, list of beneficiaries, treasurer's reports, the organization's federal and state income tax returns, and background information on membership. Failure to provide any requested information or statements shall be cause for denial.

RULE FIVE

Any violation of any provision of this act or any rule of the department not specified with a penalty may be cause for denial, suspension or revocation of a license and/or a fine of not more than \$5,000.

These emergency rules are enacted pursuant to Act 85,

389, and 526 of the 1987 Regular Legislative Session and became effective August 27, 1987.

Interested persons may submit written comments on this matter to Lieutenant Emile S. Bourgoyne, Department of Public Safety and Corrections, Office of State Police, Charitable Gaming Division, Box 66614, Baton Rouge, LA 70896.

Lieutenant Colonel J.C. Willie
Deputy Superintendent

Rules

RULE

Department of Commerce Racing Commission

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 57. Association's Duties and Obligations

§5741. Stable Telephone

A. No telephone shall be installed in the stable area except upon the request of the association conducting the meeting and the written approval of the chairman of the commission.

B. The receiver and transmitter of any public (pay) telephone shall be installed within a box and shall be kept securely locked from 15 minutes before post time of the first race until 15 minutes after the finish of the last race.

C. No usage of such public telephones shall be made during the aforementioned times except upon express approval of the state steward.

D. Subsections B and C of this rule do not apply to business telephones in the stable area.

AUTHORITY NOTE: Adopted in accordance with R.S. 35:5741.

Albert M. Stall
Chairman

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 on June 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:
Rule 3.01.51. kk

Delete Standard 2.037.07 of Bulletin 741 relative to class time in ninth grade classes when operated as part of a junior high school since this standard conflicts with other standards on the same subject.

Dr. James Meza, Jr.
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 on June 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:
Rule 3.01.51.11

Add a procedural block under Standard 1.009.16 of Bulletin 741 to read:

"Each school system may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time - effective 1987-88 school year." (The board directed that this provision will not apply to schools which are already under contract for use of a particular facility for graduation for 1988.)

Dr. James Meza, Jr.
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 on June 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:
Rule 3.01.70u(3)

The board amended the last line of Paragraph 3-b, page 84 of Bulletin 746, relative to certification in School Psychology to read: at least two years under the supervision guidelines adopted by the Board of Elementary and Secondary Education.

Dr. James Meza, Jr.
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 on June 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:
Rule 6.01.13.b

The board adopted the revisions to Bulletin 1525, *Personnel Evaluation Accountability: A Guide for Implementation*. Complete text of the revisions were published in the April, 1987 issue of the *Louisiana Register*.

Dr. James Meza, Jr.
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 on June 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:
Rule 3.01.83

The board adopted Bulletin 1794, *Procedures Manual for the Bureau of Materials of Instructions and Textbooks*.

Dr. James Meza, Jr.
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 on June 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:
Rule 5.03.21.c

The board adopted the following policy for the management of Carl D. Perkins Vocational Education Funds:

“Eligible recipients who are notified by the Office of Vocational Education that they have expended federal funds (Carl D. Perkins Vocational Education Act P.L. 98-254) out of compliance with federal guidelines, regulations and mandates shall reimburse the State Office of Vocational Education with state/or local funds upon notification.”

Dr. James Meza, Jr.
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 on June 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:
Rule 4.01.50(4)

The board adopted amendments to the Nonpublic School Standards (Bulletin 741). See April, 1987 issue of the *Louisiana Register* for complete text of amendments.

Dr. James Meza, Jr.
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 on June 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:
Rule 4.01.91

The board directed that the Norm-Referenced Testing Program (NRT) required by R.S. 17:24.4 will be administered statewide for Grades 4, 6, and 9, to be implemented in April, 1988.

Dr. James Meza, Jr.
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 on June 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:
Rule 6.02.61.e

The board directed that Special School District Number 1 principals and assistant principals be placed on the salary scale of the parish in which the SSD Number 1 program is located.

Dr. James Meza, Jr.
Executive Director

RULE

**Office of the Governor
Division of Administration
State Planning Office**

The Division of Administration is amending the FY 1987 LCDBG Final Statement. The purpose of the amendment is to allow the state to determine the administrative costs for demonstrated needs and economic development recipients whose project costs are less than \$200,000. Paragraph (6) i. of Section G will be amended to read as follows:

i. Based on review of the application, it is determined that general administrative costs exceed the following maximums: housing rehabilitation - 11.7 percent of total housing costs, economic development - five percent of the LCDBG funds requested for project costs, and public facilities - six percent of public facilities costs, except in cases where acquisition in excess of 10 parcels is involved, the maximum allowable will be 7.5 percent of public facilities costs. These limitations will not apply to demonstrated needs and economic development projects when the total project costs are less than \$200,000; in those cases, the state will make the final determination as to the appro-

priate allowable administrative costs.

This rule is to be effective on September 20, 1987, and is to remain in force until amended or rescinded. Anyone having comments should contact: J. W. Vaughn, Assistant Commissioner, Division of Administration, Box 94095, Baton Rouge, LA 70804.

Stephanie L. Alexander
Commissioner

RULE

Office of the Governor Office of Minority Business Enterprise

Effective September 20, 1987, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Office of Minority Business Enterprise, proposes to amend LAC 19:111.1517 and LAC 19:111.1703.

Add Subsection D to §1517 as follows:

Chapter 15. Designation and Setting Aside of Procurement Activities for Minority-Owned Business Participation

§1517. Designation of a Minority Set-Aside Bid

D. In the event there are not three or more certified minority vendors in a specific category, but the Office of Minority Business Enterprise certifies that there are not three such minority-owned businesses in Louisiana that are certified, nor are there three such minority-owned businesses which could be certified in the state of Louisiana, then the bid may be designated as a set-aside for the exclusive participation of certified minority-owned business as long as one certified minority vendor exists in the category being bid. The bid(s) received must conform with §1701.D and §1703.A relative to not exceeding 15 percent of what could have been obtained via open-market competition.

Amend §1703 A and E as follows:

Chapter 17. Criteria for Procurement of Goods and Services

§1703. Consulting Services

A. Criteria for requests for proposal for consulting services under Chapter 16. When the award for a contract for consulting services has been set-aside for minority-owned business participation and at the time request for proposals are to be distributed there are not at least three certified minority-owned businesses available to bid on the contract or class of contracts involved or the contract has not been set-aside in accordance with §1517.D of these rules and regulations, the award shall be made on the basis of open competitive bidding under the Louisiana Procurement Code.

E. In all cases, the state agency or educational institution actually making the award, either under open competitive bidding or under the set-aside provisions of this Title, may reject all proposals if it is determined based upon reasons provided in writing that such action is in the best interest of the state. One reason, but not the only reason, for rejection of all bids when the contract has been set-aside under the set-aside provisions of this Title, shall be if prices obtained exceeded more than 15 percent of what could have been obtained via open-market competition.

Maxine Cormier
Director

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security proposes to adopt the following rules in the Child Support Enforcement Services Program.

In accordance with child support federal regulations of 45CFR 302.56, effective October 1, 1987, the state is required to establish guidelines for setting child support award amounts. The state is required to have procedures in place for persons whose duty it is to set child support award amounts, but the guidelines need not be binding. The guidelines must be based on specific descriptive and numeric criteria and result in a computation of the support obligation.

RULE

October 1, 1987, the Office of Family Security, Child Support Enforcement Services shall implement a policy of determining child support award guidelines.

Guidelines are to be used in determining equitable amounts of child support for all appropriate cases including actions involving voluntary agreement, divorce, modification, paternity, legitimation and in any proceeding brought under a reciprocal support action. All appropriate factors shall be considered including these guidelines, the needs of the child, the ability of the parents to contribute to the child support, and any financial resources available for the support of the child. An order of child support shall be based on the gross income of the obligor (absent parent) including 100 percent of wage and salary income, compensation, other incomes, and self-employment incomes. If actual income is less because the obligor is voluntary unemployment or underemployed, the earning potential may be considered. Gross income does not include Aid to Families With Dependent Children (AFDC) benefits or child support received from any source.

Verification of gross income may be required, and guidelines shall be applied without regard to gender.

The ranges of child support amounts ordered are to be based on the following:

- 1 child 16%-21% of Obligor's Gross Income
- 2 children 24%-29% of Obligor's Gross Income
- 3 children 28%-33% of Obligor's Gross Income
- 4 children 30%-35% of Obligor's Gross Income
- 5+ children 33%-38% of Obligor's Gross Income

In applying these principles, the amount of child support may be set within or outside the range recommended. In making the determination all relevant factors shall be considered, including but not limited to:

- (a) the amount of the obligee's gross income;
- (b) the age and needs of the child;
- (c) child care expenses incurred by either party in order to maintain gainful employment;
- (d) whether either party has the managing conservatorship or actual physical custody of another child;
- (e) the amount of child support actually and currently being paid by the obligor under another child support order;
- (f) whether the obligor or obligee has an automobile, housing or other benefits furnished by his or her employer, another person, or a business entity;
- (g) provision for health care insurance and payment of uninsured medical expenses;
- (h) extraordinary health care or other expenses of the parties or of the child; and

(i) any other reason or reasons consistent with the best interest of the child; taking into consideration the circumstances of the parents.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, shall adopt the following rule in the Food Stamp Program. The categories of recipients required to report monthly or periodically are based on a waiver of federal regulations set forth in 7CFR 273.21 and approved by the Food and Nutrition Service, United States Department of Agriculture. This was published as an Emergency Rule in the June 20, 1987 *Louisiana Register* as the implementation of this waiver could reduce the error rate and thereby reduce the possibility of federal sanctions.

RULE

The rule entitled "Monthly Reporting in Food Stamps" published in the *Louisiana Register*, Vol. 11, No. 12, December 20, 1985 page 1146-1149 is hereby amended.

I. Monthly Reporting

The following households shall be required to report monthly:

1. public assistance food stamp households who are required to report for public assistance purposes.
2. nonpublic assistance food stamp households consisting of seven or more persons with the exception of the households whose only countable gross income consists of self-employment earnings which is received other than monthly.

Remaining households, other than those excluded by Law, would periodically report at six month intervals with the redetermination of eligibility serving as the periodic report. Those households whose only countable gross income consists of self-employment earnings which is received other than monthly would periodically report at twelve month intervals with the redetermination serving as the periodic report.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

RULE

Department of Health and Human Resources Office of Family Security

The Medical Assistance Program is adopting the following rule which was published as a Notice of Intent in the *Louisiana Register* Vol. 13, No. 7, dated July 20, 1987.

RULE

Louisiana Maximum Allowable Cost Regulations (LMAC) for reimbursement under Title XIX are amended to include the following multiple source drugs:

- | | |
|--|----------|
| 1. Chloridiazepoxide/Amitriptyline 12.5 mg/5 mg. | Tablets |
| 2. Chloridiazepoxide/Amitriptyline 25mg/10 mg. | Tablets |
| 3. Clonidine 0.1 mg. | Tablets |
| 4. Clonidine 0.2 mg. | Tablets |
| 5. Clonidine 0.3 mg. | Tablets |
| 6. Nifedipine 10 mg. | Capsules |
| 7. Nifedipine 20 mg. | Capsules |
| 8. Verapamil 80 mg. | Tablets |
| 9. Verapamil 120 mg. | Tablets |

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.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

RULE

Department of Health and Human Resources Office of Family Security

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register* Vol. 13, No. 7, dated July 20, 1987.

Level Of Care Exception Criteria

A recipient who would otherwise be medically certified for Skilled Nursing Facility care may be certified for Intermediate Facility care, subject to agency review and approval, if either of the following conditions exist:

1. The patient's condition has changed to a higher level but remains in the ICF while awaiting the availability of a skilled nursing facility bed.

A. The patient may remain in the ICF facility only so long as a skilled nursing facility vacancy is in excess of one hour travel time distance from the recipient's domicile (or that of his/her family); and

B. The patient may remain in the ICF facility only so long as there are no SNF beds available in skilled nursing facilities as verified in the OFS Regional Office records.

2. The patient whose condition would otherwise require a higher level of care, but is certified by a physician for placement in an ICF facility because the patient can be provided ICF care, in accordance with a plan of care, that includes additional services needed by the patient. In such cases, the ICF facility must be willing to provide the additional services to the patient at the ICF per diem rate.

All requests for level of care exceptions shall be accompanied by a written statement, signed by the treating physician, facility administrator and nursing director, which acknowledges the client's need for additional services which would otherwise require a higher level of care and states that the facility will provide the additional services outlined in the recipient's plan of care.

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.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

RULE

Department of Health and Human Resources Office of Family Security

The Medical Assistance Program is adopting the following rule which was published as a Notice of Intent in the *Louisiana Register* Vol. 13, No. 7, dated July 20, 1987.

RULE

Effective October 1, 1987, any individual or entity applying for certification as a Title XIX medical transportation provider shall operate a van type vehicle which has windows and wheelchair capability. Also, every fifth vehicle which is operated must be a van with windows and wheelchair capability. Currently certified Title XIX transportation providers shall meet these requirements by the next annual recertification to continue participation in Title XIX reimbursement. These requirements shall not apply to the individual class of transportation providers who provide transportation to one other individual.

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.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

RULE

Department of Health and Human Resources Office of Human Development

Effective October 1, 1987, the Department of Health and Human Resources, Office of Human Development, Division of Rehabilitation Services, will adopt this rule on Supported Work Program.

Supported Work Eligibility (Ref. 363)°

The Louisiana Division of Rehabilitation Services may provide services under this program to any individual who has severe handicaps, and for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of those handicaps; and has been determined by an evaluation of rehabilitation potential to have: 1) the ability or potential to engage in a training program leading to supported employment; 2) a need for on-going support services in order to perform competitive work; and 3) the ability to work in a supported employment setting. (Authority: 29 U.S.C. 795K) Louisiana Division of Rehabilitation Services Adopted Definitions (Ref. 363.7)°

1. "Supported Employment" means competitive work in an integrated work setting with on-going support services for individuals with severe handicaps for whom competitive employment: (1) has not traditionally occurred; (2) has been interrupted or intermittent as a result of severe handicaps; (3) transitional employment for individuals with chronic mental illness.

2. "Competitive Work" means work that is performed on a full-time basis or on a part-time basis, averaging at least 20 hours per week for each pay period, and for which an individual is compensated in accordance with the Fair Labor Standards Act.

3. "Integrated Work Setting" means job sites where: (A) most co-workers are not handicapped; (B) individuals with handicaps are not part of a work group of other individuals with

handicaps; or (C) if a job site described in paragraph (B) of this definition is not possible, individuals with handicaps are part of a small work group of not more than eight individuals with handicaps; or (D) if there are no co-workers or the only co-workers are members of a small work group of not more than eight individuals, all of whom have handicaps, individuals with handicaps have regular contact with non-handicapped individuals, other than personnel providing support services, in the immediate work setting.

4. "On-going Support Services" means continuous or periodic job skill training services provided at least twice monthly at the work site throughout the term of employment to enable the individual to perform the work. The term also includes other support services provided at or away from the work site, such as transportation, personal care services, and counseling to family members, if skill training services are also needed by, and provided to that individual at the work site.

5. "Transitional Employment for Individuals with Chronic Mental Illness" means competitive work in an integrated work setting for individuals with chronic mental illness who may need support services (but not necessarily job skill training services) provided either at the work site or away from the work site to perform the work. The job placement may not necessarily be a permanent employment outcome for the individual.

6. "Traditionally Time-Limited Post Employment Services" means services that are (A) needed to support and maintain an individual with severe handicaps in employment; (B) based on an assessment by the State of the individual's needs as specified in an individualized written rehabilitation program and (C) provided for a period not to exceed 18 months before transition is made to extended services provided under a cooperative agreement pursuant to Ref. 363.50.*

Division of Rehabilitation Services will participate in the following types of Supported Work Models. (As defined below)

I. SUPPORTED JOB/JOB COACH MODEL — The Job Coach Model establishes employment opportunities for individuals with severe disabilities in local industries on a one-person/one-job basis on jobs compensated in accordance with the Fair Labor Standards Act. A trained Job Coach develops the job in the industry, matches the individual to the job, trains the individual on the job until he/she meets industry criteria or his/her highest level of productivity and then provides on-going follow-up support to the individual and the employer for as long as services are required. Part-time work (at least 20 hours per week for each pay period) is included in this category for workers with severe handicaps who may not be able to work at full productivity within the foreseeable future. The Division of Rehabilitation Services will provide time-limited on-site training by the job coach with intensive follow-along by the job coach to insure that the client is able to hold competitive employment with minimal follow-along.

A. Guidelines for Supported Job/Job Coach Model:

1. The Division of Rehabilitation Services will provide time-limited services for eligible clients to become employed in Job Coach Model. Extended follow-along will have to be provided by another source following termination of time limited services. (Ref. 363.5B2).

2. The timeframe for this service is not to exceed 18 months.

II. ENCLAVE MODEL — An enclave is competitive employment in an integrated employment situation which provides the continuous, ongoing support required by some individuals for long term success. Within the enclave, payment for work

performed is commensurate with pay to others within the host company doing the same type and amount of work. Access to work is guaranteed in the same manner as for other employees within the company. Persons with disabilities work along side non-handicapped employees doing the same work, although limited work abilities and behavioral needs may require that workers be situated in proximity to each other to enhance training and supervision. Workers with handicaps receive the same benefits as others in the company with respect to such procedures as working hours, lunch and break time, and performance evaluations.

A. Guidelines for the Enclave Model:

1. The Division of Rehabilitation Services will provide time-limited services for eligible clients to become employed in enclaves. Extended follow-along will have to be provided by another source following termination of time limited services. (Ref. 363.5B2).

2. The timeframe for this service is not to exceed 18 months.

III. MOBILE CREW MODEL — The Mobile Crew Model is set up as a small single purpose business rather than as an extension of a large organization with many missions. A general manager is responsible for small crews having one supervisor and approximately five employees per crew. These businesses are usually non-profit corporations because workers usually perform at less than full productivity and require greater supervision than workers without disabilities. The crews must be integrated with non-disabled persons or in integrated work settings.

A. Guidelines for the Mobile Crew Model:

1. The Division of Rehabilitation Services will provide time-limited services for eligible clients to become employed in mobile crews. Extended follow-along will have to be provided by another source following termination of time limited services. (Ref. 363.5B2).

2. The timeframe for this service is not to exceed 18 months.

IV. Methods of Funding Supported Work

The Division of Rehabilitation Services will fund Supported Work Programs on a fee for service basis or on a contractual basis. All Supported Work services will be recorded on the DRS client's Individualized Written Rehabilitation Program (IWRP).

V. Recordkeeping

The Supported Work provider will be responsible for providing the DRS counselor with a monthly progress report.

*All references refer to Dept. of Education, Office of Special Education and Rehabilitative Services, 34CFR, Part 363, based on P.L. 99-506, Rehabilitation Act Amendments of 1986.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

RULE

**Department of Health and Human Resources
Office of Preventive and Public Health Services**

The Department of Health and Human Resources, Office of Preventive and Public Health Services is amending the Fee Adjustment Schedule as contained in the regulations for the Family Planning Program found in the *Louisiana Register*, Vol. 12, No. 11, page 769 (November 20, 1986). Effective Septem-

ber 20, 1987 the current fee schedule is replaced by the following:

FEE ADJUSTMENT SCHEDULE

% Poverty Income Family Size	I 100% No charge	II 100% 9% of charge	III 110% 18% of charge	IV 120% 27% of charge	V 130% 36% of charge	VI 140% 45% of charge
1		5.500	6.050	6.650	7.150	7.700
2		7.400	8.140	8.880	9.620	10.360
3		9.300	10.230	11.160	12.090	13.020
4		11.200	12.320	13.440	14.560	15.680
5		13.100	14.410	15.720	17.030	18.340
6		15.000	16.500	18.000	19.500	21.000
7		16.900	18.590	20.280	21.970	23.660
8		18.800	20.680	22.560	24.440	26.320
9		20.700	22.770	24.840	26.910	28.980
10		22.600	24.860	27.120	29.380	31.640
11		24.500	26.950	29.400	31.850	34.300
12		26.400	29.040	31.680	34.320	36.960
13		28.300	31.130	33.960	36.790	39.620
14		30.200	33.220	36.240	39.260	42.280
15		32.100	35.310	38.520	41.730	44.940
16		34.000	37.400	40.800	44.200	47.600
17		35.900	39.490	43.080	46.670	50.260

Joseph Kimbrell
Deputy Assistant Secretary

RULE

**Department of Health and Human Resources
Office of Preventive and Public Health Services**

In accordance with the laws of the state of Louisiana, R.S. 40:4, 40:5, and the provisions of Chapter XIII of the State Sanitary Code, the state health officer has determined that the following amendments to the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes—Acceptable Units" are adopted:

1. Amend the listing to include an additional manufacturer and associated plant model/series, specified as follows:

MANUFACTURER	PLANT DESIGNATION	RATED CAPACITY
Murphy Cormier General Contractor, Inc. Route 14, Box 1935 Lake Charles, LA 70605	"HOOT" Models	
	500	500 GPD
	1000	1000 GPD
	1500	1500 GPD

2. Amend the listing, as appropriate, to reflect current addresses and etc. for all previously listed manufacturers, as follows:

MANUFACTURER	PLANT DESIGNATION	RATED CAPACITY
Aquarobic Limited 171 Robert St. E. Penetanguishene Ontario, L0K 1P0 (formerly Eastern Environmental Controls, Inc.)	Mini-Plant	500 GPD
	Models F54291-5-S	thru
	F54291-6-S	1500 GPD
	F54291-7-S	
	F54291-7.5-S	
	F54291-8-S	
	F54291-9-S	
	F54291-10-S	
	F54291-11-S	
	F54291-12-S	
	F54291-13-S	
	F54291-14-S	
	F54291-15-S	

NOTE: without prefix "F" concrete tank

When used in conjunction with Filter Kit Model 3000, the following Mini-Plant Models 54291-4 thru 54291-15 are approved

Models	54291-4	400 GPD
	54291-5	thru
	54291-6	1500 GPD
	54291-7	
	54291-8	
	54291-9	
	54291-10	
	54291-11	
	54291-12	
	54291-13	
	54291-14	
	54291-15	

NOTE: with suffix "F": fiberglass tank;
without suffix "F": concrete tank

Clearstream Wastewater Systems, Inc. Box 705 Silsbee, Texas 77656	Models 500 H 1000 H 1500 H	500 GPD 1000 GPD 1500 GPD
Delta Process Equipment, Inc. Box 969 Denham Springs, LA 70726	Models HU-0.5 HU-1.0 HU-1.5	500 GPD 1000 GPD 1500 GPD
Jet, Inc. 750 Alpha Drive Cleveland, Ohio 44143	Model J 150 (Including filter)	500 GPD
Mo-Dad-1, Inc. Box 96 Denham Springs, LA 70726	Mo-Dad-1-500 Mo-Dad-1-1000 Mo-Dad-1-1500 Mo-Dad-1-500S Mo-Dad-1-1000S Mo-Dad-1-1500S	500 GPD 1000 GPD 1500 GPD 500 GPD 1000 GPD 1500 GPD
Multi-Flo, Inc. 23234 East River Road Dayton, Ohio 45439	Models FTB-0.5 FTB-1.0 FTB-1.5	500 GPD 1000 GPD 1500 GPD
Norwalk Wastewater Equipment Company 220 Republic Street Norwalk, Ohio 44857	SINGULAIR MODEL 820 (Including filter, backwash chamber, backwash pump, and appurtenant piping)	500 GPD
Robert R. Oldham, Inc. Box 197 Sidney, Ohio 45365	Model WOM-50 (Including filter) Model WOM-100 (Including filter)	500 GPD 1000 GPD
Owens Manufacturing & Speciality Company Box 2443 Lafayette, LA 70502	Kleen Tank Model 650 (Including filter)	500 GPD

The specified changes are in compliance with the requirements set forth in Section 6.6 of Appendix A of Chapter XIII of the State Sanitary Code.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

RULE

Department of Health and Human Resources Office of the Secretary

The Louisiana Department of Health and Human Resources (DHHR) has adopted rules to administer Block Grant federal funding for Fiscal Year 1987-88. These federal funds will be administered in accordance with P. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, and federal regulations as published in the *Federal Register*, Vol. 47, No. 129, Tuesday, July 6, 1982, pp. 29472-29493. The rules apply to the Alcohol and Drug Abuse and Mental Health Services Block Grant, the Maternal and Child Health Services Block Grant and the Preventive Health Services Block Grant.

The DHHR Offices responsible for administration of programs and services in the Block Grants are as follows:

(1) Alcohol and Drug Abuse and Mental Health Services - Office of Prevention and Recovery from Alcohol and Drug Abuse and Office of Mental Health;

(2) Preventive Health and Health Services - Office of Preventive and Public Health Services.

Copies of the entire Block Grant rules may be viewed at the Office of the State Register, 1500 Riverside North, Baton Rouge, LA 70804.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

RULE

Department of Natural Resources Office of the Secretary

Legal Division

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the secretary of the Department of Natural Resources has adopted the rules and regulations set forth below, with an effective date of September 20, 1987.

Rules and Regulations Implementing R.S. 47:2189.1

1. Any person and/or firm listed as a qualified and licensed broker by the Louisiana Real Estate Commission may nominate for sale a parcel or parcels of unredeemed property adjudicated to the state for unpaid taxes.

2. The nomination, to be submitted to Department of Natural Resources, Division of State Lands, Box 44124, Baton Rouge, LA 70804, shall include the following information as certified by the broker:

a. a complete description of the property, the name of the tax debtor, and the year for which taxes were unpaid.

b. he/she completed or caused to be completed a thorough review of the records of the assessor's office of the parish where the property is located, and there are no dual assessments affecting the property. In the event the records reveal a dual assessment, the broker will furnish the name or names of the parties listed as owners.

c. he/she completed or caused to be completed a thorough search of the conveyance records of the parish where the property is located, and there are no transactions of record which resulted in alienation of the property.

d. current information regarding the owners of the property, and the last known addresses on file with the assessor's office.

e. a list of the names and mailing addresses of all holders of encumbrances recorded against the property.

3. The Department of Natural Resources will evaluate information submitted by the broker in order to determine the appropriateness of a sale.

4. In the event the Department of Natural Resources concludes that the best interests of the state would be served by redemption of the property, it will notify the broker, and commence efforts to locate parties with interest to redeem the property.

5. If no one with an interest initiates redemption proceedings within 35 days of the mailing of notification pursuant to Paragraph 4 above, the Department of Natural Resources will inform the broker that a sale is appropriate.

6. In addition to the requirements set forth in R.S. 47:2189, the broker also shall submit an appraisal, along with an on-site inspection.

7. Nothing herein shall prevent the Department of Natural Resources from conducting a second appraisal, where deemed appropriate by the department. In all instances, the Department of Natural Resources may use whichever appraisal it considers acceptable in arriving at the minimum price for the property.

8. Whenever practicable, the minimum price shall be sufficient to satisfy all taxes and other costs associated with the sale which must be paid pursuant to R.S. 47:2190.

9. The broker's commission, established by R.S. 47:2189.1 as a cost of the sale, shall be six percent of the amount received by the state treasurer pursuant to R.S. received by the state treasurer pursuant to R.S. 47:2190.

10. The Department of Natural Resources shall provide the state treasurer with the broker's name, address and vendor's number, and the state treasurer shall remit the commission to the broker.

B. Jim Porter
Secretary

RULE

Department of Transportation and Development Office of Systems Management

FLIGHT OPERATIONS MANUAL REVISION NUMBER 2

Pursuant to the authority vested in the Office of the Secretary by Louisiana Revised Statutes 2:6 and 36:509F(3), the Department of Transportation and Development will publish a revision to the *State of Louisiana Flight Operations Manual*, in order to establish a new fee schedule for use of DOTD aircraft.

The following changes will be reflected in the Flight Operations Manual and published following publication of the rule:

4. All passengers in aircraft owned and operated by the DOTD shall be billed for air travel in accordance with the following fee schedule:

a. Official state business charges: agencies shall be charged for aircraft use in accordance with the following rates as recommended by the secretary of transportation and approved by the governor:

Twin Engine Turbo Prop - \$300 per agency flight hour to destination and return;

Twin Engine (Reciprocating Engine) - \$120 per agency flight hour to destination and return;

Single Engine - \$60 per agency flight hour to destination and return;

Rotary Wing Single Engine - \$300 per agency flight hour to destination and return;

A minimum charge of \$100 per agency flight will be collected for all flights which generate less than \$100 in per hour charges. A \$15 per hour, per pilot, per agency charge will be collected for ground waiting times.

The revised rates will become effective immediately following publication of the rule.

Robert G. Graves
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Title 76

Wildlife and Fisheries

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§125. Lake Bruin

The Louisiana Wildlife and Fisheries Commission and the Louisiana Department of Wildlife and Fisheries hereby establishes and permits a special recurring commercial fishing season, allowing the use of certain nets and slat traps, in Lake Bruin, Tensas Parish, Louisiana. The season will commence each year at sunrise on November 1 and close at sunset on the last day of February the following year.

A. Commercial fishing with certain nets and slat traps will be allowed on Lake Bruin only during the above described special season and only by licensed commercial fishermen who must also obtain a Lake Bruin commercial fishing permit from the Louisiana Department of Wildlife and Fisheries. The permit will be issued at no cost on a seasonal basis and must be renewed for each season. The permittee must also file a report to the Department of Wildlife and Fisheries of his catch within 15 days of the close of that season. The use of nets in Lake Bruin will be limited to gill and trammel nets greater than or having at least a minimum mesh of 3 1/2" bar and 7" stretched.

B. Commercial fishing will be allowed only during daylight hours except that gear can remain set overnight but fish captured may be removed during daylight hours only.

C. Failure to comply with the terms of the special permit or of any Louisiana commercial fishing regulations shall result in immediate cancellation of the permit and denial of a permit for the next year's special season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22, R.S. 56:317 and R.S. 56:402.

J. Burton Angelle
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission has established the minimum length of Spanish mackerel (*Scomberomorus Masculatus*) at 14 inches total length, or 12 inches fork length in Louisiana waters.

Title 76

WILDLIFE AND FISHERIES

Part VII.-Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§323. Size Limits Set by Commission

The minimum legal size for Spanish mackerel (*Scomberomorus masculatus*) shall be established at 14" total length, or 12 " fork length in Louisiana waters.

J. Burton Angelle
Secretary

Notices of Intent

NOTICE OF INTENT

Department of Agriculture Dairy Division

The Louisiana Department of Agriculture and Forestry, Dairy Division, advertises its intent to adopt an amendment to the regulation regarding bonds and other securities required of milk buyers to allow the commissioner to accept other security, in a form and substance acceptable to and approved by the commissioner. This notice will also repeal prior rule under Title 7, Chapter 53, Section 5305, entitled "Other Securities in Lieu of Surety Bond," as this prior rule would be in conflict with the amendment to Title 7, Chapter 53, Section 5303, which the commissioner proposes to amend. The proposed regulation is as follows:

Title 7 Agriculture and Animals Part VII. Dealers in Farm Products

Chapter 53. Milk Buyers

§5303. Bonds and Other Securities

A. Any person, firm or corporation, who shall engage in the business of purchasing milk from producers or cooperative associations for the purpose of manufacturing, pasteurizing or distributing milk or milk products shall post, with the commissioner, a surety bond signed by a surety company authorized to do business in Louisiana, or other security, in a form and substance acceptable to and approved by the commissioner. Said other security may include, but not be limited to, the following: (1) a certified check for the amount of security required; or (2) negotiable bonds or securities in the amount required; or (3) a first mortgage on real estate and/or plant equipment.

B. The amount of such bond or other security shall be computed by adding the total payments made to producers and cooperative associations for milk during the preceding six months, dividing by the number of days in the period and then multiplying the results by twice the number of days in the normal or customary pay period. The bond or other securities shall be sufficient to cover a minimum of seven days' purchase from producers and cooperative associations and the maximum amount required shall not be more than an amount to cover 25 days' purchases from producers and cooperative associations. The correct amount of bond or other security shall be computed semi-annually or annually, at the discretion of the commissioner, and the amount shall be adjusted accordingly.

Interested parties may submit written comments on the proposed amendment to the regulation until 4:30 p.m., October 15, 1987 at the following address: Bob Simon, Director, Dairy Division, Box 44456, Capitol Station, Baton Rouge, LA 70804.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Bonds and Other Securities

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated implementation costs.
- 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)
This amendment may make it less expensive for dairy processors in the state of Louisiana to provide security as required by law.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Richard Allen
Assistant Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

The State Civil Service Commission will hold a public hearing on Wednesday, October 7, 1987 to consider adding, repealing and amending certain Civil Service rules, as listed below. The public hearing will begin at 8 a.m. in the Twelfth Floor Commission Hearing Room, Republic Tower Building, 5700 Florida Boulevard, Baton Rouge, LA.

Consideration will be given to the following:

PROPOSAL - NEW RULE 1.20.04

1.20.04—'Minimum' means the interim minimum of pay range, as stipulated in Chapter 19 until such minimum no longer exists

EXPLANATION

Many of the new rules, especially in Chapter 6, frequently refer to the "minimum." As long as the interim minimums are still in effect, they will usually be the pay from which pay calculations are made.

PROPOSAL - AMEND RULE 1.30

1.30—'Public Hearing' means a hearing held after public notice of at least 24 hours, at which any person may have a reasonable opportunity to be heard, in accordance with such rules and regulations as may be adopted by the commission.

EXPLANATION

The Louisiana Open Meeting Law includes a requirement for written public notice 24 hours prior to a scheduled meeting. The Civil Service Commission amended Rule 2.5, "Notice of Meetings," at its meeting on April 6, 1982 to reflect a 24-hour notice rather than five-days notice. Through an oversight, Rule 1.30, "Public Hearing," was not amended to conform to that change. The proposed amendment changes the required public notice of a public hearing from five days to 24 hours in conformity with Rule 2.5.

PROPOSAL - AMEND RULE 6.4(b)

6.4—Rates in Pay Plan

(a) . . .

(b) Subject to the provisions of Rules 6.10(c), 6.11, 6.15, and 17.11(e) each employee shall be paid at a rate within the range for the grade of job to which his position is allocated.

EXPLANATION

The rules to which this rule has been made subject, all have to do with paying employees more or less than the pay within their regular pay range.

PROPOSAL - AMEND RULE 6.20

6.20—Options for Full-time Employees for Overtime Hours Actually Worked In Excess of 40 Hours per Week

An appointing authority shall select and use one of the applicable options listed below for those overtime hours actually worked in excess of 40 hours per week. Only options 1 or 2 under Rules 6.20(a) and (b) shall be used for overtime work by employees in nonexempt status regardless of GS level. Refer to Rule 6.24 for fire, law enforcement, and hospital employees.

PAY RANGE	OPTIONS
(a) . . .	(1) . . . (2) . . .
(b) . . .	(1) . . . (2) . . . (3) . . . (4) . . .
(c) . . .	(1) . . . (2) . . . (3) . . .
(d) . . .	(1) . . . (2) . . .

EXPLANATION

The phrase "regardless of GS level" was added to clarify the intent of this rule as it applies to employees in nonexempt status under the Fair Labor Standards Act. FLSA limits the agency's normal options for employees on or above GS-12 since federal law would supercede Civil Service rules on overtime compensation.

PROPOSAL - REPEAL RULE 8.9(b)

8.9—Appointment of Eligibles From Certificates

- (a) . . .
- (b) Repeal
- (c) . . .

EXPLANATION

It is illegal to use the age of 70 or older as a sole criterion to remove applicants from certificates due to Federal Act 29CFR Part 1625 and Amendments. This is the Age Discrimination in Employment Act.

PROPOSAL-AMEND RULE 8.10

8.10—Restricted Appointment

- (a) . . .
 - (1) . . .
 - (2) . . .
 - (3) . . .
 - (4) pay set above the mid-point of the range is fully justified by written explanation; and
 - (5) the appointing authority has made a reasonable determination that the person appointed meets the minimum qualifications of the job specifications; and
 - (6) . . .
 - (7) . . .
- (b) . . .
- (c) . . .

(d) . . .

EXPLANATION

Subsection (a)(4) had to be amended because the pay plan of June 29, 1987 abolished steps. The intent of the rule remains the same. In Subsection (a)(5), the word "class" was changed to "job."

PROPOSAL - AMEND RULE 8.18

8.18—Noncompetitive Reemployment Based on Prior State Service

(a) Subject to the provisions of Subsections (d), (e) and (f) hereof and with the approval of the director, a former permanent employee who has been separated from the classified service may, within five years from separation, be noncompetitively reemployed in any job for which he is qualified and which has the same or lower entrance salary as the current minimum for the job in which he had permanent status. Further, if the job in which an employee or former employee held permanent status undergoes a change in title, other than an upward reallocation of the position after the employee separated from it, or undergoes a change in minimum qualifications requirements, he shall not lose his reemployment eligibility for such position or lower position in the same job series, if such exists, except where the qualification lacking is one required by law or under a recognized accreditation program. In this case eligibility remains, even if the entrance pay has moved upward. Further, he shall be eligible to be reemployed in any other job at the same or lower current entrance pay as the job to which his position changed in title, provided he meets the minimum qualification requirements.

EXPLANATION

This rule has been reworded for clarification. The intent of the rule remains the same.

PROPOSAL - AMEND RULE 17.11

17.11—Reductions in Pay to Avoid Layoff

When an appointing authority determines that it is necessary to reduce the salaries of employees under his jurisdiction in order to avoid a layoff, he may do so, subject to the following provisions:

- (a) Any pay reduction must receive approval of the director, no later than 14 calendar days after the effective date, based on a written request and justification from the appointing authority. This justification shall include the reasons for the pay reduction, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the percent of pay reduced for each employee, the proposed effective dates and periods of time involved, and the organizational unit(s) and geographic area(s) affected. If the request or any part thereof is not approved by the director, the employees included in the plan or portion of the plan not approved must be paid their regular salary for that period of time between the proposed effective date and date of the director's determination. In all cases of disapproval by the director, his decision shall be subject to the commission's ratification, at its next regularly scheduled meeting.
- (b) . . .
- (c) Pay reductions shall not exceed 12 percent of an employee's pay without approval of the commission. No pay reduction shall exceed 24 percent of an employee's pay.
- (d) Employees having red circle rates under Rule 6.15, may be reduced to their true eligibilities, plus an additional 12 percent of their true pay range, without approval of the commission.
- (e) Employees who are being paid 12 percent or less above the minimum for their pay range may be reduced below the minimum by no more than 12 percent less than the mini-

mun. An appointing authority does not have to reduce an employee below the minimum of his pay range to satisfy the uniformity provisions of these rules.

(f) . . .

(g) . . .

(h) An employee shall be restored to the pay rate he held when the reduction was effected, and may be given a higher pay for which he is eligible, at the end of the period of pay reduction or upon an intervening personnel transaction which ends the period of pay reduction for that employee.

EXPLANATION

With the adoption of the June 29, 1987 pay plan "steps" were abolished. Therefore, since merit increases are now 4 percent of an employee's pay, each step was determined to be 4 percent of an employee's pay. Basically, all changes to this rule were to accommodate the abolishment of steps. The intent of the rule remains the same.

PROPOSAL - AMEND RULE 17.19

17.19—Pay Reductions

Percentage of pay reductions resulting from employees being placed in lower pay ranges shall be uniform, unless a written request with justification is approved by the director. Such reductions shall not result in an employee's being paid above the maximum or below the minimum of the range for the position to which he is moved as the result of layoff.

EXPLANATION

Pay "steps" have been abolished in the June 29, 1987 pay plan. The intent of this rule has not changed. Only references to steps have been removed. Some examples of uniform pay reductions are as follows:

1. All employees affected by a layoff action could be minimally impacted in pay, e.g., "slid" into the new range with no reduction in pay or put at the maximum of the new range, if the maximum is less than they were earning.

2. All employees could be cut the same percent of the salary they were earning at the time they were impacted by the layoff, as long as such amount falls within the lower pay range, e.g., all employees can be reduced 16 percent of their current salaries. If this cut results in their being above the maximum for the job to which they demoted, they must be put at the maximum. If it results in their being below the minimum of the lower range, they must be put at the minimum.

3. All employees could be put at the minimum of the job to which they were displaced.

PROPOSAL - AMEND RULE 17.23

17.23—Reporting Requirements After Layoff

The appointing authority shall report to the director in writing within 15 calendar days from the effective date of the layoff, all personnel actions taken relative to the layoff. The report shall include the names and most current mailing address on file with the affected agency of all employees affected by the layoff, the nature of personnel action taken, including jobs and offers made, accepted, or declined, and positions involved for every affected employee.

EXPLANATION

Rule 17.23 is amended to include each employee's most current mailing address on file with the affected agency in the layoff report. This information will be used by Civil Service to help verify that appropriate notification of employees' eligibility for the department preferred reemployment list was provided by the agency.

PROPOSAL - AMEND RULE 17.23.1

17.23.1—Layoff - Related Appointments

(a) . . .

(b) No appointment shall be made in the affected organizational unit or department to the job(s) affected by the layoff or to equivalent or lower levels of positions in the applicable career fields beginning on the date the director approves the formal layoff plan for the proposed layoff and ending 30 days after the layoff report as stipulated by Rule 17.23 is received at the Department of State Civil Service or upon establishment of the department preferred reemployment list, whichever comes first. Exceptions to this provision include reinstatement, restricted appointment, detail to special duty not to extend three months beyond the effective date of layoff, job appointment not to extend three months beyond the effective date of layoff, internal demotion, or restoration of a former employee entitled to the position who has returned from military service in accordance with Rule 8.19.

EXPLANATION

This amendment proposes that job appointments which do not extend more than three months beyond the effective date of layoff be allowed during the "freeze period" after a layoff. This provision is added because agencies can already use restricted appointments and details to special duty for the same period of time. Also, if the department preferred reemployment list is established before a period of 30 days after a layoff, such establishment will end the freeze on hiring and promotions in connection with the layoff.

PROPOSAL - AMEND RULE 17.24

17.24—Department Preferred Reemployment Lists

Except as provided in Rule 17.16.1(f), eligibility for the department preferred reemployment list does not extend to an employee whose two most recent service ratings were unsatisfactory when he was affected by a layoff action. Also, eligibility for the department preferred reemployment list does not extend to any person who, after being affected by a layoff action, is terminated for disciplinary reasons, or resigns to avoid disciplinary action, except that a person terminated for disciplinary reasons and who is later reinstated will have his eligibility for the department preferred reemployment list restored. Also, a person who retires from state service shall not be eligible for such a list.

An employee's name will be removed from such application lists when he declines an offer or fails to respond to an offer. Also, his name will be removed from the list(s) in accordance with Subsections (d), (e), (f), (g) and (h) of this rule. If an employee declines an offer to the same job from which he was laid off, he shall be removed from all preferred lists for which he is eligible. If he declines an equivalent job, he shall stay on the list only for the job from which he was laid off.

(a) A permanent employee who, under the provisions of Rules 17.15, 17.16, and 17.17 is laid off or officially moved out of his regularly assigned position to another position in a different job title or the same job but in a different parish as the result of a layoff action shall, in accordance with his stated conditions of availability, and after receipt by the Department of State Civil Service of the layoff report as stipulated in Rule 17.23, have his name entered on the department preferred reemployment list for:

1. . . .

2. . . .

(b) . . .

(c) . . .

(d) . . .

(e) . . .

- (f) . . .
- (g) . . .
- (h) . . .

EXPLANATION

The second paragraph at the beginning of the rule is proposed to clarify the means by which a person's name will be removed from the list and for which jobs he will be removed.

Presently an employee may get on the department preferred list if he moves from a position in one job title to another position in the same job title, even if it is in the same unit and building. The amendment to Subsection (a) would remove rights to the preferred list in such a case and limit when a change in position would entitle an employee to such list, i.e., when the position change is to a different job or the same job but in a different parish.

Also, Subsection (a) changes the procedure by which an employee is placed on the preferred list. All permanent employees affected by a layoff would now automatically be placed on the list for their job title, under the conditions stated in Subsection (a), and all equivalent or lower jobs for which they qualify in their career field. Civil Service will ensure that persons on a preferred list meet the minimum qualification requirements for the job at the time a certificate is requested. The agency would still need to get the employee to indicate his availability for the list.

PROPOSAL - AMEND RULE 17.25

17.25—Noncompetitive Reemployment from a Department Preferred Reemployment List

When there is a department preferred reemployment list for an agency or department affected by a layoff, containing the name of one or more qualified employees available for appointment to a vacant position in the affected agency or department, the vacancy shall be filled only by reinstatement, restricted appointment, detail to special duty not to extend three months beyond the effective date of layoff, job appointment not to extend three months beyond the effective date of layoff, internal demotion, restoration of a former employee entitled to the position who has returned from military service in accordance with Rule 8.19, or appointment of an eligible from such preferred list. Other details to special duty may be used before appointment from a preferred list, if such details are given prior approval by the director. Except as provided in this rule, appointment from a department preferred reemployment list shall take priority over all other methods of filling vacancies.

EXPLANATIONS

This proposed amendment adds two new ways by which an agency is allowed to fill vacancies before it is required to hire from a department preferred reemployment list. A job appointment not to extend three months beyond the effective date of layoff is included. Also, details to special duty other than those that extend only three months beyond the effective date of layoff are allowed, but only if they have prior approval of the director.

The job appointment provision was added because an agency may already use either restricted appointments or details for the same purpose. The provision for other details, e.g., those lasting longer than three months beyond the effective date of layoff of those occurring later after a layoff, has been added to allow greater flexibility in agency operations after layoffs. It allows vacancies to be filled temporarily without increasing the agency's headcount.

PROPOSAL - REGULAR ADOPTION OF RULE 19.10

19.10-Transition Problem Resolution

In order to resolve problems which arise as a result of transition to the new pay system, the director shall have author-

ity to waive existing rules and approved personnel actions when he determines such approval to be in the best interest of the state service. The director shall report all actions taken under this rule to the commission.

EXPLANATION

Movement to the new system has created problems which were not anticipated at the time the rules were drafted. Most of these resulted from retroactive changes in pay ranges, jobs, and/or allocations. This rule would permit the director to resolve those problems even when his actions might not comply with existing rules. This extraordinary authority would expire at the end of the transition period.

Rule 19.10 above was adopted as an emergency rule, pursuant to Civil Service Rule 2.10(f), by the Civil Service Commission at its July 8, 1987 meeting. Regular adoption of this rule is now necessary because an emergency rule is effective for only 120 days unless it is adopted on a regular basis. The problems associated with the transition period and which have been addressed through use of Rule 19.10 will continue as the transition continues. This period will last longer than 120 days.

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

Herbert L. Sumrall
Director

NOTICE OF INTENT

**Department of State Civil Service
Civil Service Commission**

The State Civil Service Commission will hold a public hearing on Wednesday, October 7, 1987 to consider adding and amending certain Civil Service rules, as listed below. The public hearing will begin at 8 a.m. in the Twelfth Floor Commission Hearing Room, Republic Tower Building, 5700 Florida Boulevard, Baton Rouge, LA.

Consideration will be given to the following:
PROPOSAL - NEW RULE 1.5.2.1

1.5.2.1 *Certifiable Scores* means a range of scores on a selection procedure which would likely be in the top five grade groups on a certificate of eligibles if one were issued.

EXPLANATION

This definition is added to define "certifiable score" as it will be used in proposed Rule 8.4(d), which is listed below. See the explanation for that rule.

PROPOSAL - NEW RULE 8.4(d)

8.4 Certification of Eligibles

- (a) . . .
- (b) . . .
- (c) . . .
 - 1. . . .
 - 2. . . .
 - 3. . . .

(d) The director may establish a range of certifiable scores for certain jobs and, without issuing a certificate, permit competitive employment of applicants who have attained a score within that range.

EXPLANATION

This rule is proposed to provide a more efficient and effective way providing agencies with the authority to competi-

tively appoint applicants in certain jobs which have much hiring and turnover, such as clerks and typists clerks.

These jobs have large numbers of positions, applicants and requests for certificates of eligibles. Many names are placed on such certificates due to the unusually high percentage of declinations and failures to reply by applicants. There is a tremendous amount of time involved in requesting certificates, issuing certificates, determining candidate availability and conducting interviews. Unfortunately, after all of this effort, relatively few candidates remain available for state employment.

Because of these processing difficulties, Civil Service has received requests, to make many of these "high activity" jobs noncompetitive. However, there is a more than an adequate number of candidates and Civil Service examinations are able to measure the skills required for these jobs. The problem is the length of time needed to process and reissue certificates which authorize hiring. Civil Service must provide such authority in a more efficient, timely and effective manner.

Civil Service proposes to identify "certifiable scores" for these types of jobs and then to grant agencies the authority to competitively appoint any applicants who have at least achieved such scores. The score selected for each of these jobs will be one that is typically high enough to be certified. The applicants who are eligible for appointment through this procedure are the same applicants who would be eligible through the normal certification process.

This process is proposed to be used initially for the jobs of Clerk 1, 2; Typist Clerk 1, 2; and the Professional Entry Test.

PROPOSAL - AMEND RULE 19.9(a)

19.9 Pay Upon Grade Assignment changes

(a) Re-evaluation or Re-titling

During the first year transition to the new pay structure, when the director assigns jobs to a different range based upon a re-evaluation and/or restructuring or re-titling of those jobs, the pay range change will be made effective. The effective date of the new structure and an incumbent's pay will be determined by following the Chapter 19 Transition Rules.

(b) . . .

(c) . . .

EXPLANATION

The current rule provides for the re-evaluation of an existing job specification when the duties have remained the same. Civil Service is able to correct the pay range without affecting the pay of employees unless the pay is below the interim minimum.

This modification provides for the evaluation of a new job specification that is replacing an existing specification when duties have remained the same; thus, a specification may be replaced with a more appropriate specification without affecting the pay of an employee, unless the pay is below the interim minimum.

The rules give Civil Service one year to make corrections to job specifications, evaluations, and pay ranges in jobs which have not changed substantially, without affecting individual pay ranges.

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

Herbert L. Sumrall
Director

NOTICE OF INTENT

**Department of Education
Proprietary School Commission**

Add Title VIII to the Advisory Commission on Proprietary Schools, Louisiana State Department of Education, Rules and Regulations, Bulletin 1443.

When an institution closes, and is domiciled within the state of Louisiana, the complete student records of the school will be deposited with the commission. The records will be prepared in the following manner:

A. They shall be filed in alphabetical order.

B. Each container will be clearly marked "OFFICIAL RECORDS" and will show the alphabetical order:

1. Official Records June 30 to December 31, 19____
2. Official Records AA to BC

C. The containers shall be sealed to prevent loss or damage and marked in succession.

Inquiries and comments should be addressed in writing to Andrew H. Gasperecz, Executive Secretary, Louisiana Proprietary School Commission, State Department of Education, Box 94064, Baton Rouge, LA 70804-9064, through October 5, 1987.

The public hearing will be held at 10 a.m., December 2, 1987, in the conference room on the second floor of the State Department of Education Building, 626 North Fourth Street, Baton Rouge, LA.

Andrew H. Gasperecz
Executive Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Retrieval of Student Records
When School Closes**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation cost 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 will be no cost or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Andrew H. Gasperecz
Executive Secretary

David W. Hood
Legislative Fiscal Analyst

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no cost or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Andrew H. Gasperecz
Executive Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Proprietary School Commission**

Add to Title V, Section 1, Subsection (8), to the Advisory Commission on Proprietary Schools, Louisiana State Department of Education, Rules and Regulations, Bulletin 1443.

Student Tuition Refunds on School Closures and Claims Against Surety

A. When an institution closes and this prevents the student from completing the course being pursued, all tuition and fees paid to the institution by the student are refundable provided there is sufficient surety bond coverage. When the amount of the bond is not sufficient to pay a total refund to each student, the amount of each student is computed on a percentage on the dollar amount of the total paid by each student.

B. The commission shall obtain a list of the students enrolled during the term of the surety bond along with their verification of copies of cancelled checks and/or receipts paid to the institution.

C. The commission shall notify the state attorney general to make a bond claim against the surety.

D. The commission shall forward all student claims to the state attorney general for processing and payment of student refunds.

Inquiries and comments should be addressed in writing to Andrew H. Gasperecz, Executive Secretary, Louisiana Proprietary School Commission, State Department of Education, Box 94064, Baton Rouge, LA 70804-9064, through October 5, 1987.

The public hearing will be held at 10 a.m., December 2, 1987, in the conference room on the second floor of the State Department of Education Building, 626 North Fourth Street, Baton Rouge, LA.

Andrew H. Gasperecz
Executive Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Tuition Reimbursement for School Closure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation cost 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 will be no cost or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Andrew H. Gasperecz
Executive Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq., and in particular Sections 1061 D(1) and 1073 A(2), 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 adopt rules for administrative proceedings of the department.

The proposed rules will provide a uniform and consistent system governing administrative procedure within the Department of Environmental Quality.

The proposed rules of procedure are to become effective on December 20, 1987, or as soon thereafter as practical upon publication in the *Louisiana Register*.

RULES OF PROCEDURE

CHAPTER 1: GENERAL

1.1 - 1.8

1.1 Authority

The Louisiana Environmental Quality Act, R.S. 30:1051 et seq. and particularly Sections 1061 D(1) and 1073 A(2) authorize the secretary of the Department of Environmental Quality to adopt rules governing administrative procedure within the administration of the department.

1.2 Object

The object of these rules is to provide a uniform and consistent system governing administrative procedure within the Louisiana Department of Environmental Quality.

1.3 Definitions

The following terms used in these rules, unless the context otherwise requires, or unless specifically redefined in a particular Section, shall have the following meanings.

Act or Rules means the Louisiana Environmental Quality Act. (R.S. 30:1051 et seq.), and/or these rules of procedure, or regulations of the predecessors of the secretary still in effect, and other rules promulgated by the secretary under the Louisiana Environmental Quality Act.

Adjudication means the formal process established in this Chapter for reaching a final decision.

Administrative Authority means the secretary of the Department of Environmental Quality or an authorized assistant

secretary of the department or his or her representative.

Assistant Secretary means the assistant secretary of any office of the department as indicated in the text of these rules.

Decisional Body means any employees of the department who are requested by the secretary or an assistant secretary to be involved in the decisional process.

Decisional Process means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of any matter required to be adjudicated or determined on the record, after notice and hearing, including making findings of fact and conclusions of law.

Department means the Department of Environmental Quality.

Ex parte Communication means any direct or indirect written or oral communication between the decisional body and any party or member of the trial staff which relates to the merits of an adjudication which has been noticed and docketed and which is not simultaneously made to all parties and intervenors.

Ex parte communications do not include:

1. communications between members of the decisional body and department employees not engaged in investigating, prosecuting, or advocating functions relating to the subject of the communication; or

2. discussions between the decisional body and interested persons or the trial staff, if all parties and intervenors have received prior reasonable notice of the proposed communications and have been given the opportunity to be present and participate therein.

Office means the Office of Air Quality and Nuclear Energy, the Office of Solid and Hazardous Waste, or the Office of Water Resources of the Department of Environmental Quality.

Presiding Officer means the secretary, an assistant secretary, an administrative law judge or an individual designated by the secretary or an authorized assistant secretary to conduct any hearings or meetings on their behalf.

Respondent means the person, corporation or other legal entity that allegedly violated the Act or rules and against whom an enforcement action the Act is sought, or the persons, corporation or other legal entity applying for, or in receipt of, a permit, license, registration, or variance which is being contested or otherwise reviewed.

Secretary means the secretary of the Department of Environmental Quality.

Trial Staff means department employees whether temporary or permanent, who have been designated by the secretary or the assistant secretary(ies) concerned to investigate, litigate, and present evidence, arguments, and the technical and legal position of the department in an adjudication. Appearance as a witness does not necessarily require a person to be designated as a member of the trial staff.

1.4 Filing of Documents

A. Any notice, petition, document, or other correspondence related to an adjudicatory hearing or request for an adjudicatory hearing which is required to be filed with the secretary, an assistant secretary or presiding officer, shall be addressed and mailed or delivered to: Administrative Hearing Clerk, Louisiana Department of Environmental Quality, State Land and Natural Resources Building, 625 North Fourth Street, Box 44066, Baton Rouge, LA 70804-4066.

B. The following requirements and rules shall apply to all documents and papers related to a hearing or a request for a hearing filed with the department:

1. The date on which the papers are actually received by

the department shall be deemed to be the date of filing.

2. All papers shall be legibly written in ink, typewritten, photocopied or printed, and shall be on strong durable paper, no larger than 8^{1/2}" X 14" except that tables, maps, charts and other documents may be larger, folded, if possible, to the size of documents to which they are attached.

3. All pleadings, petitions, and other papers needing signatures must be signed in ink by the party filing the same or by his or her duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that he or she has read the document; that to the best of his or her knowledge, information, and belief every statement contained in the instrument is true and no such statements are misleading; and that it is not interposed or filed for delay.

4. Unless otherwise specifically provided by a particular regulation, order, or directive of the secretary, assistant secretary, or by the presiding officer, an original and two copies of all documents shall be filed.

5. The initial document filed by any persons in conjunction with an adjudicatory hearing shall state therein the name, address for service of process, mailing address and telephone number of the person or persons who may be served with any documents, notices, or subpoenas filed in the proceeding.

1.5 Service

Notice for any adjudicatory hearing and all documents or pleadings required to be served under the Act or rules shall be delivered by certified mail, return receipt requested, to the person at his business address. If the person is a corporation, the original copy of the notice shall be sent to the person designated in Section 1.4(B)(5) or its agent for service of process and a duplicate copy shall be sent to its business address. Notice by certified mail shall be effective upon receipt by the person or an agent as shown on the return receipt card. Service may also be effected by hand delivery and may be personal, domiciliary, or through an authorized agent. Service by hand shall be effective upon delivery, as attested to by the person making the delivery.

1.6 Computation of Time

In computing any period of time prescribed or allowed by the Act or rules, the day on which the designated period begins shall not be included. The last day of the designated period shall be included, unless it is a Saturday, a Sunday or a legal holiday as provided in R.S. 1:55, in which event the designated period shall run until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

1.7 Administrative Hearing Clerk

The secretary shall designate a person who shall serve as the administrative hearing clerk and shall be the official custodian of all records of adjudicatory proceedings.

1.8 Hearings

A. All hearings shall be called and held in accordance with applicable state or federal laws and the rules and regulations thereunder. All hearings shall be public and shall be conducted by the presiding officer.

B. The time and place for hearings shall be fixed by the presiding officer.

C. The presiding officer may continue, recess, or terminate any hearing.

D. The presiding officer shall have the authority to regulate the course of any hearing and the conduct of all persons present, including the right to have any person engaging in misconduct or refusing to obey orders removed from the hearing, dismissed as a party or petitioner, or held in contempt.

CHAPTER 2: CONSTRUCTION AND EFFECT
2.1-2.3

2.1 Conflicts

If any applicable substantive rule or regulation of the secretary, or his or her predecessors, provides for procedures, timeframes, delays, notice requirements, conduct of hearing, or similar procedural matters, any of which are required by federal law or regulation or by other state law and conflict with these rules, then such other rules or regulations shall be controlling solely to the extent of such conflict, unless otherwise specifically provided for herein. Such conflict shall not affect the operation of the remaining provisions of these rules.

2.2 Severability

If any provision of these rules and regulations, or the application thereof, is held to be invalid, the remaining provisions of these rules and regulations or other application thereof shall not be affected, so long as they can be given effect without the invalid provision. To this end, the provisions of these rules and regulations are declared to be severable.

2.3 Rescission

The rules of procedure of the Louisiana Environmental Control Commission dated July 22, 1980, and effective August 20, 1980 are hereby rescinded in their entirety.

CHAPTER 3: ADMINISTRATIVE ENFORCEMENT
3.1 - 3.3

3.1 Enforcement Actions

Upon a determination that a violation has occurred or is about to occur the department may initiate any actions necessary to effectuate the purpose of the Act, including, but not limited to, an emergency cease and desist order, a notice of violation, a compliance order, a proposed penalty notice, an assessment of civil penalty, or revocation or suspension of any license or permit.

3.2 Proposed Penalty Notice

In those cases where the secretary determines that a civil penalty would be appropriate based on the information available and chooses to propose a penalty in advance of hearing, he or she may issue a Proposed Penalty Notice. The Proposed Penalty Notice shall be served pursuant to Section 1.5 and shall contain the information required by R.S. 49:955(B)(2)(3) and (4) plus:

A. a statement that the respondent has 20 days from receipt of the notice within which to exercise one of the options provided in this Section;

B. a statement of response options available to the respondent;

C. a statement that within 20 days after receipt of the Proposed Penalty Notice the respondent must submit a written request for a hearing or he shall be deemed to have waived his opportunity for notice and hearing, and the proposed penalty shall become final and payable, and shall not be subject to further review;

D. a statement that if no hearing is requested, the respondent, within 35 days after receipt of the proposed penalty notice, must submit payment in full of the penalty as proposed or submit a payment schedule acceptable to the department.

3.3 Permit Revocation or Suspension

The secretary may compel any person to show cause why his or her permit or license should not be suspended, revoked or modified, either in whole or in part. The order shall specifically advise the respondent of the reason for action, applicable law and the time and place of the hearing. The respondent shall be given an opportunity at the hearing to show compliance with

requirements for retention of the license or permit, and may file an answer or response to the order prior to the hearing.

CHAPTER 4: PETITIONS
4.1 - 4.7

4.1 General

Any person may file a petition seeking action by the Secretary or an Assistant Secretary in accordance with this Chapter.

4.2 Petitions to the Department

Any person may file with the department petitions for:

- A. Adjudicatory Hearings
- B. Public Hearings
- C. Intervention in an adjudication
- D. Declaratory Rulings (under Chapter IX)
- E. Amendment of a Regulation
- F. Review of a Decision/Order of a presiding officer.

4.3 Heading, Docket Number and Record

A. All petitions and pleadings should contain the following headings:

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
(Petitioner or Movers Name)

PETITION FOR
(or MOTION FOR)

(State relief requested)

DOCKET NO.
PROCEEDINGS UNDER THE
LOUISIANA ENVIRONMENTAL
QUALITY ACT
R.S. 30:1051 ET SEQ.

B. Each petition shall be designated as a case and given a docket number. The heading and docket number shall be used on all papers in the case. All communications relevant to a particular case shall bear the number of that case. The administrative hearing clerk shall assign the docket numbers and keep a docket control sheet which will show in convenient form the place and time of any meeting or hearing, the names and addresses of the attorneys and parties, the nature of any hearing, and all subsequent proceedings in the matter with the dates thereof.

4.4 Form and Content

Petitions and pleadings shall be so drawn as to fully and completely advise the department, and any person affected, of the facts and issues that constitute the basis for the petition.

A. Petitions and pleadings shall in separate numbered paragraphs:

1. state the full name and address of the petitioner or mover;

2. identify any statute, rule, written statement of law or policy, decision or order, permit or license or any other regulatory mechanism, and the particular aspect of each upon which the petition or pleading relies;

3. state clearly, concisely, and particularly all relevant facts which give rise to and support the petition or pleading; and

4. identify any injury complained of and state clearly and concisely the relief or action sought.

B. All petitions and pleadings shall be signed and filed in accordance with Section 1.4, and shall include the name and telephone number of the person causing it to be filed.

C. Petitioners or movers, before or upon filing, shall serve a copy of any pleading in an adjudication upon all other parties to the proceedings. The document filed shall contain a certification signed by the party or his representative of the date, method of service, and parties served.

D. The requirements of Subparagraphs A and C of this Section shall not apply to petitions for public hearings or petitions to amend the regulations.

4.5 Petitions for Public Hearing

A. A request for public hearing (Chapter 10) shall be made by filing a plain and concise statement of the purpose for the meeting or hearing and the action requested. The petition may be accompanied by supporting affidavits or documentation.

B. After reviewing the petition and any other factors deemed necessary, the secretary or an assistant secretary shall decide whether to hold a public hearing and shall notify the petitioner pursuant to Section 4.7.

4.6 Petition to Amend Regulations

Any person may petition the department to amend these or any other rules and regulations promulgated under the Louisiana Environmental Quality Act. The petition shall be in writing and shall contain a statement as to the necessity or reason for the amendment, an identification of provisions to be repealed and/or the text of proposed regulations, and the effect of the suggested revision on the rest of the regulations. Within 90 days after receiving the petition, the secretary shall review the same and either deny the request, institute rulemaking procedures, or take such other action as the secretary deems appropriate.

4.7 Response to Petitions or Pleadings

The secretary or an assistant secretary shall decide whether to grant or deny all or any part of a petition filed and shall serve upon the petitioner a response to the petition. The response may be in letter form. If the request is granted, in whole or part, the response shall, if applicable, state the date and place of the hearing at which the petitioner may appear to be heard and/or such other conditions under which the request or petition is granted. If the petition is denied in whole or part, the reasons shall be stated in the response. Response to pleadings filed or oral motions made in an adjudication may be made orally on the record.

CHAPTER 5: ADJUDICATIONS BEFORE THE SECRETARY 5.1 - 5.13

5.1 General

This Chapter establishes procedures for the conduct of adjudicatory hearings except as noted in Chapter 6 and 7.

5.2 Initiation of Proceedings

An adjudication shall be initiated by service of reasonable notice upon the respondent.

5.3 Waiver

The respondent may submit a written waiver of its right to an adjudication and the presiding officer may render a decision based upon the uncontested facts submitted by the parties.

5.4 Default

A. The presiding officer may declare any party or intervenor in default who without good cause shown:

1. fails to file briefs or memoranda as required;
2. fails to appear or participate at any prehearing conference; or

3. fails to appear or participate at the adjudicatory hearing.

B. If a party is found to be in default, the assistant secretary may limit the party's participation in the hearing or evidence sought to be introduced, dismiss the proceedings, continue the hearing at a later date, proceed with the hearing and render a decision, or order appropriate action based on the evidence submitted at the hearing.

5.5 Participants

A. Participants in adjudicatory hearings shall include:

1. the department, represented by the trial staff;
2. the respondent;
3. any other person admitted as an intervenor.

B. Any person who has a substantial interest in the outcome of the adjudication may be permitted to intervene. Intervention will be freely granted provided that the proper petition for intervention is filed at least 15 days prior to the hearing and such intervention is not likely to create an undue broadening of the issues or otherwise unduly impede the resolution of the matter.

C. Parties and intervenors shall have the right, but shall not be required, to be represented by counsel. All counsel must be duly licensed to practice law in the state of Louisiana or be associated in the hearing with a duly licensed counsel.

D. When either of the parties and one or more intervenors have substantially similar interests or positions, the presiding officer may limit the number of attorneys or other representatives who will be permitted to cross-examine, and to make and argue motions and objections on behalf of such parties or intervenors. The attorneys or representatives may engage in cross-examination upon material and relevant matters not adequately covered by previous cross-examination.

5.6 Intervention

A. Any petition for intervention must be filed no later than two business days prior to the pre-hearing conference. The petition shall comply with the requirements of Chapter 4, and shall also contain:

1. a clear and concise factual statement of the nature and scope of the substantial interest of the applicant which is material and relevant to the matters and issues to be resolved at the hearing; and
2. a statement that the admission of the applicant as an intervenor will not cause undue delay or prejudice the rights of the parties, which statement must include sufficient information to allow the secretary or presiding officer to make an independent determination.

B. Persons filing timely and proper petitions for intervention may be considered hearing participants for purposes of discovery, exchanges of information, prehearing conferences, service of pleadings, and other such purposes until the presiding officer has an opportunity to rule upon their petition.

C. The presiding officer shall grant intervenor status to any person upon a finding that such person filed a complete petition in a timely matter, that such person has a substantial interest that is material and relevant to the matters and issues to be resolved by the hearing and that granting the requested status will not cause undue delay or prejudice the rights of the parties. The consideration of, and ruling upon, a petition for intervention shall be done expeditiously to avoid delays in the proceedings. Upon concurrence of all parties the petition may be ruled on immediately, otherwise a three-day delay for filing of opposition must be allowed. In those cases where a prehearing conference

or preliminary hearing was held prior to the intervenor's petition, the intervenor shall be bound by all prior written agreements by and between the parties and by all orders previously entered in the proceedings.

D. Opposition by parties to a petition for intervention must be filed with the presiding officer within three days after receipt by the parties of the petition and shall be served on the petitioner and all parties.

E. Notice of request for enforcement adjudicatory hearings and opportunity for intervention shall be published in the monthly bulletin.

5.7 Public Comment

A. In all adjudications, public comment shall be encouraged from persons not appearing as parties, intervenors or witnesses. Written comments shall be accepted from the date of official notification until the record is closed. Subject to any limitations determined to be necessary and proper by the presiding officer, oral comments shall be accepted during the hearing and upon request by any person the record shall be held open for 15 days after close of the hearing for submission of written comments.

B. After submission for a penalty determination at a hearing an opportunity shall be provided for relevant and material public comment relative to any civil penalty that may be imposed.

C. The record of the proceedings shall include a list of the names and addresses of all persons making oral comments.

5.8 Prehearing Conferences. Discovery

A. Prior to an adjudication, the presiding officer may order prehearing conferences as necessary to rule on motions, petitions for intervention, objections, and other matters, and to define the issues. All parties and intervenors to the proceedings shall be given notice of any such prehearing conference. Any party who fails to attend or participate in such conference may be found to be in default under Section 5.4.

B. The presiding officer may order all parties to mutually exchange exhibits, documentary evidence and offerings, lists of proposed witnesses (with a statement of the substance of facts and opinions to which each witness will testify), copies of each written report prepared by any witness regarding the matter at issue, and a statement explaining the party's position upon each issue. The presiding officer may order such other actions as he deems necessary to facilitate the hearing.

C. No subpoenas shall be issued for any public records within the department that are available under the Public Records Law (R.S. 44:1 et seq.).

D. In order to simplify the issues and expedite the hearing, the presiding officer shall determine what material and relevant facts and issues exist without substantial controversy, and shall therefore be deemed stipulated or proven, and what material facts and issues are actually controverted. The presiding officer shall render, prior to the hearing, an order which shall recite any agreements made by the parties and shall limit the issues at the hearing to those actually controverted. Such order shall control the subsequent course of the proceedings, unless modified at the hearing to prevent manifest injustice.

E. Depositions of witnesses, within or without the state, may be taken in the same manner as provided by law for the taking of depositions in civil actions in courts of record. The admission of such depositions may be objected to at the time of hearing and they may be received in evidence or excluded from the evidence by the presiding officer.

5.9 Evidence

A. Any evidence that is not timely and fully disclosed may be excluded from consideration in the adjudication, unless good cause is shown for failure to make timely and full disclosure. Good cause shall exist when the party seeking to introduce the new evidence shows that it could not have reasonably made the information available within the time required, or that it could not have reasonably anticipated the relevance or materiality of the information sought to be introduced.

B. Adjudications are not bound by the formal rules of evidence prescribed for civil actions, and in this connection the following apply:

1. Hearsay evidence is admissible, but the presiding officer must determine how much weight to give such evidence. Evidence concerning the reliability and probative value of any hearsay evidence may also be introduced.

2. Unduly repetitious evidence, whether testimonial or documentary, may be excluded when such exclusion would not materially prejudice the rights of a party.

3. The rules of privilege recognized by law shall apply.

4. Any party may proffer evidence ruled inadmissible.

5.10 Motions

Any party may file a motion, including a motion to dismiss a particular claim or contested issue, on any matter relating to the adjudication.

A. All motions, other than those made orally on the record, shall be submitted in writing and shall comply with Chapter 4, with copies served on each of the other parties.

B. The presiding officer may set any motion for oral argument.

5.11 Record; Transcripts

A. The record in an adjudication shall consist of the information specified in R.S. 49:955 E. and any proffers of evidence. The record in any adjudication may be left open for the receipt of additional evidence which was introduced, but not physically submitted during the proceedings, and for additional written public comments, all of which will be made a part of the record of the case.

B. Adjudicatory proceedings shall be recorded and a copy of the tape made available to the public. A verbatim transcript shall not be made unless required by law or by other regulations, requested by the presiding officer after an adjudicatory hearing, or for appeal. Upon notice of appeal and posting of the transcribing cost, the presiding officer shall order the recording transcribed and the transcription shall be included in the record for appeal.

5.12 Ex Parte Communication

A. No interested person or member of the trial staff shall make, or knowingly cause to be made, to the presiding officer any ex parte communication on the merits of the proceedings.

B. The presiding officer shall not make, nor knowingly cause to be made, to an interested person, or member of the trial staff, any ex parte communication on the merits of the proceedings.

C. Any presiding officer who receives, or makes, or knowingly causes to be made, an ex parte communication shall file with the custodian all written communications together with all written responses, and a memorandum stating the substance of all oral responses. Any party may request that the presiding officer receiving or making such communication recuse himself from the hearing, provided that he will only do so if he believes he cannot be fair and impartial in the proceedings. The presiding

officer shall announce on the record his reasons for granting or denying such a request.

D. Whenever any presiding officer receives an *ex parte* communication knowingly made, or knowingly caused to be made by an interested person or the trial staff, in violation of this Section, such person or the trial staff may be required to show cause why its claim or interest in the proceeding should not be dismissed, denied, disregarded or otherwise adversely affected on account of such violation.

5.13 Review of Enforcement or Permit Actions

A. Applicability

Any person aggrieved by a permit or enforcement action of the Secretary may seek review of the action in accordance with this Chapter.

B. Decisions of the Administrative Authority

The procedure for review from a decision or order of the administrative authority shall depend on whether the decision or order was made with or without providing the appellant an opportunity for adjudicatory hearing. If the respondent or permittee was not provided an opportunity for adjudicatory hearing or was not entitled to an adjudicatory hearing, the respondent or permittee may request a hearing in accordance with Subsection 1 below. If the respondent or permittee was provided an opportunity for adjudicatory hearing, the respondent or permittee may only appeal by submitting a motion for appeal in accordance with Subsection 2 below.

1. Request for Hearing

a. Time for Request

Any enforcement or permit action in which opportunity for hearing was not afforded the respondent shall be effective upon issuance unless a later date is specified therein. Such action shall be final and not subject to further review by the department unless respondent or permittee files a request for a hearing with the administrative authority no later than 20 days after the notice of the action is served by certified mail or by hand.

b. Stays

The filing of the request does not itself stay actions under R.S. 30:1072 B. The administrative authority may grant a stay upon appropriate terms.

c. Action by the Secretary

The secretary shall either grant the relief sought by the aggrieved person or forward the request for hearing and the administrative record to the First Circuit Court of Appeal in accordance with R.S. 30:1072 A.

d. Hearing; Notice

If the secretary grants the request for hearing, the administrative hearing clerk shall promptly set a hearing and all parties shall be notified pursuant to Section 1.5 and 5.5.

e. Preliminary Rulings or Decisions

A preliminary intermediate or procedural decision, order or ruling during an adjudicatory hearing shall be immediately reviewable only if such review is necessary to provide an adequate remedy and to prevent irreparable injury. In all other cases review of such decisions, orders or rulings shall be deferred until any appeal of the final decision or order.

f. Decisions; Grounds

The administrative authority may affirm the decision, or may reverse or modify the decision, if substantial rights of the respondent or permittee have been prejudiced because the enforcement or permit actions are:

1. in violation of constitutional or statutory provisions;
2. in excess of statutory authority;

3. made pursuant to an unlawful procedure;
4. affected by other error of law;
5. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
6. manifestly erroneous in view of the reliable, probative and substantive evidence on the whole record as developed at the hearing.

g. Notice of Decisions

Within 10 days after the decision of the administrative authority, the administrative hearing clerk shall serve a copy of the decision by certified mail upon the respondent or permittee.

2. Motion for Appeal

a. Time for Request

Any decision or order of the secretary shall be final and not subject to further review unless a motion for appeal is filed with the secretary no later than 30 days after the notice of the action is served by certified mail or by hand upon the respondent or permittee.

b. Motion

Any motion for an appeal from a decision or ruling shall be filed with the secretary and shall comply with the Rules of the First Circuit Court of Appeal pertaining to special appeals.

c. Stays by the Secretary

The filing of the motion for appeal does not stay actions taken by the secretary. The secretary or the court may grant a stay.

d. Supplemental Record

The presiding officer may allow the record to be supplemented if the party seeking to do so has demonstrated good cause for failure to previously designate the supplement as part of the record.

e. Return Date

Upon filing of a motion for appeal, the secretary shall fix the return date which shall be no more than 60 days from the date of filing of the motion.

CHAPTER 6: ADJUDICATIONS BEFORE AN ASSISTANT SECRETARY

6.1-6.2

6.1 General

This Chapter establishes procedures for the conduct of adjudicatory hearings before an assistant secretary. Except as noted herein procedures for all adjudications will be the same as set forth in Chapter 5.

6.2 Review of an Assistant Secretary's Action

A. Upon receipt of a Motion for Review, the secretary shall notify the assistant secretary whose action is the subject of review.

B. Within 30 days after timely filing of the motion for review from a decision wherein no record was made, or within further time allowed by the secretary, the assistant secretary shall hold a conference with the appellant, appellees, technical secretaries, and agency trial staff, at which time the assistant secretary may receive additional documentary evidence and hear arguments as to those issues raised in the review.

C. All evidence which the parties intend to be included in the administrative record and considered by the secretary shall be submitted in documentary form during the review conference or within such further time allowed by the assistant secretary. The failure to submit such evidence may preclude its subsequent introduction by the party.

D. Within 10 days after the appeals conference the assistant secretary shall prepare a summary report as to matters, is-

sues and evidence received by him at the conference and shall prepare the administrative record. The administrative record, for purposes of review, shall consist of the decision or order complained of, together with all reports, investigations or other evidence relied upon by the assistant secretary in making his original decision, any documentary or other evidence received by the assistant secretary at the conference and the summary report. By stipulation of all parties to the review proceedings, the record may be shortened.

E. Within 30 days after timely filing of a motion for review from an adjudication or other proceeding wherein a record was made, the secretary shall notify the assistant secretary whose decision is being reviewed.

F. Review

The review of an assistant secretary's actions shall be confined to the record, unless the secretary allows the parties to introduce supplemental evidence. In cases of alleged irregularities in procedure before the assistant secretary, not shown in the record, proof thereof may be taken by the secretary. The secretary, upon request, or on his own motion, may hear oral arguments or receive written briefs.

G. Decision: Grounds

The secretary may affirm the decision of the assistant secretary, or remand the case for further proceedings, or reverse or modify the decision.

CHAPTER 7: ADJUCATIONS BEFORE A HEARING OFFICER

Except as noted herein, procedures for adjudications before a hearing officer designated by the secretary or assistant secretary will be the same as set forth in Chapter 5.

Hearing Officer's Report

A. In all cases wherein a hearing officer is assigned to hear the matter but not issue a final decision, he shall render a report with any requested recommendation to the agency within 30 days after the conclusion of the hearing or the date the record is closed, whichever is later. Upon motion of the hearing officer the secretary or assistant secretary may grant extensions of up to 30 days. A copy of the report shall be delivered by certified mail, return receipt requested, to each party to the proceedings and made available to the public.

B. The report shall include a statement of the issues and/or matters for which the hearing was held, a statement of the authority for the hearing, and findings of fact, conclusions of law and recommendations.

CHAPTER 8: ADJUDICATIONS BEFORE AN ADMINISTRATIVE LAW JUDGE

Reviews of Administrative Law Judge Decisions or Orders

These proceedings shall be handled in the same manner as adjudication in Chapter 5 except where the provisions of R.S. 30:1066.1 differ, in which case those provisions shall prevail.

CHAPTER 9: SPECIAL PROCEEDINGS
9.1-9.5

9.1 General

Special proceedings are those which are conducted with rapidity and without the observance of all of the formalities required in adjudications, including hearings on Emergency Cease and Desist Orders or emergency suspension of permits, and for

Declaratory Rulings on the validity and/or applicability of a regulation.

9.2 Emergency Cease and Desist Order

The secretary or an assistant secretary may issue an Emergency Cease and Desist Order. The secretary or assistant secretary shall schedule a special hearing on the Order within 15 days after its issuance. An answer or response may be filed prior to the hearing.

9.3 Permit Suspension

If the secretary finds that the public health, safety or welfare requires immediate action on his part, he may order the immediate suspension of the respondent's license or permit pending a hearing.

9.4 Declaratory Rulings

A. Any persons may submit a request to the secretary for a ruling on the validity or applicability of any rule or regulation by filing a petition for a Declaratory Ruling in accordance with Chapter 4. The petition shall be accompanied by all evidence, data and memoranda necessary to support it. The validity or applicability of a rule or regulation may be challenged pursuant to this Section only.

B. Upon receipt of the petition, the secretary shall:

1. require the petitioner to file additional data or a memorandum of legal authorities in support of his position; or
2. dismiss the petition if the petitioner refuses or fails to comply with the requirements of this Chapter in a material respect, or the requirements of Chapter 4 governing petitions; or
3. rule on the petition or decline to issue a ruling and notify the petitioner under Section 4.7 within 30 days after the receipt of the petition or receipt of additional information requested, whichever is later.

C. Pursuant to R.S. 30:1072 C, a declaratory ruling under this Section shall not constitute an agency decision or order for purposes of review if the ruling is requested or made during the course of an adjudication.

9.5 Record; Transcript

A. The record of proceedings conducted under this Chapter shall consist of the following, as applicable:

1. the Cease and Desist Order (with proof of service), the permit (or license), and/or the request for declaratory ruling;
2. the notice of the hearing;
3. all documentary evidence and written comments received;
4. written recommendations received;
5. the decision; and
6. the transcript or a resumé or summary of the proceedings.

B. All hearings conducted under the Section shall be recorded and a copy of the tape made available to the public. A verbatim transcript shall not be made unless ordered by the secretary or for an appeal. Upon notice of appeal and posting of transcribing costs by the party seeking appeal, the secretary shall order the transcription.

CHAPTER 10: PUBLIC COMMENT HEARINGS
10.1-10.3

10.1 General

A public comment hearing may be held to consider permit and enforcement actions by the secretary or an assistant secretary in cases where neither an adjudication under Chapters 5, 6, 7, or 8 nor a special hearing under Chapter 9 is required. Such hearings may also be held for the purpose of receiving public comment on all adoptions, revisions and rescissions of

rules and regulations adopted by the secretary or his or her predecessors. In addition, such hearings may be held to gather data, public comments and information, which may be used by the secretary or an assistant secretary in the exercise of their duties.

10.2 Conduct

Public comment hearings shall be conducted in an orderly but expeditious manner. Any person may appear and present relevant oral or written statements and present recommendations. Questions and answers are not in order unless agreed to in advance by the administrative authority. Any person may present written statements to be included in the administrative record until the record is closed to public comments.

10.3 Record

All such hearings shall be recorded verbatim. All written statements, charts, tabulations, and similar data offered at the hearing, subject to exclusion because of redundancy or size, shall be received and shall constitute a part of the administrative record. The tape recording of the hearing shall be included as part of the administrative record. The tape recording of the hearing shall be transcribed only upon direction of the secretary, in the event the matter is appealed to the First Circuit Court of Appeal, or if an individual posts sufficient monies with the secretary's administrative hearing clerk to cover all costs of transcription.

CHAPTER 11: REHEARINGS

Rehearings

A decision or order in case of adjudication shall be subject to rehearing, reopening or reconsideration within 10 days from the date of its entry, in accordance with R.S. 49:959. The date of entry for the purposes of this Section shall be the date on which the respondent is notified of the decision or order by certified mail or hand delivery.

CHAPTER 12: PUBLIC NOTICE PROCEDURE

12.1-12.7

12.1 General

Required public notice, other than rulemaking, shall be made at a minimum, in the manner set forth below. Each division shall have its own public notice coordinator who will be responsible for preparing public notices. In the event of postponement or cancellation of a public hearing, notice will be published in the newspaper and/or posted at the entrance of the building where the hearing is scheduled to be held.

12.2 Public Comment Hearings

A. Notice of a public comment hearing shall be published 45 days in advance for hazardous waste facilities and 20 days in advance for all other facilities one time as a 3" X 5" ad in the legal notices section of a newspaper of general circulation in the area or parish of concern and as a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*. If the affected area is Baton Rouge, a single 3" X 5" ad in the legal notices section of *The Baton Rouge State Times* will be the only public notice required.

B. Notices shall state the following as required:

1. date, time and place of hearing;
2. nature and purpose of hearing, including applicable laws, rules and procedures, and names of parties to the hearing;
3. location of facility or site;
4. a summary of information available for review by the public and where it may be examined;
5. cost of reproduction of public records;
6. invitation for the public to attend and provide substan-

tive oral comments or to submit written comments;

7. a statement that the administrative authority will consider all public comments before making a decision;

8. name, address, and telephone number of a department contact person for questions concerning the hearing.

12.3 Enforcement Actions

A. Notice of settlements and compliance agreements and a 30-day comment period will be published one time as a 3" X 5" ad in the legal notices section of a newspaper of general circulation in the area or parish of concern and as a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*. If the affected area is Baton Rouge, a single 3" X 5" ad in the legal notices section of the *The Baton Rouge State Times* will be the only public notice required. Respondent shall be responsible for publication. The 30-day public comment period shall run from date of publication in the newspaper.

B. Notice of issuance of enforcement documents of the department including, but not limited to, proposed penalty notices, compliance orders, cease and desist orders, penalty assessments, settlements and compliance agreements shall be published in the monthly bulletin of the department.

C. Notice of actions and/or orders that are rescinded or vacated shall be published in the monthly bulletin.

D. Notice of adjudicatory hearings in enforcement cases shall be published in the monthly bulletin or as a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*.

12.4 Permit Actions

In all fact finding or adjudicatory proceedings concerning permit actions, notice shall be provided in accordance with 14.2 as applicable.

A. Hazardous Waste and Solid Waste Divisions

1. Notice of submission of a permit application to the department shall be published by the applicant at his expense pursuant to a form provided by the department. Notice shall be published one time as a 3" X 5" ad in the legal notices section of a newspaper of general circulation in the area or parish of concern and one time as a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*. If the affected area is Baton Rouge, a single 3" X 5" ad in the legal notices section of *The Baton Rouge State Times* will be the only public notice required. Applicants shall furnish proof of publication(s) upon filing of a permit application.

2. The department shall publish a notice of acceptance for public review one time in the legal notices section of a newspaper of general circulation in the area or parish of concern and one time as a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*. If the affected area is Baton Rouge, a single 3" X 5" ad in the legal notices section of *The Baton Rouge State Times* will be the only public notice required.

3. The department's notice shall state:

a. name and address of the division processing the permit action for which notice is being given;

b. name and address of the permittee or permit application and, if different, of the facility or activity regulated by the permit;

c. a brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

d. reference to the date of previous public notices relating to the permit when a hearing is to be held.

4. A Hazardous Waste Permit Application will include the following:

a. name, address and telephone number of a department contact person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, statement of basis or fact sheet, and the application;

b. a brief description of comment procedures and the time and place of any hearing that will be held including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.

5. Notice of permit applications shall be published in the monthly bulletin of the department.

6. All permit applications accepted for public review will be available for inspection after the date of notice at the main office in Baton Rouge, the regional office in the affected area and/or the local library.

7. The following actions related to hazardous waste permits shall be published by the department one time as a classified ad in the legal notices section of a newspaper of general circulation in the area or parish of concern and in the monthly bulletin:

- a. grant of emergency permit;
- b. notice of intent to deny permit;
- c. notice of draft permit and opportunity for public hearing;
- d. notice of hearing granted pursuant to written opposition to a draft permit;
- e. notice of grant of appeal of termination of permit;
- f. notice of grant of standard permit;
- g. notice of major modification;
- h. notice of closure plan and opportunity to submit written comments or request modification of plan;
- i. notice of petition to extend or reduce post-closure period;
- j. notice of intent to terminate permit;
- k. notice of tentative decision to grant or deny petitions:
 - i) for variances from classification as solid waste facility and
 - ii) to be classified as a boiler
- l. notice of a decision to regulate hazardous waste recycling activity;
- m. notice of classification as an industrial furnace if not specifically designated as such by the definition of "industrial furnace."

B. Air Quality Division

1. Major Permits and PSD Permits

Notice of a draft permit shall be published at the applicant's expense pursuant to a form provided by the department. Notice shall be published one time as a 3" X 5" ad in the legal notices section of a newspaper of general circulation in the area or parish where the facility for which a permit is sought is located and one time as a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*. If the facility is located in East Baton Rouge Parish, a single 3" X 5" ad in the legal notices section of *The Baton Rouge State Times* will be the only public notice required. Applicants shall furnish proof of publication(s).

2. Minor Permits

Newspaper notice of application for minor air quality permits may be required.

C. Office of Water Resources

1. Major Permits

Notice of a draft permit shall be published at the applicant's expense pursuant to a form provided by the Department. Notice shall be published one time as a 3" X 5" ad in the legal notices section of a newspaper of general circulation in the area or parish where the facility for which a permit is sought is located and one time as a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*. If the facility is located in East Baton Rouge Parish, a single 3" X 5" ad in the legal notices section of *The Baton Rouge State Times* will be the only public notice required. Applicants shall furnish proof of publication(s).

2. Minor Permits

Notice shall be published by the applicant at his expense pursuant to a form provided by the department. Notice shall be published one time as a classified ad in the legal notices section of a newspaper of general circulation in the area or parish where the facility for which a permit is sought is located and one time as a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*. If the facility is located in East Baton Rouge Parish, a single classified ad in *The Baton Rouge State Times* will be the only public notice required. Applicants shall furnish proof of publication(s).

3. General Permits

a. Notices of draft general permits shall be published by the Office of Water Resources one time as a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*.

b. Notices shall also be published by the Office of Water Resources one time as a 3" X 5" classified ad in the legal notices section of newspapers published in the cities of Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, Baton Rouge, and New Orleans.

c. At the discretion of the Office of Water Resources, public notice for a draft general permit that only addresses discharges in a specific region of the state will be published as a 3" X 5" classified ad in the legal notices section of newspapers of general circulation in the region and as a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*. If the affected area is Baton Rouge, a single 3" X 5" ad in the legal notices section of *The Baton Rouge State Times* will be the only public notice required. This regional type of general permit public notice shall not be subject to the requirements of 12.4.C.3.b.

4. 401 Water Quality Certification

a. Any person desiring issuance of a state water quality certification shall file an application for certification with the Office of Water Resources in the Department of Environmental Quality.

b. After preliminary review of the application by the office, the applicant may be required to publish, at his own expense, pursuant to a form prepared by the department, a classified ad in the legal notices section of newspapers of general circulation in the area or parish(es) where the water body is located. The applicant, however, must publish, pursuant to a form prepared by the department, a classified ad in the legal notices section of the State Journal, *The Baton Rouge State Times*. If the affected area is Baton Rouge, a single classified ad in *The Baton Rouge State Times* will be the only public notice required.

5. Joint Public Notices

In lieu of the procedures set forth in 12.4.C.1, 12.4.C.2, 12.4.C.3 and 12.4.C.4, any public notices issued jointly by the Office of Water Resources and one or more federal agencies

shall adhere to the federal procedures for notification. Those federal procedures will be detailed, in writing, in an agreement with such agencies.

A public hearing will be held at 10 a.m. on October 1, 1987, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana. Interested persons are invited to attend and submit oral comments on the proposed rules of procedure.

All interested persons are invited to submit written comments on the proposed rules of procedure. Such comments should be submitted no later than October 12, 1987 to Roland T. Huson, General Counsel, Legal Division, Department of Environmental Quality, Box 44066, Baton Rouge, LA 70804. He may be contacted at the address above, or telephone (504) 342-1240. A copy of the proposed rules of procedure are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

State Land and Natural Resources Building, Room 707 Seventh Floor, 625 North Fourth Street, Baton Rouge, Louisiana.

State Office Building, 1525 Fairfield Avenue, Shreveport, Louisiana

Department of Environmental Quality, 1155 Ryan Street, Second Floor, Lake Charles, Louisiana.

Department of Environmental Quality, 804 Thirty-First Street, Monroe, Louisiana.

Department of Environmental Quality, 3945 North I-10 Service Road, Metairie, Louisiana.

Department of Environmental Quality, 100 Eppler Road, Lafayette, Louisiana.

Martha A. Madden
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Rules of Procedure**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be some savings to the state under these proposed rules because the state/DEQ will no longer be required to publish certain notice of submission of permit applications.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of governmental units because these rules are strictly procedural in nature and do not provide for the assessment or collection of any fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be some newspaper advertising/publishing costs that will be borne by the regulated community. In some instances, the notice of submission of certain permit applications (to the Department of Environmental Quality) shall be published in the legal notices section of the newspaper in the area or parish of concern and in the State Journal, *The*

Baton Rouge State Times. However, the publication costs cannot be determined because it is impossible to determine how many applications will be submitted as required by these proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rules simply address "rules of procedure" for the Department of Environmental Quality to conduct administration hearings.

Annette H. Sharp
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq., and in particular Section 1141 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 rules of procedure of the secretary.

The proposed amendments to the Louisiana Hazardous Waste Regulations, Chapters 1, 2, 7, 9, 11, 19, 20 and 23 will require facilities to further address regulatory requirements concerning hazardous waste storage and treatment tank systems, liability coverage and corporate guarantee provisions.

The proposed amendments are to become effective on November 20, 1987, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be at 10 a.m. on October 6, 1987, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana. 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 amendments. Such comments should be submitted no later than October 14, 1987 to Joan Albritton, Assistant Administrator, Hazardous Waste Division, Department of Environmental Quality, Box 44307, Baton Rouge, LA 70804-4307. She may be contacted at the address above, or telephone (504) 342-9072. A copy of the proposed amendments may be obtained from the Hazardous Waste Division at the address provided. In addition, copies of the proposed amendments are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

State Land and Natural Resources Building, Room 615, Sixth Floor, 625 North Fourth Street, Baton Rouge, Louisiana.

State Office Building, 1525 Fairfield Avenue, Shreveport, Louisiana.

Department of Environmental Quality, 1155 Ryan Street, Second Floor, Lake Charles, Louisiana.

Department of Environmental Quality, 804 31st Street, Monroe, Louisiana.

Department of Environmental Quality, 2945 North I-10 Service Road, Metairie, Louisiana.

Department of Environmental Quality, 100 Eppler Road, Lafayette, Louisiana.

Martha A. Madden
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Tank/Corporate Guarantee Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of these proposed rules will have no estimated implementation costs or savings to governmental units because no additional expenditures will be required. Existing staff and facilities can handle the associated workload.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These rules will have no effect on revenue collections of state or local governmental units because no fees will be assessed or collected as a result of adopting these rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The financial responsibility/corporate guarantee rules will provide Treatment Storage Disposal Facilities (TSDF's)/regulated companies with additional options in which to demonstrate financial responsibility for corporate liability. In some instances companies will no longer be required to tie up potential working capital through financial instruments (it is estimated that up to \$1 million on an annual basis could be realized for use in other areas).

Additionally, estimates indicated that the Tank Systems Regulations could initially cost the regulated community \$450,000. Data further reflects that in subsequent years the cost to companies could be \$150,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of these rules will not have any effect on competition and employment.

Annette H. Sharp
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement
and Administration of Criminal Justice**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby

given that the Louisiana Commission on Law Enforcement and Administration of Criminal Justice intends to adopt appeals procedures which may be utilized when an application for funding is rejected by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice or when an approved subgrant is discontinued. These proposed procedures will apply to grant applications or subgrants involving federal, state, or self-generated funds.

The proposed appeals procedures will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day after September 20, 1987, at the offices of the Louisiana Commission on Law Enforcement, 2121 Wooddale Boulevard, Baton Rouge, LA. Comments may be submitted in writing through October 16, 1987, to the Louisiana Commission on Law Enforcement, 2121 Wooddale Boulevard, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Appeals Procedure**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated implementation costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Michael A. Ranatza
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement
and Administration of Criminal Justice**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Commission on Law Enforcement and Administration of Criminal Justice intends to adopt guidelines which will apply to the utilization of federal grant funds received under the Justice Assistance Act, P.L. 98:473, Title II, Chap. XIV, 42 U.S.C. 10601, Victims of Crime Act of 1984, which will

be issued by the Louisiana Commission on Law Enforcement to public agencies or non-profit organizations, or a combination thereof, that provide services to crime victims.

The proposed guidelines will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day after September 20, 1987, at the offices of the Louisiana Commission on Law Enforcement, 2121 Wooddale Boulevard, Baton Rouge, LA. Comments may be submitted in writing through October 16, 1987, to the Louisiana Commission on Law Enforcement, 2121 Wooddale Boulevard, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Crime Victim Assistance
Program Guidelines**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be 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 will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no estimated effect on competition and employment.

Michael A. Ranatza
Executive Director

David W. Hood
Legislative Fiscal Analyst

**NOTICE OF INTENT
Office of the Governor
Division of Administration
Office of Contractual Review**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 39:1490(B), notice is hereby given that the Office of the Governor, Division of Administration, Office of Contractual Review intends to amend LAC 34.V. Chapter 1. This projected rule revokes Sections 103, 112, 118, 121, 136, 142, 147, and Attachment C of the earlier rules and regulations of this office. These Sections and LR 13:87 (February, 1987) Section 121 should be amended to read as follows:

**Title 34
Government Contracts,
Procurement and Property Control
Part V. Procurement of Professional, Personal, Consulting and Social Services**

**Chapter 1. Procurement of Professional, Personal, Consulting and Social Services
Subchapter A. General Provisions**

§103. Definitions and Classes of Contractual Services

The following services shall be contracted out in accordance with these regulations:

A. *Personal service* means work rendered by an independent contractor which requires the use of creative or artistic skills, such as, but not limited to, graphic artists, sculptors, musicians, photographers, and writers, or which requires the use of highly technical or unique individual skills or talents, such as, but not limited to, paramedics, therapists, handwriting analysts, and expert witnesses for adjudications or other court proceedings.

B. *Professional service* means work rendered by an independent contractor who has a professed knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it including, but not limited to lawyers, doctors, dentists, veterinarians, architects, engineers, landscape architects, and accountants. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skill. For contracts with a total amount of compensation of \$75,000 or more, the definition of professional service shall be limited to lawyers, doctors, dentists, veterinarians, architects, engineers, landscape architects, accountants and any other profession that may be added by regulations adopted by the Office of Contractual Review of the Division of Administration.

C. *Consulting service* means work, other than professional, personal or social service, rendered by an independent contractor who possesses specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services or improvements in programs or services, including, but not limited to, such areas as management, personnel, finance, accounting, planning and feasibility studies, data processing, advertising and public relations.

D. *Social service* means work rendered by any person, firm, corporation, organization, governmental body, or governmental entity in furtherance of the general welfare of the citizens of Louisiana, including but not limited to the following objectives:

1. Rehabilitation and Health Support

Services rendered by a contractor with special knowledge or service available to assist individuals attain or maintain a favorable condition of physical and/or mental health. These services include but are not limited to health-related counseling; alcohol or drug abuse training and treatment; training to support emergency medical services; services to support family planning; counseling, delinquency prevention; genetic disease evaluation and counseling, community-based medical support services; evaluation and training for physically/mentally handicapped; and other services in support of same.

2. Habilitation and Socialization

Services rendered by a contractor with special knowledge to assist specified client groups to enhance their self-sufficiency or alleviate their dependency and/or isolation from the community. Services include but are not limited to day care; work and training; early intervention for the mentally retarded, developmentally delayed, or physically handicapped; transportation for service access; homemaker, home management, and housing improvement services; in-home and out-of-home respite care; socialization services for low income and other special needs groups; nursing home ombudsman; nutritional, employment, case management, senior center activities, or other services to aid independent living by the elderly, and training and community planning services for same.

3. Protection for Adults and Children

Services rendered by a contractor to provide therapeutic intervention for adults or children who are in danger or threatened with danger of physical or mental injury, neglect, maltreatment, extortion, or exploitation, including victims of family violence. These services include but are not limited to community planning for neglect/abuse; adoption; substitute care; education and training; crisis intervention type services; emergency shelter for victims of rape/family violence or services in support of same; and training and evaluation services for same.

4. Improvement of Living Conditions and Health

Services rendered by an authorized contractor with special knowledge or services available to assist individuals to attain or maintain favorable conditions in which to live. These services include but are not limited to:

- a. distribution of foodstuffs either purchased or that are made available from government-owned commodities,
- b. determining the needs of the poor, and development of programs to distribute the available resources,
- c. determining the needs of the poor and identifying programs to alleviate these poverty conditions,
- d. provide services to respond to the educational/employment needs of eligible individuals in the communities needing these services. The primary purpose of this service is to provide the participating individuals with the skills necessary for them to advance socially, academically, and occupationally,
- e. providing training and evaluation of services for any of the above services.

5. Evaluation, Testing, and Remedial Educational Services for Exceptional Handicapped or Learning Disabled Nonpublic School Students

Services rendered by a contractor with special knowledge or services available to provide special educational and related services for exceptional or handicapped students voluntarily enrolled in approved nonpublic schools of Louisiana who are not otherwise provided with such services through either their local school program or through other services afforded to them by local school boards or other public agencies. These services may include but are not limited to identification, assessment, appraisal, and evaluation of exceptional or handicapped children; development of individualized education programs; and the providing of instructional and supportive services to such eligible students in accordance with the provisions of R.S. 17:1941, et seq. (Act 754 of 1977) and P.L. 94-142 and their regulations.

E. *Performance-based energy efficiency contract* means a contract for energy efficiency services and equipment in which the payment obligation for each year of the contract is either: (a)

set as a percentage of the annual energy cost savings attributable to the services or equipment under the contract, or (b) guaranteed by the person under contract to be less than the annual energy cost savings attributable to the services or equipment under the contract.

Any state agency, board, or commission may enter into a performance-based energy efficiency contract for services and equipment. Any such agency, board, or commission shall contact the Division of Administration for assistance in preparation of the requests for proposals, analysis of the proposals, and development of the contract. The contract shall be considered a consulting services contract.

Performance-based energy efficiency contracts shall be awarded through a request for proposal process. Any performance-based energy efficiency contract entered into shall be for a period not to exceed 10 years and shall contain a guarantee of energy savings.

F. Interagency contracts between governmental entities as defined in R.S. 39:1484(23) for any of the services enumerated in A, B, C, D, or E above shall be governed by these regulations, except that contracts between boards of higher education and their respective institutions shall be exempt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

§112. Modification of Contract

All amendments to contracts for professional, personal, consulting and social services shall be submitted to the Office of Contractual Review and shall become effective only upon approval by the director of the Office of Contractual Review. If an amendment extends a contract beyond one year, justification for a multi-year contract must be submitted with said amendment in accordance with §133.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

§118. Submission of Contracts

The original contract and at least one copy of said contract and attachments shall be submitted to the Office of Contractual Review. The Office of Contractual Review shall submit a list of all contracts for \$25,000 or more to the Legislative Fiscal Office. Copies of such contracts shall be forwarded to the Legislative Fiscal Office upon request. The Office of Contractual Review will not accept for review and approval any contract that is not accompanied by the necessary attachments and copies as required herein. (Attachments being submittal letters, R.S. 39:1497 certification, BA-22, etc.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

§121. Contractual Review Process

A. Contracts arriving in the Office of Contractual Review will be date stamped and logged in. Contracts should be submitted prior to their effective dates and no contract shall be approved which has been submitted 60 days after its effective date, unless written justification is provided by the using agency and approval granted by the director of contractual review or his designee. All contracts must be received by the Office of Contractual Review at least by the termination date of the contract. All submittals will be required to have a cover letter attached thereto in conformity with Appendix D.

B. If a contract does not appear to be out of the ordinary and appears to have the necessary attachments and inclusions, it will be routed to the appropriate budget analyst for the submitting agency. A BA-22, or its equivalent, shall be submitted with every contract submitted to the Office of Contractual Review.

C. Contracts that are incomplete as to form may be returned to the submitting agency. If a contract is merely missing an attachment then the necessary attachment may be secured from the submitting agency.

D. Contracts Returned From Budget

1. Not Recommended for Approval

If a contract is not recommended for approval, the Office of Contractual Review shall discuss the reason with the budget analyst. If the problem cannot be resolved the contract shall be returned to the submitting agency with a letter explaining the problem.

2. Recommended for Approval

If a contract is recommended for approval the review process shall continue.

E. Legal and Content Review

There are a number of different types of contracts, and content requirements may vary a little. All contracts shall contain the following:

1. Signatures of both the head of the using agency or his designee and the contractor. At least one submitted copy of each contract shall bear an actual, nonfacsimile signature of each party.

2. Scope of services that clearly and completely identifies the work to be performed and products to be delivered.

3. Beginning and termination dates for the contract. Normally, such contracts should be for a term no longer than one year, although the director of contractual review may approve contracts with terms up to three years. Contracts shall not include a clause permitting automatic renewal or extension of the original beyond a three-year period, unless authorized by the funding statute. Notwithstanding these requirements, performance-based energy efficiency contracts shall have a term not to exceed 10 years.

4. The maximum amount of compensation to be paid under the contract. This maximum must be inclusive of all payment, fees, travel expenses, etc. When applicable the amounts shall be stated by category and then given as a comprehensive total.

5. A statement giving the legislative auditor authority to audit the financial records of the contractor relative to work done under the contract.

6. A clause providing that the contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the submitting agency thereto, provided, however, that claims for money due or to become due to the contractor from the using agency under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to both the using agency and the director of the Office of Contractual Review.

7. The Office of Contractual Review shall notify the using agency in writing and vice versa when an assignment of proceeds notice has been received from a contractor.

8. A statement giving the contractor the responsibility for

paying any taxes which may be due as a result of the contract. The taxes could include state or federal income taxes or payroll taxes.

9. Advance payments on all contracts except those for professional services are allowable if limited to less than or equal to 20 percent of the contract amount and if necessary to provide for the lowest cost delivery of service.

a. All such advances shall be approved by the director of the Office of Contractual Review. If federal funds are to be advanced, federal guidelines shall prevail on the conditions and amount of the advance. Specific state statutory authority may override the 20 percent limit for certain contracts.

b. When submitting for approval a contract including provisions for an advance, the using agency shall submit the following additional information at a minimum:

c. Certification by the using agency that the procurement of the services involved at the lowest cost requires the advance and that no other source of funding is available.

d. Provisions in the contract specifying the amount and timing of the payments and safeguarding repayment of the advance.

F. Each contract submitted for approval shall be accompanied by a certification letter as described in R.S. 39:1497, signed by the using agency's representative (See Appendix B).

G. Proof of review and approval by other agencies shall accompany submitted contracts as follows; or contracts will be returned to the submitting agency without final approval:

1. Civil Service

All contracts must have Civil Service approval unless exempted by the Department of Civil Service.

2. Attorney General

Contracts for legal services that are not consulting work and that do involve or lead to litigation must be reviewed by the attorney general for approval of the fee structure. Approval of the attorney general can be evidenced by the signature on the contract documents or by a letter from the attorney general. Contracts with Louisiana district attorneys do not require this approval. If the using agency has specific statutory authority to contract with attorneys, attorney general approval is not necessary. Such authority shall be cited by the using agency.

3. Legislative Auditor

Contracts for financial auditing of state agencies must have prior written approval of the legislative auditor.

4. If the contractor is a corporation not incorporated under the laws of the state of Louisiana, then the contractor must secure a certificate of authority pursuant to R.S. 12:301-302 from the secretary of state of Louisiana and verification of such certificate must be made available to the Office of Contractual Review.

5. The Office of Telecommunications Management shall review and recommend any contract containing elements of telecommunication services before returning it to the Office of Contractual Review for completion of the analysis.

H. Consulting Services Contracts for \$50,000 or More

If a contract is for services defined as consulting in R.S. 39:1484(4) and is for an amount equal to or exceeding \$50,000, it must have been awarded pursuant to the requirements of R.S. 39:1503, unless exempt by §142. Failure to so comply shall result in the using agency having to reconduct the process. A statement in accordance with R.S. 39:1503 (C) as to

why the award was made must be submitted with the contract.

I. Data Processing Consulting Service contracts for more than \$100,000 shall be procured in accordance with Subchapter C of these regulations.

J. Social Service Contracts for \$150,000 or More During a 12-Month Period

If a contract is for services defined as social services in R.S. 39:1484(24), it must have been awarded pursuant to the requirements of R.S. 39:1503 unless exempt by R.S. 1494.1. Failure to so comply shall result in the using agency having to reconduct the process. A statement in accordance with R.S. 39:1503(c) as to why the award was made must be submitted with the contract.

K. When a contractor is a corporation, a formal, dated board resolution must be secured and attached to the contract indicating that the signatory is a corporate representative and authorized to sign said contract.

L. When it has been determined that a contract is complete, the contract shall be returned to the submitting agency with an approval letter attached and signed by the director of contractual review.

M. A performance evaluation for every personal, professional, consulting or social service contract shall be done by the using agency in accordance with R.S. 39:1500. This performance evaluation shall be retained by the using agency for all small purchase contracts approved under delegated authority. For all other contracts this performance evaluation shall be submitted to the Office of Contractual Review within 120 days after the termination of the contract. An example evaluation form can be found in Appendix F. Using agencies should use their own formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

§136. Determination of Responsibility

A. In order to qualify as responsible, an offerer must meet the following standards as they relate to the particular procurement under consideration:

1. Has adequate financial resources for performance, or has the ability to obtain such resources as required during performance.

2. Has the necessary experience, organizations, technical qualifications, skills, and facilities, or has the ability to obtain them (including probable subcontractor arrangements).

3. Is able to comply with the proposed or required time of delivery or performance schedule.

4. Has a satisfactory record of integrity, judgment and performance (contractors who are seriously delinquent in current contract performance, considering the number of contracts and the extent of delinquencies of each, shall in the absence of evidence to the contrary or evidence of compelling circumstances, be presumed to be unable to fulfill the requirement).

5. Is otherwise qualified and eligible to receive an award under applicable laws and regulations.

B. An offerer shall present acceptable evidence of financial resources, experience, organization, technical qualifications, skills, and facilities, to perform the service called for by the contract.

C. No contract for consulting services for \$50,000 or more, or for social services for \$150,000 or more shall be awarded to any person or firm unless the head of the using

agency has first determined that such person or firm is responsible within the meaning of Subsections A and B.

D. In any case where a contract for consulting services is for \$50,000 or more, or where a contract for social services is for \$150,000 or more, the head of the using agency shall prepare, sign, and place in the contract file a statement of the facts on which a determination of responsibility was based. Any supporting documents or reports and any information to support determinations of responsibility of the offerer or potential subcontractors should be kept on file with the agency, subject to inspection upon the request by the director of contractual review or his designee.

E. Before making a determination of responsibility, the head of the using agency shall have sufficient current information to satisfy himself that the prospective contractor meets the standards in Subsections A and B. Information from the following sources shall be utilized before making a determination of responsibility:

1. information from the prospective contractor, including representations and other data contained in proposals, or other written statements or commitments, such as financial assistance and subcontracting arrangements;

2. other existing information within the agency, including financial data, the list of debarred and ineligible bidders and records concerning contractor performance;

3. publications, including credit ratings and trade and financial journals;

4. other sources, including banks, other financial companies, and state departments and agencies.

F. To the extent that a prospective contractor cannot meet the standard in Subsection A, Paragraph 2 except by means of proposed subcontracting, the prospective prime contractor shall not be considered to be responsible unless recent performance history indicates an acceptable subcontracting system or prospective major subcontractors are determined by the head of the using agency to satisfy that standard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

Subchapter B. Contracts Let via a Request for Proposals Process

§142. Source Selection Methods

Pursuant to R.S. 39:1494-1496 professional or personal services contracts for any amount, consulting services contracts less than \$50,000, and social service contracts meeting one of the requirements of R.S. 39:1494.1(A) may be awarded without competitive negotiation or bidding, therefore this Section shall be applicable to consulting services contracts for \$50,000 or more and social service contracts for \$150,000 or more which are not exempted by R.S. 1494.1(A).

A. Emergency Purchases

An emergency situation must be determined in writing by the director of contractual review or his designee. The using agency which requests an emergency procurement must indicate in writing the basis of the emergency.

B. Sole Source Procurement

A determination in writing, supported by using agency documentation, must be made by the director of contractual re-

view or his designee that only one source exists for the services requested by the using agency.

C. A determination by the director of contractual review that contracts are necessary under Paragraphs A or B above will dispense with the requirement of a Request for Proposal pursuant to 39:1496(B) and 1494.1(B).

D. Record

A record of emergency procurements and sole source procurements shall be maintained by the Office of Contractual Review, and shall contain:

1. contractor's name
2. the amount of contract
3. services to be rendered
4. reason for the emergency or sole source procurement

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

§147. Contracts for Data Processing Consulting Services

Contracts for data processing consulting services in an amount equal to or greater than \$50,000 shall be subject to all the statutory and regulatory requirements generally applicable to consulting services contracts equal to or greater than \$50,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

Appendix C. Suggested Checklist for Review of Personal, Professional, Consulting and Social Services Contracts

1. Minimum Contract Content:

- | Yes | No | |
|-------|-------|---|
| _____ | _____ | 1. Contains a date upon which the contract is to begin and upon which the contract will terminate. |
| _____ | _____ | 2. Contains a description of the work to be performed and objectives to be met. |
| _____ | _____ | 3. Contains an amount and time of payments to be made. |
| _____ | _____ | 4. Contains a description of reports or other deliverables to be received, when applicable. |
| _____ | _____ | 5. Contains a date of reports or other deliverables to be received, when applicable. |
| _____ | _____ | 6. When a contract includes travel and/or other reimbursable expenses, it contains language to effect the following: <ol style="list-style-type: none"> a. travel and other reimbursable expenses constitute part of the total maximum payable under the contract; or b. no more than (a certain sum) of the total maximum amount payable under this contract shall be paid or received as reimbursement for travel or other reimbursable expenses; and c. travel expenses shall be reimbursed in accordance with Division of Administration Policy and Procedure Memorandum 49 (The State General Travel Regulation). |
| _____ | _____ | 7. Contains the responsibility for payment of taxes, when applicable. |

- | | | |
|-------|-------|--|
| _____ | _____ | 8. Contains the circumstances under which the contract can be terminated either with or without cause and contains the remedies for default. |
| _____ | _____ | 9. Contains a statement giving the legislative auditor the authority to audit records of the individual(s) or firm(s). |
| _____ | _____ | 10. Contains an Assignability clause. |
| _____ | _____ | 11. Budget Form BA-22 P.S. fully completed and attached to the contract. |

2. Determination of Responsibility of Contractor:

- | Yes | No | |
|-------|-------|---|
| _____ | _____ | 1. Has adequate financial resources for performance, or has the ability to obtain such resources as required during performance. |
| _____ | _____ | 2. Has the necessary experience, organization, technical qualifications, skills, and facilities, or has the ability to obtain them (including probable subcontractor arrangements). |
| _____ | _____ | 3. Is able to comply with the proposed or required time of delivery or performance schedule. |
| _____ | _____ | 4. Has a satisfactory record of integrity, judgment and performance (contractors who are seriously delinquent in current contract performance, considering the number of contracts and the extent of delinquencies of each, shall, in the absence of evidence to the contrary or compelling circumstances, be presumed to be unable to fulfill this requirement). |
| _____ | _____ | 5. Is otherwise qualified eligible to receive an award under applicable laws and regulations. |
| _____ | _____ | 6. If a contract for consulting services is for \$50,000 or more, or for social services for \$150,000 or more, the head of the submitting agency has prepared, signed and placed in the contract file a statement of the facts on which a determination of responsibility was based. |
| _____ | _____ | 7. On subcontracting, it has been established that contractor's recent performance history indicates acceptable subcontracting systems; or, major subcontractors have been determined by the head of the submitting agency to satisfy standard. |

3. Contract Let via a Request for Proposals Process:

- Contract file attached and this includes:
- | | |
|-------|------------------------|
| _____ | Criteria for Selection |
| _____ | Proposals |
| _____ | Pertinent Documents |
| _____ | Selection Memorandum |
| _____ | Request for Proposals |
| _____ | Contract |

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

Inquiries concerning the proposed rule changes should be made to Bonita B. Brown, Director, Office of Contractual Re-

view at 504/342-7097 or in writing to Office of Contractual Review, Box 94095, Baton Rouge, LA 70804-9095, before November 1, 1987.

Bonita B. Brown
Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Procurement of Professional, Personal,
Consulting & Social Service**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs will be felt by state or local government. State agencies will save the cost of making one copy of the contract. (1500 contracts/year × 10 pages × 25¢/page or \$3750.)
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state or local government will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Increased competition opportunities for consultants offering services to the state. The level at which competition is required has been lowered from \$75,000 to \$50,000 by Act 603 of 1987. Also, Act 762 of 1987 has added performance-based energy efficiency contracts as a type of consulting service.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Increased competition for consulting service contracts with the state will result. Approximately 30 additional contracts per year will be subject to a Request for Proposals (RFP) process.

Bonita B. Brown
Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, proposes to adopt the following rule in the Food Stamp Program.

These revisions are mandated by federal regulations as published in the *Federal Register*, Vol. 52, No. 137, Friday, July 17, 1987, pages 26937-26942. It was necessary to adopt this as an Emergency Rule as an April 1, 1987 implementation date is mandated. The Emergency Rule was published in the Louisiana Register of August 20, 1987.

PROPOSED RULE

Exclusions From Resources

The following items shall not be counted as a resource in the Food Stamp Program:

(1) Non-liquid asset(s) against which a lien has been placed as a result of taking out a business loan and the house-

hold is prohibited by the security or lien agreement with the lien holder (creditor) from selling the assets.

(2) Property, real or personal, to the extent that it is directly related to the maintenance or use of an income producing vehicle or a vehicle necessary to transport a physically disabled household member. Only that portion of real property determined necessary for maintenance or use is excludable under this provision.

Income

Earnings to individuals who are participating in on-the-job training programs under the Job Training Partnership Act shall be counted as income. This provision does not apply to household members under 19 years of age who are under the parental control of another adult member.

Verification

In addition to federally required verification, the Office of Family Security may mandate verification of any other factor which affects household eligibility or allotment level, including household size where not questionable.

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 94065, Baton Rouge, LA 70804. She is the person responsible for responding to inquiries regarding this proposed rule. A copy of the proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on the proposed rule will be held on October 7, 1987, in the Louisiana State Library Auditorium, 760 North 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.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Food Stamp Prog.- Resources & Income

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The cost is \$300 (\$150 state & \$150 federal) in FY 87/88. The costs and/or savings resulting from changes in benefits to recipients cannot be estimated at this time.
- 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)
Households with members who are participating in on-the-job training programs under the Job Training Partnership Act might have their food stamp benefits decreased as these earnings will now be counted as income.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Marjorie T. Stewart
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt the following rule in the Medical Assistance Program.

The current dispensing fee for pharmacy providers who participate in the Pharmacy Program under Medicaid is \$3.30. Effective for services beginning August 1, 1987, the dispensing fee allowance for prescriptions under the pharmacy services program of the Office of Family Security has been increased to \$3.51. This increase is mandated by the 1987-88 Appropriations Bill in which the Legislature inserted specific language that the dispensing fee would be \$3.51. This change has been adopted by Emergency Rulemaking, published in the *Louisiana Register*, Volume 13, Number 9, dated September 20, 1987. This rule is allowed under 42 CFR 447.333.

PROPOSED RULE

Effective August 1, 1987, the dispensing fee for pharmacies participating in Medicaid shall be \$3.51 per prescription. The dispensing fee shall be utilized by the agency in its determination of the lesser of Estimated Acquisition Cost plus a dispensing fee or the pharmacy's usual and customary charge.

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Box 94065, Baton Rouge, LA 70804-4065. Ms. Stewart is the person responsible for responding to inquiries regarding this proposed rule. A copy of this proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on this proposed rule will be held on October 7, 1987 in the Louisiana State Library Auditorium, 760 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.

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.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: MAP - Pharmacy Dispensing Fees.

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will increase state expenditures by \$374,254 in FY 87-88; \$416,344 in FY 88-89; and \$432,998 in FY 89-90.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will increase federal matching funds by \$781,922 in FY 87-88; \$895,390 in FY 88-89; and \$931,206 in FY 89-90.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Pharmacy providers throughout the state will receive a 6.4% increase in dispensing fees. Program reimbursement to providers statewide will be increased by \$1,156,176 in FY 87-88; \$1,311,734 in FY 88-89; and \$1,364,204 in FY 89-90.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will have no effect on competition and employment.

Marjorie T. Stewart
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Management and Finance

DIVISION OF POLICY, PLANNING AND EVALUATION

The Department of Health and Human Resources, Office of Management and Finance, Division of Policy, Planning and Evaluation proposes to adopt the following changes to the Louisiana State Health Plan to be effective November 20, 1987. The proposed changes will be made to the rule published in Volume 13, Number 8 of the *Louisiana Register*, August 20, 1987 and LAC 48:I:11523.

This proposed rule amends the Long Term Care Bed section of Chapter IX of the Louisiana State Health Plan and can be found on pages 9-59 through 9-61 of the Plan. The rule also amends the Administrative Code section as follows:

Title 48

Public Health - General

Part 1. General Administration

Subpart 5. Health Planning

Chapter 115. Health Resource Requirements

Subchapter B. Facility or Service - Specific Criteria and Standards

§11523. Long Term Care Beds

The proposed change would amend the exceptions to the need-related long term care bed resource goals found in section 11523, A.12. and A.13. entitled "Adjustments to Resource Goals" and "Applications for Proposals in Overbedded Areas" respectively.

These sections would read as follows:

§11523. Long Term Care Beds

A.12. Adjustments to Resource Goals

* Circumstances may exist or be created which cause a particular group (see section on Health Care for Persons with Acquired Immunodeficiency Syndrome) or area to be underserved. When one of the following circumstances exists in a service area, an adjustment to the above resource goals may be justified:

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i. Inaccessibility to minority groups.

It is recognized that certain factors may limit the accessibility of nursing home beds to minority groups. For this reason, a documented claim submitted by the applicant, of inaccessibility of nursing home beds to minority groups, may be considered a special circumstance in the determination of need in the service area. Inaccessibility refers only to situations where there is docu-

mented evidence of discrimination against a particular minority in a geographic area. This requirement will be deemed met only when the Title VI or Title VII agency has made a positive finding of systematic discrimination against a minority group on the part of an existing health care facility within the geographic area.

* ii. Inaccessibility in high occupancy areas.

It is recognized that in certain areas of the state nursing home care is not available. For this reason, a documented claim, submitted by the applicant, that nursing home care is not available may be considered a special circumstance in the determination of need in the service area. This requirement shall be deemed met only when the adjusted occupancy rate for all facilities in the service area exceeds 95 percent. The adjusted occupancy rate is computed for each quarter for the four most recent quarters due to have been reported to Division of Licensing and Certification and is calculated from a base bed inventory which includes licensed but not 1122 approved beds, 1122 approved and licensed beds and 1122 approved but not yet licensed beds.

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This calculation shall include licensed general acute care beds which are Medicare certified as skilled nursing facility beds.

iii. Inaccessibility due to poor quality of care.

It is recognized that in some areas of the state the nursing home care being provided may not be of the quality desired by the residents of that parish. Therefore, in these areas, a documented claim, submitted by the applicant, that nursing home care is not accessible due to the poor quality of care provided in the parish may be considered a special circumstance in the determination of need in the service area. This requirement will be deemed met only when a facility in the service area has been disenrolled by the Office of Family Security as a Medicaid Provider or decertified or delicensed by the Division of Licensing and Certification and the adjusted occupancy rate for the other facilities in the service area is greater than 95 percent. The adjusted occupancy rate is computed for each quarter for the four most recent quarters due to have been reported to Division of Licensing and Certification and is calculated from a base bed inventory which includes licensed but not 1122 approved beds, 1122 approved and licensed beds and 1122 approved but not yet licensed beds.

This calculation shall include licensed general acute care hospital beds which are Medicare certified as skilled nursing facility beds. The beds of the facility which was disenrolled, decertified or delicensed shall be excluded in computing the adjusted occupancy rate and the Section 1122 approval for such facility shall be revoked unless the facility obtains reenrollment, recertification and relicensure within 60 days of the loss of such approvals.

* A.13. Applications for Proposals Based on Inaccessibility Adjustments

a. All applications for proposed or existing facilities based on the foregoing inaccessibility adjustments will be referred by the Health Planning Staff to a committee of knowledgeable professionals who will review and provide written comments to Division of Policy, Planning and Evaluation on such applications. The following committee members are appointed by the governor: the assistant secretary of Office of Family Security, the Administrator of Licensing and Certification, the chairman of the Statewide Health Coordinating Council (shall always be a consumer representative), the Ombudsman Coordinator of the Governor's Office of Elderly Affairs, and the Director of the Bureau of Civil Rights of DHHR.

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b. Division of Policy, Planning and Evaluation shall forward copies of the applications to be reviewed to the above noted committee members as soon as such applications are declared complete. The transmittal will include the date of the public hearing and the decision due date. Division of Policy, Planning and Evaluation shall also forward a summary of the public hearing comments to the committee members.

* c. Each committee member will forward individual comments and recommendations to the Division of Policy, Planning and Evaluation. Comments must be received by Division of Policy, Planning and Evaluation at least five working days prior to the decision due date. If available, such comments and recommendations will be included in the staff analysis and considered when a decision is rendered. The number of beds which may be approved in an area deemed inaccessible due to high occupancy shall not exceed the lesser of (1) the average of all the facilities in the service area, or (2) 10 percent of the number of beds in the service area. For all other resource goal adjustments based on inaccessibility the number of beds which may be approved shall not exceed the average of all the facilities in the service area.

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CODING: Changes in wording follow * (single asterisk) and precede ** (double asterisk).

d. Note: Specific requirements for meeting these exceptions shall be further established in the Section 1122 Policies and Guidelines promulgated by the Division of Policy, Planning and Evaluation.

A public hearing will be held on October 5, 1987 at 10 a.m. in the Auditorium of the State Library, 760 Riverside, Baton Rouge, LA. Interested persons may submit written comments on the proposed change until October 15 at the following address: Mrs. Bonnie Smith, Division of Policy, Planning and Evaluation, 200 Lafayette St., Suite 406, Baton Rouge, LA 70801.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: High Occup. Exception to Long Term
Care Resource Goals**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There may be some implementation costs to the state as Medicaid is involved in paying for Capital costs as well as operating costs. We anticipate these costs to be minimal. There is no way to assess these potential costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections is estimated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No costs to directly affected persons or non-governmental groups are estimated. There may be some economic benefits to directly affected persons or non-governmental groups. We anticipate these benefits to be minimal. There is no way to assess these potential benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be some increase in employment. We anticipate this increase to be minimal. There is no way to assess this potential increase.

Sandra L. Robinson
Secretary and State Health Officer

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Management and Finance
Division of Policy, Planning and Evaluation**

The Department of Health and Human Resources, Office of Management and Finance, Division of Policy, Planning and Evaluation proposes to continue a health facility capital expenditure review program similar to the Section 1122 Review Program, the Louisiana State Health Plan and the Section 1122 Policies and Guidelines without change, except that capital expenditure reviews will be performed and decisions will be binding for Medicaid only, effective November 20, 1987. Federal authority for health planning and development has been discontinued by the repeal of P.L. 93-641 and DHHS may not contract with the state to continue the Section 1122 review program, even though Section 1122 has not been repealed, after October 1, 1987. The Department of Health and Human Resources, however, will continue the health facility review program under the authority of R.S. 36.256(b) for Medicaid only. The proposed action will require changes to the Section 1122 Policies and Guidelines published as a Rule in Volume 13, Number 6 of the *Louisiana Register*, June 20, 1987 and to LAC 48:I:101-125.

In the Section 1122 Policies and Guidelines and LAC 48:I:125, all references related to the performance of health facility-related capital expenditure reviews for Medicare will be deleted and all changes necessary to establish that the program will affect only Medicaid will be made. Also, in the Louisiana Administrative Code, all references to P.L. 93-641, which has been repealed, in the authorization citations will be deleted.

Interested persons may submit written comments on these changes until October 15, 1987 at the following address: Bonnie Smith, Division of Policy, Planning and Evaluation, 200 Lafayette Street, Suite 406, Baton Rouge, LA 70801.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Section 1122 Policies & Rule
Guidelines change to delete Medicare Review**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No implementation costs (savings) to state or local governmental units are estimated as this Program is currently operational and will change only in that health facility capital expenditure reviews will no longer be performed for Medicare. Since Medicare is funded totally by federal and individual participation, no change in state expenditures is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This change may allow growth in the number of beds certified for Medicare participation in some private health care facilities. This may increase tax revenues to state and local governments as a result of increased employment. Such increases cannot be estimated but are expected to be small.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This change will allow growth in the number of health facility beds certified for Medicare and may, therefore, increase the costs of health care. The magnitude of this change cannot be estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since this change will allow growth in the number of health facility beds certified for Medicare, there may be an increase in employment. The magnitude of this increase cannot be estimated.

Sandra L. Robinson
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Preventive and Public Health Services**

The Department of Health and Human Resources, Office of Preventive and Public Health Services intends to amend the General Requirements for Frozen Desserts as prescribed by Chapter VIII, Sec 8:013 (d) and (e) Sanitary Code, state of Louisiana.

The current requirements will be changed as follows:

8:013 GENERAL REQUIREMENTS

(d) Ice cream, ice milk, and other frozen desserts shall be offered to consumers who serve themselves only when dispensed from approved dispensing machines designed expressly for that purpose.

(e) The dipping and/or packaging of firmly frozen desserts by consumers who serve themselves is prohibited.

Interested persons may submit comments on the proposed changes at the following address: Joseph D. Kimbrell, Deputy Asst. Secretary/Programs, OPPHS, Office of Preventive and Public Health Services, Department of Health and Human Resources, Box 60630, New Orleans, LA 70160.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Chapter VIII Sec. 8:013**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs associated with the implementation of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections with the implementation of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No costs or economic benefits to directly affected persons or non-governmental units are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No measurable impact on competition or employment is expected with the adoption of this rule.

Joseph D. Kimbrell
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Preventive and Public Health Services**

The Department of Health and Human Resources, Office of Preventive and Public Health Services, proposes the following changes to the rule published in the *Louisiana State Register*, Volume 11 on September 20, 1985 which amends the earlier rule promulgated in Volume 10 on July 20, 1984. These changes are necessary to implement Act 374 passed in the 1987 Regular Session of the Louisiana Legislature.

II. Vendor Selection Criteria

A. Basic Vendor Eligibility Criteria

2. Cost containment:

a. An applying vendor must offer average food package cost, at or below 110 percent of the monthly median average food package cost charged by other authorized vendors in the parish as evidenced by submission of WIC Program price report sheets.

Applying vendor's submitted food shelf prices will be calculated using the highest cost brand items specified on the six food packages issued to participants. An average of the estimated six food package costs by vendor will be ranked from highest to lowest cost for all applying and authorized vendors. The mid point of this ranking will be the established median average food package cost. Applying vendors may exceed this median by 10% to meet the Program's cost containment criteria.

b. An applying vendor will be given one opportunity to lower food costs within 15 days of notification during the application process in order to meet program guidelines. Exceptions will be granted to vendors who can provide official wholesale invoice documentation which verifies that the price of the WIC food items offered does not exceed 10 percent above vendor's wholesale cost.

c. To maintain authorization, vendors may not exceed the monthly median by more than 110 percent, or provide official wholesale invoice documentation which verifies that the price of the WIC food items offered does not exceed a level of 10 percent above vendor's wholesale cost. Failure to lower costs within 15 days of notice of excessive prices will terminate the agreement.

d. Vendors shall provide the food package at the price or at less than the current price charged to other customers.

II. B. Criteria Determining the number of Authorized Vendors in Parish

2. b) omit

2. c) omit

(These changes remove the location and distance factors entirely).

Interested parties may submit comments at the following address: Joseph D. Kimbrell, Deputy Assistant Secretary, Programs, Office of Preventive and Public Health Services, Department of Health and Human Resources, Box 60630, New Orleans, LA 70160.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Vendor Selection Criteria**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Due to an anticipated increase in the number of authorized WIC vendors, administrative costs to monitor additional vendors will increase by approximately \$100,600. Funds for this purpose will be re-allocated among existing WIC administrative funds used for direct services to patients in the form of certification and education and for vendor monitoring and other administrative purposes. All WIC funds are 100 percent federal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated effects 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)

This proposed administrative rule repeals all existing mileage criteria and the criteria imposed by Act 374 of the 1987 Regular Session and will cause an increase in costs related to vendor monitoring of up to \$100,600 per year. This represents approximately one percent of the total WIC administrative budget of \$9.8 million for 1987-88. If all or part of these additional costs cannot be absorbed within the administrative budget, there may be fewer dollars to certify individuals and provide direct services to current and potential WIC clients. The estimated effect on WIC clients could range from no impact if these costs are absorbed to a maximum of 1,074 persons per month who would be unable to receive benefits if they cannot be certified for the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

By increasing the number of authorized WIC vendors, competition among vendors for WIC clients will increase. The possible impact on food prices and employment cannot be determined. It is expected that the number of WIC vendors will increase from 1,000 to 1,500 with the adoption of this rule.

Claude Carbo, Jr.
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of the Secretary

The Louisiana Department of Health and Human Resources (DHHR) intends to apply for supplemental Maternal and Child Health (MCH) Block Grant funding for FY 1987-88 and submit an amended application for these funds in accordance with Public Law 99-509, the Omnibus Reconciliation Act of 1986. DHHR will continue to administer Maternal and Child Health Programs funded under this Block Grant in accordance with provisions set forth in Public Law 99-509 through the Office of Preventive and Public Health Services (OPPHS).

The amended Maternal and Child Health Block Grant application for FY 1987-88 is available for review at any regional OPPHS facility in Baton Rouge, Lafayette, Alexandria, Shreveport, Monroe, Lake Charles, Thibodaux and in the OPPHS central office in New Orleans. A copy of the amended application may be obtained in writing directly from the Office of Preventive and Public Health Services.

A public hearing on the amended Maternal and Child Health Block Grant application for FY 1987-88 is scheduled on Wednesday, October 21, 1987, in Baton Rouge in the Capital Region Office of the Office of Preventive and Public Health Services, 1220 Main Street, Baton Rouge, LA, at 10 a.m.

The supplemental Maternal and Child Health Block Grant appropriation will be used as follows: To continue Maternal and Child Health services previously specified in the Block Grant application for FY 1987-88 to 6500 additional patients; to provide special diagnostic tests for genetic disorders; to provide resource development, case management, and parent support services to "high tech" children with special needs and their families in the Lafayette area; and to provide Family Planning medical services and case management services to adolescents.

At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed amended Maternal and Child Health Block Grant application, orally, or in writing. Written comments will be accepted through October 28, 1987.

Inquiries and comments may be addressed to Joseph D. Kimbrell, Deputy Assistant Secretary of Programs, Office of Preventive and Public Health Services, Box 60630, New Orleans, LA. 70160.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amended Maternal and Child Health (MCH) Block Grant

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs associated with the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Federal funding is increased by \$347,869 in supplemental MCH Block Grant appropriation. This funding level is expected to continue in FY 88-89.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

No direct effect is anticipated on patients, groups, units of local government or state agencies other than DHHR.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT (Summary)

No measurable impact on competition or employment is expected with the adoption of this rule.

Joseph D. Kimbrell
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Natural Resources Legal Division

[Editor's Note: This Notice of Intent is being republished in this issue for the purpose of publishing the proposed rule in its entirety. The final rule will appear in the October issue of the Louisiana Register.]

The secretary of the Department of Natural Resources hereby does give notice, in accordance with the Administrative Procedure Act, that he intends to adopt rules and regulations further implementing Act 233 of 1984, and implementing Act 819 of 1985 and Act 644 of 1987, all pertaining to return of Bohemia Spillway lands.

BOHEMIA SPILLWAY LANDS

Under the provisions of Act 233 of the 1984 Regular Session of the Louisiana Legislature, the secretary of the Department of Natural Resources promulgated Sections I and II of certain rules and regulations to initiate the receipt of claims for the return of certain described property located in what is commonly referred to as the Bohemia Spillway. The following provisions, promulgated pursuant to the above referenced Act and Act 819 of the 1985 Regular Session of the Louisiana Legislature, comprise Section III of the rules and regulations for the return of Bohemia Spillway lands.

SECTION III- APPLICATION PROCESSING AND CERTIFICATION

A. Upon termination of the period for receiving applications, the department shall conduct a preliminary review of each application to determine whether substantive processing of each application can be initiated. In reviewing the applications, the following criteria must be satisfied:

1. whether all questions on the application are answered, and/or appropriate documentation has been furnished;

2. whether the application identifies land acquired by the board and located within the Bohemia Spillway, as that designation is used in Act 233 of the 1984 Regular Session of the Legislature;

3. whether the name of the person identified on the application form as original owner is among the names of owners included on the Report-Real Estate Committee to Executive Committee, Board of Levee Commissioners Orleans Levee District Proposed Plaquemines Outlet, dated April 20, 1925; the original being on file at the administrative office of the Orleans Levee Board, Lakefront Airport, New Orleans, Louisiana, or the name of the person identified on the application form as original

owner appears on other records of the board pertaining to acquisition of property in the Bohemia Spillway.

B. Upon completion of the preliminary review, the department shall notify all applicants of the results of the review. The written notification shall either state that the application is being retained for further processing, or that it failed to satisfy one or more of the three criteria listed above. In the event of failure, the application shall be returned to the applicant, accompanied by the notification which shall include a clear statement as to the reason for rejection. Applicants shall have 60 days from the date of receipt of a returned application to file an amended application form with the department. Amended applications filed more than the 60 days specified herein shall be invalid and no further processing by the department will be done.

C. During the preliminary review phase of application processing, the department shall concurrently evaluate the tracts of land described in the April 20, 1925 Report-Real Estate Committee to Executive Committee, Board of Levee Commissioners, Orleans Levee District, (identified in Subsection III A. 3., above) to identify any lands and/or water bottoms which are located in the Bohemia Spillway and are or may be owned by the state of Louisiana, and to determine the extent of any such state ownership.

D. The secretary of the Department of Natural Resources shall designate a special master, who shall undertake the substantive evaluation of valid applications. The substantive evaluation of each application shall be based upon such information as is contained in the application, and generated pursuant to Subsections III B. and C., and any additional evidence the special master might require the applicant, the board or the department to furnish. Any request for additional evidence shall be satisfied, in writing, within 60 days of written demand by the special master. Applicants failing to timely and adequately respond to any request of the special master shall have their applications invalidated, unless good cause is shown why the request was not timely or adequately responded to.

E. Upon completion of the evaluation of an application, the special master shall make one of the following determinations in writing:

1. the application does not establish an apparent valid claim for return of title to the tract indicated on the application;

2. the application establishes an apparent valid claim for return of title to the tract indicated on the application;

3. the application, and accompanying documentary evidence, establishes an apparent valid claim for return of title to the tract; however, there are heirs who remain unknown and/or unaccounted for;

4. the application is invalid for reasons set forth, above, or otherwise.

F. The appropriate written determination, made pursuant to Subsection E above, shall be attached to the application. The application and all accompanying documentary evidence shall be certified by the special master, and shall be transmitted to the board for disposition pursuant to Section 4 of Act 819 of the 1985 Regular Session of the Louisiana Legislature.

G. Preceding transmittal of the documents described in Subsection F above, the special master shall assess each application for the actual cost of administering the claim, pursuant to Act 644 of the 1987 Regular Session of the Louisiana Legislature. The costs, which shall be paid in full prior to transmittal, may be apportioned among all the applicants for an individual tract of property located within the Bohemia Spillway. The de-

partment shall adopt a fee schedule and criteria upon which all costs will be based.

B. Jim Porter
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Return of Bohemia Spillway Lands**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In implementing the rule in FY 87-88, DNR will incur costs of approximately \$100,000 (expenditures for professional and personal services, equipment and supplies). The Board of Commissioners of the Orleans Levee District may sustain costs as it complies with the requirements of Section 4 of Act 819 of 1985 and Act 644 of 1987.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Exploration for and production of minerals within the Bohemia Spillway provide revenues to the Board of Commissioners of the Orleans Levee District. If and when title to those lands is returned to former owners, the revenues which averaged \$4.3 million during the period of July 1984 - July 1987 (or a total of approximately \$13 million), will no longer be available to the local governmental unit. Additionally, the proposed rule also provides that the costs may be apportioned among all applicants; however, the revenues to be collected will be set by a future rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Total revenues produced from the 33,000 plus acres of the Bohemia Spillway averaged \$4.3 million per year during the period of July 1984 - July 1987, or a total of \$13 million. These revenues will be divided among persons providing their right to have returned to them lands owned by their ancestors. Actual costs of administering claims will be assessed against these persons by way of a rule which DNR will promulgate sometime in the future.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment is impossible to determine; however, due to the revenue decrease, there may be an impact on the Orleans Levee District.

F. Carl Rowan
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of Secretary**

The secretary of the Department of Natural Resources does give notice hereby, in accordance with the Administrative Procedure Act, that he intends to adopt rules and regulations implementing Act 887 of the 1987 Regular Session of the Louisiana Legislature.

Copies of the proposed rules and regulations may be obtained by calling the Division of State Lands of the Department of Natural Resources (504) 342-4600, or by writing to the Division of State Lands, Box 44124, Baton Rouge, LA 70804. The text of the rules and regulations may be reviewed at the Department of Natural Resources, Division of State Lands, 12th Floor, 625 North 4th Street, Baton Rouge, LA 70802.

Written comments regarding these rules and regulations may be submitted no later than October 20, 1987, and may be mailed to the Division of State Lands, Box 44124, Baton Rouge, Louisiana 70804.

B. Jim Porter
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Best use of Nonessential Property**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Neither state nor local governments will incur any additional costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The rule only authorizes, not mandates, sales and leases of state owned properties. Proceeds from a sale or lease would be deposited in the general fund. However, no projection of revenues can be formulated at this time.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
In the event property is sold or leased, costs will be borne by the purchaser or by the lessee.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is conceivable the property offered for sale would be used in private, commercial or industrial endeavors, thereby competing with existing businesses, and creating employment opportunities.

F. Carl Rowan
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of the Secretary**

The secretary of the Department of Natural Resources does hereby give notice, in accordance with the Administrative Procedure Act, that he intends to promulgate necessary rules and regulations to administer the provisions of Act 430 of 1987, concerning the Severance Tax Exemption for oil produced from wells drilled between July 15, 1986 and July 15, 1988. Copies of the proposed rule may be obtained by calling the Legal Division of the Department of Natural Resources at (504) 342-0126 or by writing to the Legal Division at Box 94396, Baton Rouge, LA 70804-9396, or may be viewed at the Legal Division of the Department of Natural Resources, thirteenth floor, 625 North Fourth Street, Baton Rouge, LA 70802. The Department of

Natural Resources will be open from 8 a.m. to 4:30 p.m., and interested persons may call C.H. Mandell or Charlene Ducote, at this time, holidays and weekends excluded, for a copy of this amended rule. Any interested person wishing to submit written comments relative to this amended rule may do so by submitting the same to the Legal Division, at the address set forth in this notice on or before the close of business hours, October 5, 1987.

**RULES FOR CLAIMING
SEVERANCE TAX EXEMPTION
UNDER ACT 430 OF 1987 (R.S. 47:648.11)**

The secretary of the Department of Natural Resources, under the authority of Act 430 of the 1987 Regular Session of the Louisiana Legislature, effective July 9, 1987, promulgates these rules for claiming the severance tax exemption established by Act 673 of 1986. Act 430 of 1987 clarified certain provisions of Act 673 of 1986 which are also contained in those rules entitled "STEP SEVERANCE TAX EXEMPTION" adopted by the secretary on June 20, 1987. This rule repeals and repromulgates the said June 20, 1987 regulations.

SEVERANCE TAX EXEMPTION CLAIMS

1. No production shall be exempt from severance taxes pursuant to R.S. 47:648.11 unless the drilling operator or taxpayer first provides the following certifications to the Department of Revenue and Taxation:

- a. an Office of Conservation certification that the well's drilling and production qualifies for the exemption; and
- b. a certification by the drilling operator that, to the maximum extent possible, at least 10 percent of the service contracts related to the well drilling have been made available to minority-owned businesses and at least 5 percent of the service contracts have been made available to women-owned businesses. A "minority-owned business" is one that is certified as such by the Governor's Office of Minority Business Development, Box 94095, Baton Rouge, Louisiana 70804-9095. A "women-owned business" is one that is certified as such by the Louisiana Office of Women's Business Enterprise, Box 94185, Baton Rouge, Louisiana 70804.

2. Producers or taxpayers claiming an exemption from the severance tax must file a monthly information return with the Department of Revenue and Taxation on forms provided by that department.

3. The report filed with the Department of Revenue and Taxation shall include the total and exempt production for that month, the cumulative total and exempt production for that annual exemption period, and any other information that the secretary of Revenue and Taxation requires for processing and auditing purposes. The "annual exemption period" means the 365-day period commencing from the date of first production and each successive 365-day period commencing on the anniversary of the date of first production, until July 15, 1990.

Cuthbert H. Mandell
General Counsel

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Severance Tax Exemption Claims**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These rules do not require any additional implementation costs or result in savings to state or local governmental units, as the requirements of both the current and proposed rules are and can be handled by the existing staff of the Departments of Revenue and Taxation and Natural Resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These rules will have no effect on the revenue collections of local governmental units or the state, beyond the effect on the state resulting from the passage of Act 430 of 1987, itself. A severance tax loss of an estimated \$4 million has been projected for FY 1987-88 as a result of the passage of Act 430, but this would be partially offset by taxes estimated at \$25,000-\$30,000 per well resulting from additional wells which would be drilled because of the exemption. Losses in the second or third year could range from \$5 million to \$6 million, however, taxable production in years past FY 1988-89 would be less if Act 430 had not continued the exemption established in 1986.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Economic benefits will accrue to individuals holding interests in wells qualifying for the severance tax exemption for the first 50 barrels of oil produced each day, up to 10,000 barrels per year. This benefit will continue until July 15, 1990 except for those months in which the price of oil meets or exceeds \$21 per barrel. The economic benefits to minority and women-owned businesses to which service contracts related to the well drilling are to be made available cannot be estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Act 430 should have no effect on competition. As any operator drilling an oil well between July 15, 1986 and July 15, 1988 can qualify for the severance tax exemption.

Cuthbert H. Mandell
General Counsel

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

In accordance with R.S. 49:95 et seq., under authority of R.S. 32:852, notice is hereby given that the Louisiana Department of Public Safety and Corrections intends to amend its rule for the reporting of Compulsory Motor Vehicle Liability Security policies by "Security Providers."

A copy of the proposed rule changes can be viewed at the Office of Motor Vehicles, 109 South Foster Drive, Baton Rouge, LA 70896. Written inquiries may be directed to John J. Politz, Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896.

John J. Politz
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Compulsory M.V. Liability Security

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule changes will result in an estimated cost of \$320,104 in 1987-88 and \$219,828 in subsequent years to the Department of Public Safety and Corrections, Data Processing Office. These costs will be borne by the Financial Division Responsibility Fund.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of these regulations will not affect revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The cost of implementation by the affected liability insurers is unknown. However the cost of data transmitted by magnetic tape is the current practice of the industry and is one of the most cost effective and efficient methods of data transmittal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

James Thibodeaux
Deputy Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT Department of Revenue and Taxation

The Department of Revenue and Taxation advertises its intent to adopt a regulation for the proper and orderly administration of the state sale tax exemption for purchases of "eligible food items" made with United States Department of Agriculture Food Stamp Coupons and Women, Infants, and Children's Program Vouchers (R.S. 47:305.46).

Interested persons may submit written comments on the proposed regulation to the following address: Raymond E. Tangney, Director; Sales Tax Section, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821.

A public hearing for the purpose of hearing objections to or comments on this proposed regulation will be held on October 2, 1987 at 9:00 a.m., in the second floor conference room of Department of Revenue and Taxation, which is located at 330 North Ardenwood Drive, Baton Rouge, LA.

The text of the proposed regulation is as follows:

§4417 Exemption on Purchases made with United States Department of Agriculture Food Stamp Coupons and Women, Infants, and Children's Program Voucher

A. This Section specifically exempts from the sales and use tax imposed by this Chapter, and any such taxes imposed by any parish, board, or municipality, purchases of the following items:

1. Eligible food items, as defined by the United States Department of Agriculture (USDA) regulations for the Food Stamp Program, when such food items are purchased with United States Department of Agriculture Food Stamp Coupons.

2. Eligible food items authorized for purchase under the Women, Infants, and Children's (WIC) Program as administered

by the Louisiana Department of Health and Human Resources, when such items are purchased with WIC Program Vouchers.

B. Definitions

1. "United States Department of Agriculture Food Stamp Coupons (food stamps)" means coupons issued by the USDA Food Stamp Program.

2. "Eligible food items," for purchases made with food stamps, means the definition of "eligible foods" as defined in the regulations of the Food Stamp Program of the United States Department of Agriculture.

3. "WIC Program Vouchers (WIC vouchers)" means payment vouchers issued by the Women, Infants, and Children's (WIC) Program.

4. "Eligible food items," for purchases made with WIC vouchers, refers to the specific items authorized to be purchased with the WIC voucher used as the medium of exchange.

C. Limitations

1. The exemption for food items purchased with food stamps is limited to those items defined as "eligible foods" in the regulations of the USDA Food Stamp Program. As the definition of "eligible foods" changes, the food items eligible for this exemption will automatically qualify or become disqualified.

2. The exemption for eligible food items purchased with WIC vouchers is limited to those items specifically stated on the voucher which is used as the medium of exchange.

3. The exemptions for purchases utilizing food stamps and WIC vouchers are further limited to the amount of foods stamps and WIC vouchers used in the transaction. Eligible food items purchased with mediums of exchange other than food stamps or WIC vouchers, such as cash, will be subject to applicable state and local sales and use taxes.

D. Purpose and Method

1. Federal regulations require that the exemption for food stamp purchases be administered so as to minimize the sales tax burden on any order of eligible foods. A special problem arises when a patron presents a combination of food stamps and cash in payment of eligible food consisting of food for preparation and consumption in the home (exempt from state sales taxes) and eligible food items such as ice, bottled water, loose candy, and seeds and plants for the production of food which except for this exemption would be taxable. Grocers are currently required to "sort" each order by separating the eligible food items from the entire order, either physically or through the use of electronic equipment. Since ice, bottled water, etc. are otherwise taxable items, the federal regulations would require a second "sort" to ensure that the food stamps are applied to those items first.

2. In order to comply with federal regulations and to eliminate the need for "double-sorting" by dealers, purchases of eligible food items paid for with a combination of food stamps and cash will be given the following treatment for state sales tax purposes. Once the food stamps have been applied to the purchase, the remaining portion of eligible items which is to be paid for with cash will be treated as food for home consumption, notwithstanding any restrictions by R.S. 47:305(D). Thus, of the remaining portion of the eligible food items to be paid for with cash, items such as ice, bottled water, and loose candy will be taxed at the same rate as milk or bread. This method does not in any way affect ice, bottled water, loose candy, and other such items which are purchased by a patron who does not present food stamps in payment.

E. Purchases of items not considered eligible food items by the USDA regulations, such as detergent, will not be affected

by this regulation and will remain subject to applicable state and local sales and use taxes.

Shirley McNamara
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: 61:I.4417

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

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)

Under the Department's proposed rule, the state will lose some level of revenues associated with purchases of loose candy/snacks, bottled water, ice and seeds when these items are purchased with a combination of cash and food stamps. These items are currently taxed at 4 percent while other food items are taxed at 1 percent (through 6/30/88). State law (effective 10/1/87) prohibits charging state and local sales taxes on purchases made with food stamps; this rule concerns the treatment of taxes charged on that part of the shopping purchase not covered by food stamps. The rule specifically provides that the state sales tax rate charged on all items purchased with a combination of food stamps and cash would be the rate applicable to bread and milk (currently 1 percent). The amount of loss will be dependent upon: 1) the extent to which combination food stamp/cash purchases of the selected items (ice, water, loose snacks) occur and 2) the extent to which food stamps are allocated to these high tax items. Although the maximum potential loss in 1987-88 is upwards of \$413,000, the magnitude is likely to be significantly reduced assuming that food stamps are first allocated to high tax items in combination stamp/cash purchase situations. The loss to the state would be further reduced depending upon the extent that some loose snacks/candy are currently treated by retailers as food for home consumption. The proposed rule does not affect local treatment of these type transactions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Retail outlets which accept food stamps will be relieved of collecting potentially three state sales tax rates on purchases on "eligible foods". The proposed method of state tax collection is compatible with current systems.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Shirley McNamara
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Revenue and Taxation Tax Commission

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), notice is hereby given that the Louisiana Tax Commission intends to consider amendments to the following sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations: Definitions (LAC 61:V.301), Real Property Rules & Regulations (LAC 61:V.303), Forms (LAC 61:V.307), Loan & Finance Companies (LAC 61:V.503), Watercraft (LAC 61:V.703), Oil and Gas Properties (LAC 61:V.903 and 909), Pipelines (LAC 61:V.1301), Aircraft (LAC 61:V.1503), Inventory (LAC 61:V.1705), Leasehold Improvements (LAC 61:V.1901), Leased Equipment (LAC 61:V.2101), General Business Assets (LAC 61:V.2503), Use Value (LAC 61:V.2705, 2707 and 2717), Public Service Properties (LAC 61:V.2901) and Appeals & Public Exposure of Assessments (LAC 61:V.3101).

Pursuant to R.S. 49:953(2a), the Louisiana Tax Commission will hold a public hearing on Tuesday, September 29, 1987, at 10 a.m., in the Mineral Board Hearing Room, Natural Resources Building, 625 North 4th Street, Baton Rouge, LA.

The proposed amendments are available in the office of the Louisiana Tax Commission, 923 Executive Park Avenue, Suite 12, Baton Rouge, Louisiana, between the hours of 8 a.m. and 4 p.m. Ed Leffel is the person responsible for responding to inquiries concerning the intended action.

Jamar W. Adcock
Chairman

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Rules and Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs to the agency are the costs of reproduction and distribution of updated regulations. These costs are estimated at \$2,877.00 for the 1987-88 fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These revisions will generally lower 1988 personal property assessments for property of similar age and condition in comparison with equivalent assessments in 1987. Composite multiplier tables decline by an average of 4 percent, while specific value tables will generally decline by 2 percent to 10 percent.

It is anticipated that growth in the quantity of assessed personal property will offset these reduced valuations so that the overall growth of 1988 assessments will be 1 percent of a \$3.6 million increase in local property taxes in 1988.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The primary benefits from these new rules will be to businesses with affected personal property. Assessments on equivalent property will generally be less in 1988 than in 1987. Specific savings will depend on the type, age and condition of property subject to assessment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments are relatively small, the impact is thought to be minimal.

James W. Smith
Member

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the Louisiana Wildlife and Fisheries Commission gives notice that it proposes to restrict vehicles on certain roads within the Department's Wildlife Management Area system. The Department of Wildlife and Fisheries requested that the Commission authorize these restrictions at the August 7, 1987 commission meeting held at Rockefeller Refuge, Grand Chenier, LA.

The following proposed rules designate the specific Wildlife Management Area on which roads will be restricted to soft wheel ATV type vehicles.

Interested parties may obtain maps and submit their views in writing to Hugh A. Bateman, Chief, Game Division, Louisiana Department Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895.

Road Use Changes

Purpose

The changes to go into effect this fall are being made to improve hunter access and reduce maintenance costs while continuing to provide adequate access to harvest the available resources.

Overview

7 Wildlife Management Areas affected	
Total ATV Trails	83 miles
Changes	
Roads converted to ATV Trails	68.25 miles
Red River WMA - Converted to ATV (District IV)	20.5 miles
Three Rivers WMA - Converted to ATV (District IV)	9.0 miles
Saline WMA - Converted to ATV (District IV)	16.5 miles
Boeuf WMA - Converted to ATV (District IV)	11.0 miles
Big Lake WMA - Converted to ATV (District IV)	3.0 miles
Spring Bayou WMA - Converted to ATV (District IV)	5.5 miles
Grassy Lake WMA - Converted to ATV (District IV)	2.75 miles

Resolution

The following resolution was presented to the Louisiana Wildlife and Fisheries Commission at its regular meeting held at Rockefeller Refuge, Grand Chenier, Louisiana, August 7, 1987:

Whereas, it is the desire and obligation of the commission to provide adequate access to state owned and managed Wildlife Management Areas; and

Whereas, the Department of Wildlife and Fisheries has expended in excess of \$300,000 last year to maintain roads for the purpose of providing public access; and

Whereas, the commission had determined that the use of soft wheeled all terrain cycles and similar light weight vehicles results in far less damage than the use of conventional four-wheel drive vehicles; and

Therefore be it resolved that the commission does hereby give notice of its intent to designate certain unimproved roads and trails or portions thereof for use by ATV's only on the following Wildlife Management Areas: Red River, Three Rivers, Saline, Boeuf, Big Lake, Spring Bayou, and Grassy Lake. Maps illustrating the location of the affected roads and trails shall be available to the public.

J. Burton Angelle
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: 56 - Sec. 115**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department of Wildlife and Fisheries has spent approximately \$300,000 per year since 1980 to maintain its system of unimproved roads and trails within its wildlife management areas (WMAs). Through this proposed vehicular restriction, WLF estimates saving a portion of this maintenance expense because 4WD vehicles are considered primarily responsible for rutting damage incurred on these roads. The dollar amount of savings cannot be determined.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no effect on revenue collections of state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule change will have no economic impact on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change will enhance hunting competition in three of the seven WMAs: Red River, Three Rivers, and Saline. A group of hunters in specially equipped 4WD vehicles has under present rule gained exclusive access to certain WMA hunting grounds because road deterioration has precluded other vehicles access to these areas. This rule change will stabilize these roads thereby allowing the general ATV hunter population access to these areas.

Mary Mitchell
Fiscal Officer

David W. Hood
Legislative Fiscal Analyst

Potpourri

POTPOURRI

Department of Health and Human Resources 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 Friday, December 11, 1987 at Delgado Community College, 615 City Park Avenue, New Orleans.

Interested persons may obtain further information from the Louisiana State Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 483-4684.

Dawn Scardino
Confidential Assistant

POTPOURRI

Department of Health and Human Resources Office of Management and Finance

It is the position of the Department of Health and Human Resources that, even though P.L. 93-641 has been repealed, the Section 1122 Review Program, the Louisiana State Health Plan and the Section 1122 Policies and Guidelines have been promulgated under the department's rule-making authority, and will remain in effect and continue unchanged except that health facility capital expenditure reviews will be performed and binding decisions will be made for Medicaid only. This position is based on the fact that the department has an ongoing responsibility under state law to perform health planning and resource development and the fact that Section 1122 of the Social Security Act, which authorizes the health facility capital expenditure review program, remains part of federal law.

The department is publishing, concurrent with this notice, a notice of intent to continue the program and associated documents unchanged except for changes necessary to establish that the program will affect only Medicaid.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

POTPOURRI

Department of Health and Human Resources Office of Preventive and Public Health Services

Epidemiology Section

The Department of Health and Human Resources (DHHR) Office of Preventive and Public Health services (OPPHS) hereby notifies the public of a grant in the amount of \$301,076 awarded to DHHR/OPPHS from the U.S. Department of Health and Human Services. This money was awarded to the state to purchase Azidothymidine (AZT), which has been determined by the Food and Drug Administration to prolong the life of persons with acquired immunodeficiency syndrome

(AIDS). The Department of Health and Human Services has stipulated that low-income individuals not covered under the state Medicaid program or another third-party payor, or whose state Medicaid program does not provide this coverage, be targeted as recipients of the AZT purchased.

Louisiana has been given the latitude to define low-income for purposes of this program and to establish medical eligibility criteria for potential recipients of the drug. In order to develop these eligibility factors, the state health officer will establish a review board consisting of experts in the AIDS field. The task of this review board is to define low-income (establish financial criteria), establish medical criteria and grant approval status to applicants.

Once the criteria and procedures are established, the public will be notified by an emergency declaration issued by the state health officer, Dr. Sandra L. Robinson, through the news media. This announced emergency declaration will appear as an emergency rule in the *Louisiana Register*. Recipients of AZT in this program must be approved by the review board.

If you have any questions and/or concerns regarding this notice please contact Dr. Louise McFarland, Chief, Epidemiology Section, Office of Preventive and Public Health Services, 325 Loyola Ave., Room 615 New Orleans, LA 70112, (504) 568-5005.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

POTPOURRI

Department of Natural Resources Energy Division

Boiler Operator Training and Certification School

The Department of Natural Resources intends to submit a Boiler Operator Training and Certification School Plan to the Office of Hearings and Appeals for Amoco II funds. The plan is in accordance with the second stage refund procedures of the Department of Energy.

Comments concerning any aspect of this Plan should be submitted in writing to the Louisiana Department of Natural Resources, Joanna Gardner, Energy Division, Box 44156, Baton Rouge, LA 70804, by November 2, 1987. For more information call Joanna Gardner at 504/342-1298.

B. Jim Porter
Secretary

POTPOURRI

Department of Natural Resources Office of the Secretary

Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1 through 56:700.5, and regulations adopted for the fund, published in the *Louisiana Register* on August 20, 1980, notice is given that 29 claims amounting to \$61,506.67 were received during the month of August 1987. No claims were paid during the month of August.

The following claims are the subjects of public hearings to be held at the locations indicated:

Friday, October 2, 1987, at 10:30 a.m. in the L.S.U. Cooperative Extension Service Office, Greater Lafourche Port Commission Building, Highway 308, Galliano, LA.:

CLAIM NO. 87-4102

Nolan P. Breaux, Jr., of P. O. Box 1055, Larose, LA 70373, while trawling on the vessel, "LA 1242 AE", four or five miles North of Grand Isle, Jefferson Parish, encountered an unidentified submerged obstruction on April 14, 1987. Causing damage and/or loss. Amount of Claim: \$2,321.00

CLAIM NO. 87-4118

Chad James Terrebonne, of P. O. Box 337, Grand Isle, LA 70358, while trawling on the vessel, "LIL CHAD", in the Gulf of Mexico SW of Grand Isle, at approximate LORAN-C readings of 28,561.4 and 46,862.7, Jefferson Parish, encountered an unidentified submerged obstruction on May 12, 1987. Causing damage and/or loss. Amount of Claim: \$601.92

CLAIM NO. 87-4122

Danny J. Duet, of Rt. 1, Box 59, Galliano, LA 70354, while trawling on the vessel, "BLACK JACK", in Timbalier Bay, Lafourche Parish, encountered a submerged flow line pipe on May 10, 1987. Causing damage and/or loss. Amount of Claim: \$494.01

CLAIM NO. 87-4133

Alvin Cantrelle, of RFD Rt. 1, Box 346E, Lockport, LA 70374, while trawling on the vessel, "KERRY & JANIE", in the Gulf of Mexico, at approximate LORAN-C readings 28,567.3 and 46,855.8, Jefferson Parish, encountered an unidentified submerged obstruction on May 19, 1987. Causing damage and/or loss. Amount of Claim: \$492.00

CLAIM NO. 87-4142

Jody M. Folsie, of P. O. Box 480, Des Allemands, LA 70030, while enroute home from crabbing on "LA 3631 AL", near Dog Lake in Terrebonne Parish, encountered an unidentified submerged obstruction on May 26, 1987. Causing damage and/or loss. Amount of Claim: \$2,045.08

CLAIM NO. 87-4144

James H. Henderson, of P. O. Box 282, Golden Meadow, LA 70357, while trawling on the vessel, "CAJUN GALS", in Lake Raccourci, Lafourche Parish, encountered a submerged pipeline on May 9, 1987. Causing damage and/or loss. Amount of Claim: \$481.90

CLAIM NO. 87-4147

James A. Prudhomme, Jr., of Rt. 1, Box 355, Galliano, LA 70354, while trawling on the vessel, "CAPT. JIM", in Lake Raccourci, at approximate LORAN-C reading of 28,308.9 and 46,872.4, Lafourche Parish, encountered an unidentified submerged obstruction on May 30, 1987. Causing damage and/or loss. Amount of Claim: \$811.86

CLAIM NO. 87-4149

Ezel Danos, of 115 East 48th. St., Cut Off, LA 70345, while trawling on the vessel, "MONROE II", in Lake Felicity, approximately 1-1/2 miles west of Felicity Bayou, Terrebonne Parish, encountered an unidentified submerged obstruction on May 30, 1987. Causing damage and/or loss. Amount of Claim: \$1,074.00

CLAIM NO. 87-4154

Raleigh Lasseigne, of P. O. Box 83 Grand Isle, LA 70358, while trawling on the vessel, "LADY KAY", 100 ft. from north shore of Bayou Fife, Jefferson Parish, encountered an unidentified submerged obstruction on May 31, 1987. Causing damage and/or loss. Amount of Claim: \$959.25

CLAIM NO. 87-4156

Mrs. Elma G. Terrebonne, of Rt. 1, Box 237-B, Galliano, LA 70354, while trawling on the vessel, "GOOD CHILD", in Timbalier Bay, Terrebonne Parish, encountered an unidentified submerged obstruction on June 1, 1987. Causing damage and/or loss. Amount of Claim: \$1,018.41

CLAIM NO. 87-4166

Gary Terrebonne, of P. O. Box 380, Larose, LA 70373, while trawling on the vessel, "SOLID GOLD", in Tambalier Bay Area, near southern point of Pierle Bay, Lafourche Parish, encountered an unidentified submerged obstruction on June 7, 1987. Causing damage and/or loss. Amount of Claim: \$575.82

CLAIM NO. 87-4169

Timmy Guidry, of P. O. Box 1054, Galliano, LA 70354, while trawling on the vessel, "CAPT. TIMMY", in Main Pass Area, Plaquemines Parish, encountered an unidentified submerged obstruction on June 9, 1987. Causing damage and/or loss. Amount of Claim: \$1,968.05

CLAIM No. 87-4193

Farrel Charpentier, of Rt. 1, Box 225-D, Galliano, LA 70354, while trawling on the vessel, "CAPT. FARREL", in Breton Sound at approximate LORAN-C readings of 28,978.4 and 46,902.5, Plaquemines Parish, encountered an unidentified submerged obstruction on June 3, 1987. Causing damage and/or loss. Amount of Claim: \$5,000.00

CLAIM NO. 87-4194

Linton Charpentier of Rt. 2, Box 537-A, Cut Off, LA 70345, while trawling on the vessel, "CAPT. LINTON", in Breton Sound at approximate LORAN-C readings of 28,965.8 and 46,919.9, Plaquemines Parish, encountered an unidentified submerged obstruction on June 16, 1987. Causing damage and/or loss. Amount of Claim: \$850.82

CLAIM NO. 87-88-19

Johnny Vizier, of Rt. 5 Box 218-A, Cut Off, LA 70345, while trawling on the vessel, "CAPT. ROY", in Bay des Illets back of Grand Isle, Jefferson Parish, encountered a submerged crab trap on June 6, 1987. Causing damage and/or loss. Amount of Claim: \$1,512.61

CLAIM NO. 87-88-21

Walter Chabert, of Rt. 3, Box 600, Cut Off, LA 70345, while trawling on the vessel, "CINDY MARIE", in Lake Barre at approximate LORAN-C readings of 28,198.4 and 46,857.5, Terrebonne Parish, encountered an unidentified submerged obstruction on June 24, 1987. Causing damage and/or loss. Amount of Claim: \$354.34

CLAIM NO. 87-88-22

Clifton Bellanger, of Rt. 2, Box 485-D, Cut Off, LA 70345, while trawling on the vessel, "CLIFTON BELLANGER", in the Gulf of Mexico at approximate LORAN-C readings of 29,101.1 and 46,835.5, Plaquemines Parish, encountered an unidentified submerged obstruction on July 3, 1987. Causing damage and/or loss. Amount of Claim: \$1,610.03

CLAIM NO. 87-88-44

L & R Toups, Inc., of P. O. Box 505, Cut Off, LA 70345, while trawling on the vessel, "TWO SONS", in the Gulf of Mexico at approximate LORAN-C readings of 27,734.27 and 46,936.25, Iberia Parish, encountered an unidentified submerged obstruction on June 28, 1987. Causing damage and/or loss. Amount of Claim: \$950.02

CLAIM NO. 87-88-55

Joseph Galliano, of 217 East 38th. St., Cut Off, LA 70345, while trawling on the vessel, "MISS GAIL", in Lil Lake in back of Leeville, LA, Lafourche Parish, encountered a sub-

merged piling on June 27, 1987. Causing damage and/or loss. Amount of Claim: \$778.39

CLAIM NO. 87-88-28

Joseph G. Verdin, of P. O. Box 611, Grand Isle, LA 70358, while trawling on the vessel, "MATHILDA LYNN", in the Gulf of Mexico, east of Four Bayou Pass, Jefferson Parish, encountered an unidentified submerged obstruction on July 1, 1987. Causing damage and/or loss. Amount of Claim: \$4,706.55

CLAIM NO. 87-88-29

Joseph G. Verdin, of P. O. Box 611, Grand Isle, LA 70358, while trawling on the vessel, "MATHILDA LYNN", two miles South side of Middle Bank Light, Jefferson Parish, encountered an unidentified submerged obstruction on July 5, 1987. Causing damage and/or loss. Amount of Claim: \$5,000.00

CLAIM NO. 87-88-32

Jimmy Toups, of E-122nd St., P. O. Box 22, Galliano, LA 70354, while trawling on the vessel, "LADY JOANNE", in the Gulf of Mexico at approximate LORAN-C readings of 29,111.0 and 46,835.2, Plaquemines Parish, encountered an unidentified submerged obstruction on June 25, 1987. Causing damage and/or loss. Amount of Claim: \$1,046.69

CLAIM NO. 87-88-33

Jimmy Toups, of E-122nd. St., P. O. Box 22, Galliano, LA 70354, while trawling on the vessel, "LADY JOANNE", in the Gulf of Mexico at approximate LORAN-C readings of 29,121.0 and 46,830.9, Plaquemines Parish, encountered an unidentified submerged obstruction on June 29, 1987. Causing damage and/or loss. Amount of Claim: \$1,046.69

Friday, October 16, 1987 at 10:30 a.m., in the Police Jury Office, 8201 West Judge Perez Drive, in Chalmette, LA.:

CLAIM NO. 87-4134

Brad Robin, of Rt. 2, Box 521, St. Bernard, LA 70085, while trawling on the vessel, "LA 8104 BR", in Bayou Loutre about 1/2 to 1 mile West of the Mississippi River Gulf Outlet, St. Bernard Parish, encountered an unidentified submerged obstruction on May 15, 1987. Causing damage and/or loss. Amount of Claim: \$4,558.20

CLAIM NO. 87-4140

Clarence R. Lovell, of 2508 Bartolo Drive, Meraux, LA 70075, while trawling on the vessel, "CAPT. BOB", in Bayou Frenepiquant approximately one mile south of the rocks, St. Bernard Parish, encountered an unidentified submerged obstruction on May 25, 1987. Causing damage and/or loss. Amount of Claim: \$1,749.83

CLAIM NO. 87-4155

Plaquemines Bunkers, Inc., of P. O. Box 1202 Mandeville, LA 70448, while trawling on the vessel, "SEA WASP", in the Gulf of Mexico, two miles southwest of Racoon Point, Terrebonne Parish, encountered an unidentified submerged obstruction on May 19, 1987. Causing damage and/or loss. Amount of Claim: \$3,861.24

CLAIM NO. 87-4171

Eugene DeJean, Jr., of 425 W. D'Amour St., Chalmette, LA 70043, while trawling on the vessel, "MARY DOT", in the Gulf of Mexico at approximate LORAN-C readings of 27,762.0 and 46,861.6, Terrebonne Parish, encountered an unidentified submerged obstruction on May 29, 1987. Causing damage and/or loss. Amount of Claim: \$5,000.00

CLAIM NO. 87-4172

Henry Jesse Fazende, of Box 451-B, Barataria, LA 70036, while trawling on the vessel, "TYPHOON NO. 2", at the

mouth of the Ship Channel, at Grand Isle, Jefferson Parish, encountered a submerged piling on June 9, 1987. Causing damage and/or loss. Amount of Claim: \$4,648.73

CLAIM NO. 87-4183

Dennis J. Rojas, Sr., of P. O. Box 209, Venice, LA 70091, while trawling on the vessel, "LADY DORIS", two miles East of Scoffield Beach, Plaquemines Parish, encountered an unidentified submerged obstruction on May 24, 1987. Causing damage and/or loss. Amount of Claim: \$741.05

CLAIM NO. 87-4189

Peter J. Cefalu, Jr., of 4908 Toby Lane, Kenner, LA 70065, while trawling on the vessel, "MISS ANNA", in Lake Pontchartrain four miles east of Causeway, Orleans Parish, encountered an unidentified submerged obstruction on June 18, 1987. Causing damage and/or loss. Amount of Claim: \$1,170.00

CLAIM NO. 87-4195

Herman Alfonso, of 5112 Nicosia Drive, St. Bernard, LA 70085, while trawling on the vessel, "PANCHO VILLA", in Deadmans Island, St. Bernard Parish, encountered an unidentified submerged obstruction on June 19, 1987. Causing damage and/or loss. Amount of Claim: \$3,204.00

CLAIM NO. 87-4200

Robert J. Oakman, of 1369 Seminole, Metairie, LA 70005, while trawling on the vessel, "LA 2818 BR", in Lake Pontchartrain west of Causeway outside of platform, Jefferson Parish, encountered an unidentified submerged obstruction on June 7, 1987. Causing damage and/or loss. Amount of Claim: \$1,027.50

CLAIM NO. 87-4201

Daniel Morales, Sr., of Rt. 1, Box 813, St. Bernard, LA 70085, while trawling on the vessel, "BLUE WINGED ZEAL", in St. Helena Pass, St. Bernard Parish, encountered an unidentified submerged obstruction on June 22, 1987. Causing damage and/or loss. Amount of Claim: \$2,173.92

CLAIM NO. 87-4205

Richard W. Ryan, of 2617 Elizabeth St., Metairie, LA 70003, while trawling on the vessel, "LA 9026 BG", in Lake Pontchartrain, Orleans Parish, encountered a submerged pipe on June 23, 1987. Causing damage and/or loss. Amount of Claim: \$1,240.00

CLAIM NO. 87-4206

James M. Jobert, of 206 Foxbriar, Slidell, LA 70461, while trawling on the vessel, "LA 7164 BR", in Lake Borgne, Orleans Parish, encountered an unidentified submerged obstruction on June 22, 1987. Causing damage and/or loss. Amount of Claim: \$740.00

CLAIM NO. 87-4213

Herbert Treitler, of 3100 Chalona, Chalmette, LA 70043, while trawling on the vessel, "LINDA MARIE" in Newton Pass, St. Bernard Parish, encountered an unidentified submerged obstruction on June 7, 1987. Causing damage and/or loss. Amount of Claim: \$3,490.56

CLAIM NO. 87-4217

Robert Guerra, of Rt. 1, Box 793, St. Bernard, LA 70085, while trawling on the vessel, "BABY BRIDGETTE" in Bayou Pete, encountered an unidentified submerged obstruction on June 11, 1987. Causing damage and/or loss. Amount of Claim: \$1,146.16

CLAIM NO. 87-4219

Wilfred Nunez, of 2801 Bloomquist Drive, Meraux, LA 70075, while trawling on the vessel, "APRIL MARIE", in Pass St. Helena, St. Bernard Parish, encountered an unidentified

submerged obstruction on June 24, 1987. Causing damage and/or loss. Amount of Claim: \$2,330.00

CLAIM NO. 87-4220

Barry J. Melerine, of Lot 11, Little Gem Court, Violet, LA 70092, while trawling on the vessel, "KEEPIN THE FAITH", about 1/2 mile north of Point Fortune on south side of Ship Channel, St. Bernard Parish, encountered an unidentified submerged obstruction on June 28, 1987. Causing damage and/or loss. Amount of Claim: \$1,517.00

CLAIM NO. 87-88-4

David Johnson, of 1820 Linda Lou Drive, St. Bernard, LA 70085, while trawling on the vessel, "LA 766 GT", in Grand Pass, St. Bernard Parish, encountered an unidentified submerged obstruction on June 28, 1987. Causing damage and/or loss. Amount of Claim: \$1,536.00

CLAIM NO. 87-88-10

Lenny P. Serpas, of Rt. 1, Box 756-B, Delacroix Island, LA 70085, while trawling on the vessel, "BLUE EYES", in Garfish Pass, between Lake Campo and Black Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on June 18, 1987. Causing damage and/or loss. Amount of Claim: \$1,514.25

CLAIM NO. 87-88-12

Carl M. Melerine, of Rt. 1, Box 803, St. Bernard, LA 70085, while trawling on the vessel, "LUCKEY STRIKE II", in Black Bay, St. Bernard Parish, encountered an unidentified submerged obstruction on June 28, 1987. Causing damage and/or loss. Amount of Claim: \$742.85

CLAIM NO. 87-88-15

Wallace A. Perez, Sr., Rt. 1, Box 653, St. Bernard, LA 70085, while trawling on the vessel, "LADY LORRAINE", in Breton Sound two miles from Gordon Island and 1-1/4 miles from the Ship Channel, St. Bernard Parish, encountered an unidentified submerged obstruction on June 25, 1987. Causing damage and/or loss. Amount of Claim: \$1,911.56

CLAIM NO. 87-88-20

Ben Guerra, Jr., of 611A Florissant, St. Bernard, LA 70085, while trawling on the vessel, "LA 219 YB", in Calitorinea Point, Plaquemines Parish, encountered an unidentified submerged obstruction on July 3, 1987. Causing damage and/or loss. Amount of Claim: \$1,163.10

CLAIM NO. 87-88-25

Richard Luscyc, of Rt. 1, Box 710, St. Bernard, LA 70085, while trawling on the vessel, "BENCHICANO", in Cat Pass between Lake Calebasse and Lake Fortuna, St. Bernard Parish, encountered an unidentified submerged obstruction on July 1, 1987. Causing damage and/or loss. Amount of Claim: \$1,713.33

CLAIM NO. 87-88-34

Peter Gerica, of Rt. 6, Box 285K, New Orleans, LA 70129, while trawling on the vessel, "MISS LUCY", in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on July 8, 1987. Causing damage and/or loss. Amount of Claim: \$1,000.00

CLAIM NO. 87-88-67

Ernest J. Campo, of Rt. 2, Box 650, St. Bernard, LA 70085, while trawling on the vessel, "JEAN MARIE", in Point Comfort-Skif Lake, St. Bernard Parish, encountered an unidentified submerged obstruction on July 13, 1987. Causing damage and/or loss. Amount of Claim: \$5,000.00

CLAIM NO. 87-88-75

Lloyd J. DeSilva, Jr., of 230-1/2 Casa Calvo St., Chalmette, LA 70043, while trawling on the vessel, "HARD

TIMES", in the Ship Channel, St. Bernard Parish, encountered an unidentified submerged obstruction on July 11, 1987. Causing damage and/or loss. Amount of Claim: \$1,125.00
CLAIM NO. 87-88-94

James E. Daspit, of Rt. 5, Box 531, Pearl River, LA 70452, while trawling on the vessel, "COUNTRY GIRL", in Barataria Bay at Bayou Regal, Plaquemines Parish, encountered an unidentified submerged obstruction on July 28, 1987. Causing damage and/or loss. Amount of Claim: \$5,000.00

Any person may submit evidence or make objections in person at the hearings. Written comments can be mailed to: Administrator, Fishermen's Gear Compensation Fund, Box 94396, Capitol Station, Baton Rouge, LA 70804, and must be postmarked no later than seven days after the hearing(s).

B. Jim Porter
Secretary

POTPOURRI

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

As authorized by R.S. 56:115 the Wildlife and Fisheries Commission hereby sets the 1987/1988 oyster season as follows:

1. The oyster season in Calcasieu Lake and Sabine Lake shall open for tonging only one half hour before sunrise on Monday, November 9, 1987 and extend until one half hour after sunset Saturday, March 29, 1988.

2. The oyster season on all public grounds east of the Mississippi River Gulf Outlet shall open for sacking only one half hour before sunrise on October 5, 1987.

3. All remaining public oyster seed grounds east of the Mississippi River except the Bay Gardene Oyster Seed Reservation will open one half hour before sunrise September 9, 1987.

4. The oyster season in the Hackberry Bay and Bay Junop Oyster Seed Reservations will open one half hour before sunrise September 9, 1987.

5. The oyster season in the Vermilion Bay Oyster Seed Reservation will open one half hour before sunrise on September 9, 1987.

6. The Bay Gardene Oyster Seed Reservation and the Sister Lake Oyster Seed Reservation will remain closed during the 1987/1988 oyster season.

The secretary of the Department of Wildlife and Fisheries may close the season prior to the set closing dates after giving 72 hours notice if biological information indicates the need for closure.

J. Burton Angelle
Secretary

POTPOURRI

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1987-88 Trapping Seasons

The fur industry of Louisiana represents a major resource of economy and income for many of the citizens of our state;

and as this resource is a renewable natural one, which has proven under wise management to increase in importance in our state; annual harvest of the surplus animals is in keeping with wise wildlife management techniques based on scientific management.

Federal restrictions imposed by the CITES Scientific Authority concerning out-of-state shipment for otter and bobcat furs continue to require placement of a possession tag by trappers or buyers to insure state origin and use of the zonation concept has been determined to be beneficial in reducing late caught unprime furs and has produced mainly favorable comments generated within the fur industry. Therefore, the Louisiana Department of Wildlife and Fisheries Commission does hereby establish the 1987-88 furbearers trapping season for the northern zone as being November 20, 1987 through February 15, 1988 and the southern zone as being December 1, 1987 through February 29, 1988, and sets a bag limit for daytime and nighttime raccoon and opossum hunting outside the trapping season of one raccoon and opossum per hunter per day or night.

The regulations governing the buying, tagging and shipment of bobcat and otter pelts adopted for the 1987-88 trapping season may be viewed at the Quail Drive office off Perkins Road, Baton Rouge, LA, phone 342-9259. The department secretary shall be authorized to close or extend the trapping season as biologically justifiable.

BOBCAT AND OTTER TAGGING REQUIREMENTS

In order to obtain federal approval to export bobcat and otter out of the United States, the Louisiana Department of Wildlife and Fisheries is required to insure that only Louisiana trapped otter and bobcat are tagged with Louisiana export tags.

In order to accomplish this, a special possession tag will be made available to fur buyers.

A blue tag for otter and a red tag for bobcat must be filled out by the trapper at the time the pelt is sold.

The information required includes trapper name, trapper license number, parish caught in and date trapped.

No bobcat or otter pelt shall be purchased from a trapper or be in the possession of a fur buyer without a possession tag.

Dealers shall not purchase bobcat or otter pelts without an accompanying possession tag.

No bobcat or otter pelt shall be shipped from the state without an export tag attached.

Dealers will obtain export tags for bobcat and otter by providing to the department one completed possession tag for each pelt to be shipped from the state.

It shall be illegal to falsify possession tags or attach Louisiana exports tags to out-of-state bobcat or otter pelts.

Once possession tags have been received and counted by department personnel, export tags will be mailed immediately.

Trappers shipping bobcat or otter out of state must provide completed possession tags to the department in order to receive export tags.

J. Burton Angelle
Secretary

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