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This public document was published at a total cost of \$7,108.14. 1,300 copies of this public document were published in this monthly printing at a cost of \$5,108.14. The total cost of all printings of this document including reprints is \$7,108.14. 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 BR 89-10

WHEREAS, pursuant to Act No. 9 and Senate Concurrent Resolution 16 of the First Extraordinary Session of 1989, the Legislature directed the executive to conduct studies as to the existence and extent, if any, of prior racial, ethnic and sex-based discrimination against blacks, women, French Acadians, Hispanics, Asians, American Indians, or other minority groups against contractors, subcontractors and as to employment discrimination as to same in state funded public works and other state procurement projects; and

WHEREAS, in the conduct of said study, the guidelines established in the recent Supreme Court of the United States case of *City of Richmond v. J. A. Croson Company* require that specific data be compiled, as opposed to general data, on said discrimination in order that appropriate specific set-aside programs be fashioned to dismantle, eradicate and neutralize such specific instances of discrimination if same are required and are permissible under the Fourteenth Amendment to the Constitution of the United States; and

WHEREAS, remedial actions to address past racial, ethnic and sex-based discrimination required that race-neutral programs be employed as an initial response to such discrimination so as to obviate if possible the need for set-aside remedial relief; and

WHEREAS, set-aside programs may be recommended for implementation where race-neutral remedial programs are insufficient to insure that specific instances of said discrimination will be dismantled, eradicated and neutralized;

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

SECTION 1: The Governor's Task Force on Disparity in State Procurement is created. The said task force shall conduct such studies as are required pursuant to Act No. 9 and Senate Concurrent Resolution 16 and shall issue a report to me on or before April 14, 1989.

SECTION 2: The Governor's Task Force on Disparity in State Procurement shall further conduct such studies as required pursuant to the guidelines established in the recent Supreme Court of the United States case of *City of Richmond v. J. A. Croson Company* for statewide procurement processes or procedures.

SECTION 3: The Governor's Task Force on Disparity in State Procurement shall be composed of such persons as shall be appointed by the governor. The chairman and vice-chairman shall be selected by the governor.

SECTION 4: The Division of Administration and all other departments and of the Executive Branch of state government are directed to provide such assistance to said study committee as may be necessary or helpful to further the conduct, analysis

and findings of said study committee; including, but not limited to, the hiring of necessary experts, the production and delivery of data, appearances of officers and employees to present testimony and the utilization of personnel to assist in the conduct of the study.

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 March, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 89 - 11

WHEREAS, the shrimp fishery is the most valuable fishery in Louisiana; and

WHEREAS, there are currently numerous problems confronting the Louisiana shrimp industry;

NOW THEREFORE I, Buddy Roemer, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and applicable statutes of the state of Louisiana, hereby create the Governor's Task Force on Shrimp Management to be composed of:

1. one shrimp broker;
2. two members of the Louisiana Shrimp Association;
3. two Louisiana members from the American Shrimp Processors Association;
4. nine shrimp fishermen from throughout coastal Louisiana;
5. one shrimp buyer; and
6. one staff member from the Department of Wildlife and Fisheries to serve as a non-voting chairman.

This Task Force shall have the following goals:

1. review the current statutes, regulations and management techniques employed by the Department of Wildlife and Fisheries as they relate to the Louisiana shrimp industry;
2. recommendations for a management criteria to open and close the shrimp seasons in offshore waters and the fall inshore season;
3. review of "limited entry" as it might apply to the Louisiana shrimp fishery;
4. to take other steps to assure the proper management of the Louisiana shrimp resource; and
5. submit a written report to the governor by December 31, 1990.

In order to accomplish such goals, the Shrimp Task Force may request such assistance reasonably necessary from the Department of Wildlife and Fisheries.

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 30th day of March, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 89-12

WHEREAS, the National Historical Publications and Records Commission was created to cooperate with and encourage appropriate federal, state and local agencies and private and nongovernmental institutions, societies, and individuals in collecting, preserving, editing, and publishing the papers of outstanding citizens of the United States and other documents as may be important for an understanding and appreciation of the history of the United States; and

WHEREAS, the preservation, collection, and publication of important historical papers and documents is best achieved through coordinated efforts of an advisory commission.

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

Section 1: The creation of the Louisiana Historical Records Advisory Commission, to be composed of not more than 10 members, for the purpose of collection, management, preservation, and publication of papers of outstanding citizens of the state of Louisiana and other historical papers and documents as may be important for a better understanding and appreciation of the history of the state of Louisiana and of the United States; provided that the state archivist and director of archives, records management, and history division (Louisiana State Archives) of the Department of State, the state mandated and funded archival and historical agency for the state of Louisiana, shall be an additional ex-officio member of said advisory commission.

Section 2: The commission shall be composed in the following manner:

1. A majority of the members of the commission shall be persons of recognized professional qualifications, experience, and institutional affiliations in the administration of historical records or of records management programs which include historical records, or in fields of research which make extensive use of such records, and

2. The remaining members of the commission shall be representatives of organizations such as, but not limited to, historical and genealogical associations which possess known interests in the administration and use of historical records.

3. To the extent possible, the members of the commission shall be as broadly representative as possible of the public and private archival and research institutions and organizations of this state.

Section 3: The initial members, except for the ex-officio member, shall be appointed for staggered terms, with one-third serving terms of one year each, one-third serving terms of two years each and one-third serving terms of three years each so

that the terms of no more than one-third of the members of the commission will expire each year. Thereafter, with the basis for staggered terms established, each member of the commission shall be appointed to serve a term of three years.

Section 4: The commission shall be headed and coordinated by the state archivist who shall, for the purpose of this executive order, serve a renewable four year term as State Historical Records coordinator of the Louisiana Historical Records Advisory Commission.

Section 5: The Louisiana Historical Records Advisory Commission shall serve as an advisory body for historical records planning activities and for projects developed and carried out under the programs of this state. The commission may perform the following duties, including, but not limited to:

1. sponsor surveys of the condition and needs of historical records in this state, and publish the results of the surveys;

2. solicit or develop plans for historical records projects to be carried out in this state by institutions or by the commission with financing by the National Historical Publications and Records Commission;

3. review historical records projects proposed by institutions in this state and make recommendations thereon to the national commission;

4. develop, revise annually and submit to the national commission recommended state plans for historical records projects following priorities prescribed by the national commission; and

5. review, through reports and otherwise, the operation and progress of approved historical records projects in the state financed by the national commission.

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 6th day of April, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Feed Commission

AFLATOXIN ADULTERANT STANDARDS IN ANIMAL FEEDS, FEED INGREDIENTS OR WHOLE GRAINS

The Louisiana Feed Commission, at an emergency meeting held on April 7, 1989, unanimously adopted an emergency amendment to its rules as previously adopted and amended.

The commission exercised the emergency provisions of the Administrative Procedure Act R.S. 49:953B and, pursuant to its authority under R.S. 3:1892B, adopted the following rule under the definitions of adulterants:

LAC 7:10717A(6). Aflatoxins found at the level of ten parts Per billion in animal feeds, feed ingredients or whole grains are adulterants which are deemed to be an immediate threat to the lives or health of lactating dairy cattle, all swine, and humans in this state.

This emergency rule establishes a standard for aflatoxins as an adulterant in commercial feeds, feed ingredients and whole grain used for lactating dairy cattle and all swine.

Aflatoxin is a carcinogenic chemical substance produced by mold during warm, humid conditions. Recent climatic conditions have been optimum for growth of aflatoxin in several crops in Louisiana: corn, cottonseed and its products, peanuts, hay and sometimes soybeans.

In lactating dairy animals, aflatoxins are translocated to their milk and, therefore, to humans. In pregnant sows, it causes abortions and sterility. At higher levels, aflatoxin causes illness in animals and attacks their internal organs, especially the liver and reproductive system.

This emergency rule is adopted during the unusually early warm, humid weather Louisiana is currently experiencing to protect the health, safety and welfare of the state's livestock and dairy industries.

WHEREAS the inspection staff of the Department of Agriculture and Forestry has discovered numerous instances of substantial contamination of commercial feeds, feed ingredients and whole grain for livestock by aflatoxins:

WHEREAS aflatoxin contamination has been found in livestock feed throughout Louisiana;

WHEREAS aflatoxin found in livestock feed may be transmitted to human beings through dairy products and meat; and

WHEREAS LSA R.S. 3:1897 and 1899C prohibit:

§1897(1): The manufacture for distribution in this state or distribution of any commercial feed that is adulterated or misbranded.

and

§1899C: . . . the sale, distribution, or movement of any commercial or customer-formula feed, whole or cracked un-

mixed grains or seeds, corn stover, or other materials which are sold for the purpose of feeding livestock and which the commissioner has probable cause to believe contains any disease, toxin, hazardous waste, poisonous residues, or other material which poses an immediate threat to the lives or health of livestock in this state; and

WHEREAS the commission has determined that the public health, safety and welfare of its citizens and animals will be protected if aflatoxin contamination is limited to ten parts per billion;

THEREFORE, the commission adopts the following Emergency Rule:

Add Subpart A6 to LAC 7:10717. Adulterants:

6. Aflatoxins found at the level of ten parts per billion in animal feeds, feed ingredients or whole grains are adulterants which are deemed to be an immediate threat to the lives or health of lactating dairy cattle, all swine and humans in this state.

ENVIRONMENTAL IMPACT STATEMENT

Pursuant to its authority under R.S. 49:953B and R.S. 3:1892B, the Louisiana Feed Commission adopted a standard for aflatoxins as an adulterant in commercial feeds, feed ingredients and whole grain used for lactating dairy cattle and all swine. Louisiana's recent warm, humid climatic conditions have promoted increased growth of aflatoxins, which in turn affects human and animal food chains. Increased risk of exposure to a carcinogen which can potentially cause significant human and animal health problems, needs to be minimized in order to protect animal herds, dairy productivity, the ability to meet Louisiana Health Department action levels in milk and to promote interstate sale of Louisiana milk products to those states requiring low or no aflatoxin levels in milk.

FISCAL IMPACT STATEMENT

It is difficult to measure exactly the fiscal impact of an emergency rule adopting a standard for aflatoxin as an adulterant in commercial feeds, feed ingredients and whole grain used for lactating dairy cattle and all swine. There will be some increased costs to feed dealers and farmers to insure that commercial feed, feed ingredients and grain meet the ten parts per billion level. However, far greater costs will be incurred to protect the state's food chain and ultimately animal and human health if:

1. dairymen have to dump contaminated milk not in compliance with standards;

2. dairymen are forced to clean all equipment and storage facilities after dumping contaminated milk and grain supplies not in compliance;

3. farmers and dairymen are forced to replace contaminated feeds with clean feed; and, as a result,

4. dealers, dairymen and farmers must increase their prices to meet health, safety and welfare requirements of doing business in Louisiana and other states.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Department of Economic Development Economic Development Corporation

The Department of Economic Development, Economic Development Corporation, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to amend the rule of the Louisiana Minority Business Development Program effective February 22, 1989. These amendments will amend procedures for administering the Louisiana Minority and Women's Business Development Program as authorized by Act No. 888 of the 1988 legislature.

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

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart I. Minority and Women's Business Development Program

Chapter 1. Loan Policies

§101. Program Procedures

A. Loan Policy Statement

This statement is an outline of lending policies for the guidance of the staff and management of the Louisiana Minority and Women's Business Development Program. The board of the Louisiana Economic Development Corporation has for this purpose defined the Minority and Women's Business Development Program as the Program - Economic Development Corporation as the Corporation - staff as the employees of the Department of Economic Development - management as the appointed nine-member board and the executive director of the Economic Development Corporation as the staff and management of the program. No part of this policy will be construed as authority for any person to act contrary to Act No. 888 of the 1988 Regular Session of the Legislature.

B. General Policy

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

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

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

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

4. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the corporation

board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board at the next meeting of the board in open session with full explanation for such action.

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

C. Loan Approval and Review

1. All loan requests will be presented to the Screening Committee of the corporation at its monthly meetings. The board will act on the recommendation of the Screening Committee at the monthly meeting of the board that occurs within 30 days of the Screening Committee meeting at which the loan request was heard.

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§103. Eligibility Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§105. Contents of Application

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

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

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

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

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

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

5. A minority business enterprise and or women's business enterprise certification letter. Contact the office of Minority and Women's Business Enterprise at (504) 342-5373 or Box 94185, Baton Rouge, LA 70804-9185.

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

7. A history statement for existing businesses.

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

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

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

11. Three years of personal federal income tax returns.

12. Three years of business federal income tax returns (existing businesses only).

13. Three years of business historical financial statements, include statement of changes in financial position (existing business only).

14. Current business financial statement within 90 days of the filing date of the application. Include current statement of changes in financial position (existing businesses only).

15. Submit LAM&WBDP personal history and financial statement for each person listed in Section II of LAM&WBDP No. 2.

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

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

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

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

20. A property appraisal by the corporation-approved appraiser of all property to be offered as security. Also see Chapter 6:601-I.

21. Copy of franchise agreement if purchasing a franchise.

22. Details of bankruptcy proceedings if applicable.

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

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

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

1. Blueprints and construction specifications, if available at date of application. Blueprints of the existing business facility, if purchase is proposed, and, in the case of proposed improvements or expansions, blueprints of the existing and proposed business facility. In the absence of blueprints and construction specifications, the applicant shall provide a written description of the planned construction at the time of application, to be fol-

lowed by blueprints and construction specifications. The applicant shall provide a detailed statement of reasons when prints cannot be provided. It is not the intent of the program to require unnecessary expenditure of the applicant's funds. However, in the event that blueprints and construction specifications cannot be provided at the time of application, any applicant receiving approval for a loan or loan guaranty shall be required to provide, within 90 days after approval, either (a) copies of blueprints and construction specifications or, (b) a written statement of the reasons for delay in providing such blueprints and construction specification. Reasons acceptable to the corporation shall include, but not be limited to, failure of the architect to provide timely drawing and specifications.

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§107. Interest Rates

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§109. Lending Regulations

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

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

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

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

2. When the corporation funds are disbursed directly to the bank, financial institution, or federal agency through which the loan was negotiated, it shall be evidenced by a participation note to the bank, financial institution, or federal agency, payable to the corporation, which set forth the terms and conditions under which the corporation agrees to participate, the amount of the participation, the security pledge for repayment and the time within which the loan shall be liquidated. A participation certificate must be properly executed.

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

D. In the event of extreme urgency, as determined by the board chairman, affecting the continuation of existing jobs or the loss of a business opportunity to create new jobs, the board of the corporation may in open session, suspend the full require-

ments of the loan or loan guaranty application information and require the immediate submission of information sufficient to demonstrate the urgency, the advisability of the loan or loan guaranty and the adequacy of the security to be provided for the loan. In this event, however, the applicant shall provide the full information within such time as the program fixes in conjunction with the granting of the suspension. Such suspension may be granted only when the amount of the loan or loan guaranty does not exceed the sum of \$250,000 and the loan or loan guaranty is fully secured by first mortgages on immovable and personal liability of sufficiently solvent individuals. The granting of and justification for a suspension, as provided herein, shall be documented and made a matter of permanent public record.

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

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

G. The corporation shall make no loan or participate in, or guarantee the repayment of any loan for a period of more than five years. However, the authority may review or extend loans when it deems it necessary, in the aggregate, not to exceed a total of 15 years. All balloon notes shall be renewed at the prevailing interest rate at the time of the renewal. The minimum lending amount is \$10,000 and the maximum amount is \$250,000.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§111. Staffs Responsibilities

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

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

1. name and address of borrower;
2. date of loan request;
3. brief summary of the business;
4. amount of loan request;

5. rate requested by the borrower and rate agreed upon;

6. terms of repayment. If the loan is to be amortized on a monthly basis, the number of monthly installments and dollar amount should be noted;

7. purpose of the loan;

8. security. Give a complete description of the collateral and state its current value.

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§113. Board Responsibilities

A. The board shall meet monthly and take action to approve, decline or defer an application within thirty days of the date on which it was filed. Final consideration must be made within 60 days of the date on which it was filed.

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§115. Reapplication after Denial

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§117. Conditions for Disbursement of Loan Proceeds

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

1. The application must satisfy all legal requirements as

evidenced by the written approval of the corporation's attorney.

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

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

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

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

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

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

a. amount loaned;

b. rate of interest;

c. repayment schedule;

d. description and listing of all property to be included as the security;

e. provision for executory process;

f. provision for repayment of all costs of foreclosure, reasonable attorney fees not to exceed 25 percent of the principal balance and interest accrued at foreclosure;

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

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

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

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

ance, which certificate must provide that the insurance cannot be cancelled without 30-day prior notice to the program.

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§119. Compliance Requirements for all Program Loans

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

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

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

3. current reconciliation of net worth;

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

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

6. current insurance policies.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§121. Bank Responsibility

Guaranty Loans

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

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

C. After all the mortgage documents have been recorded, the lender must provide for the program's records, a copy of the note, the mortgages and other data deemed necessary by the

program. The staff will review all documentation for compliance and issue the Guaranty Agreement along with instructions for the lender to sign and date the agreement, obtain the applicant's signature and date. The lender will retain the original and mail a copy to the program. The Guaranty Agreement outlines the following:

1. Terms;
2. Conditions;
3. Collateral;
4. Bank's responsibility;
5. Program's responsibility in case of default and maintenance.

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

Chapter 3. Collateral

§301. Collateral for a Program Loan

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

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

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

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

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

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

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

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

7. Life Insurance; cash surrender value.

8. Real Estate; commercial or personal property.

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

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

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

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

d. list of securities;

e. original copy of insurance policy.

10. The program will consider minimum collateral on a dollar-for-dollar and twenty cents basis. (\$1 to \$1.20).

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

Chapter 5. Lending Criteria

§501. Desirable Loans

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§503. Undesirable Loans

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

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

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

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

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

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

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

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

1. pay off a creditor or creditors who are inadequately secured and in a position to sustain a loan or,
2. provide funds to pay off debt to principals of the business, or,
3. provide funds to pay off family members.

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

1. The lease is for a term extending at least five years beyond the period of the loan.
2. The corporation receives an assignment of the lease and the right of re-assignment.
3. If the loan repayment schedule includes a balloon note. The corporation, at its discretion, may require a lease running for 20 years from the date of the approval of the loan.

I. Restaurants, except for regional or national franchises.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

Chapter 7. Appraisers

§701. Appraisers

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

- A. a written statement of expertise in appraising property;
- B. a written statement of experience as an appraiser;
- C. evidence of inclusion on the approved appraisers' list of any state or federally chartered banks or such public agencies as the Small Business Administration, Farmers Home Administration, Federal Housing Administration or other similar institutions.

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§703. Other Guidelines

A. Application can be made at any time throughout the calendar year, and the names of approved applicants shall be added to the listing immediately upon approval by the board.

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§705. Selecting an Appraiser

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

1. The applicant may review the file of credentials of approved appraisers, and shall select from the listing of approved appraisers three appraisers who are acceptable to the applicant.
2. The applicant shall notify the corporation in writing of the names of the three appraisers selected by the applicant.

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

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

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

6. Failure to agree upon a fee shall result in selection of another appraiser. In such circumstance, the applicant shall be permitted to add one additional name, selected from the listing of approved appraisers, to the list and the program staff shall again select from the list and follow procedures outlined in the loan policy of the program, Chapter 7:705.A.

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

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

§901. Repayment Terms

A. The board of the corporation can loan, participate in or guarantee the repayment of any loan for a period of five years. However, the corporation may review or extend loans when it deems it necessary, (in the aggregate, not to exceed a

total of 15 years). All loans shall be renewed at the prevailing interest rate at the time of the renewal.

B. Rescheduling of Payment Terms

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§903. Loan Payments

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§905. Delinquency

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

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

C. Loans that fall into the 11 to 29 days past due category will be considered delinquent. Staff will then forward a letter advising clients of delinquency and requesting payment

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§907. Foreclosure

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§911. Charge-Off Method

A. The staff shall prepare a monthly memo based upon the recommendation from the legal counsel on loans that are considered charge-offs. These recommendations will be presented monthly to the executive director who will present it to the board for consideration by the body before the loan is charged off. At the board meeting the staff will present the original credit judgement, collection attempts, reasons for the loan's failure and whether all avenues for collection have been exhausted. Loans approved for charge-off will be categorized on the loan summary report as such and the accounts will be maintained in a charge-off file.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

Chapter 11. Reserve Requirement and Fees

§1101. Reserve Requirement

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

§1103. Fee charges

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

Chapter 13. Confidentiality and Conflict of Interest

§1301. Confidentiality

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

§1303. Conflict of Interest

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15:

PLEASE SIGN, DETACH AND RETURN WITH APPLICATION

Statement of Understanding

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

Witness _____ Applicant/President _____

Date _____ Date _____

Patricia A. Robinson
Director

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1791. Testing for Dangerous Substance Abuse

A. - B. . . .

C. Any official, jockey, trainer or groom who is requested to submit to a urine test shall provide the urine sample, without undue delay, to a chemical inspector of the commission. The sample so taken shall be immediately sealed and tagged on the form provided by the commission and the evidence of such sealing shall be indicated by the signature of the tested official, jockey, trainer or groom. The portion of the form which is provided to the laboratory for analysis shall not identify the individual official, jockey, trainer or groom by name. It shall be the obligation of the official, jockey, trainer or groom to cooperate fully with the chemical inspector in obtaining any sample who may be required to witness the securing of such sample. Anyone who tampers with a urine sample shall be liable to the penalties provided in R.S. 4:141 et seq. and/or the Rules of Racing.

D.-F. . . .

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

HISTORICAL NOTE: Promulgated by the Racing Commission LR 13:289 (May, 1987).

Alan J. LeVasseur
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Louisiana Remedial Education Program and Regulations

The State Board of Elementary and Secondary Education, at its meeting of March 23, 1989, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B and adopted the regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program.

This emergency adoption is necessary because implementation of the Remedial Education Program following administration of the CRT tests in April, 1989 is mandated by law, therefore, the remedial education regulations must be implemented by July, 1989, immediately following testing. Effective date of emergency rule is April 20, 1989.

**REGULATIONS FOR THE IMPLEMENTATION OF
REMEDIAL EDUCATION PROGRAMS RELATED TO THE
LEAP/CRT PROGRAM**

The regulations for remedial education programs approved by the State Board of Elementary and Secondary Education are an addendum to the *Guidelines for Pupil Progression*

1980 (Bulletin 1566), Board Policy 4.01.90. The regulations provide for the development of local remedial education programs by local education agencies.

The Louisiana Department of Education shall recommend for approval by the state board only those local remedial education plans in compliance with these regulations.

I. Legal Authorization

R.S. 17:24.4(G) provides that those students who fail to meet required proficiency levels on the state administered criterion-referenced tests of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

R.S. 17:394 - 400 is the enabling legislation for the remedial education programs.

II. Definition and Purpose

A. Definitions

1. The remedial education programs are defined as local programs designed to assist students, including identified handicapped students, to overcome their educational deficits identified as a result of the state's criterion-referenced testing program for grades 3, 5, 7, and the Graduation Test (R.S. 17:396, 397, 24.4 F and board policy).

2. *Department* is the Louisiana Department of Education.

3. *State Board* is the State Board of Elementary and Secondary Education.

B. Purpose

1. The purpose of the Louisiana Remedial Education Act is to provide supplemental funds for the delivery of supplemental remedial instruction adapted for those eligible students in the elementary and secondary schools of this state as set forth in the city and parish school board pupil progression plans approved by the State Board of Elementary and Secondary Education. A program of remedial education shall be put into place by local parish and city school systems following regulations adopted by the department and approved by the state board pursuant to R.S. 17:24.4. All eligible students shall be provided with appropriate remedial instruction (R.S. 17:395 A).

2. The intent of remedial education programs is to improve student achievement in the grade appropriate skills identified as deficient on the state's criterion-referenced testing program for grades 3, 5, 7, and the Graduation Test (R.S. 17:395 B and board policy).

3. Remediation shall be provided in English language arts and mathematics to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4 G; 395 B and C and board policy).

4. Beyond the goal of student achievement in grade appropriate skills, additional goals are to give students a sense of success, to prevent alienation from school, and to prevent their early departure from school (R.S. 17:395 B).

III. Responsibilities of the State Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education shall perform the following functions in relation to the remedial education program:

1. approve as a part of the Pupil Progression Guidelines

(Bulletin 1566), the regulations for development of local remedial education programs designed to meet student deficiencies as identified through the state testing program in English language arts and mathematics (R.S. 17:399 A);

2. approve remedial education programs submitted by local education agencies as a part of their local Pupil Progression Plan (R.S. 17:398 B);

3. approve qualifications/certification requirements for remedial education teachers (R.S. 17:398 A);

4. approve, on recommendation of the department, a system of categorical reporting of remedial education expenditures by city or parish school boards (R.S. 17:399 B-3 and 17:400 B);

5. received from the department an annual evaluation report on local remedial education programs which meet the requirements of R.S. 17:400 B;

6. approve the evaluation criteria developed by the department for determining the effectiveness of remedial education programs (R.S. 17:399 B (2) and board policy).

IV. State Funding of Remedial Education Programs

1. Remedial education funds shall be appropriated annually to the department in the form of a line item within the general appropriation bill (R.S. 17:398 A).

2. State remedial education funds shall be distributed to the parish and city school boards on a per-pupil, per-subject-area basis to be used solely for students requiring remedial education (R.S. 17:398 A).

3. State funds for the remedial education program shall not be used to supplant other state, local, or federal funds being used for the education of such students (R.S. 17:399 (B)5).

4. The use of state remedial education funds shall not result in a decrease in the use for educationally deprived children of state, local, or federal funds which, in the absence of funds under the remedial education program, have been made available for the education of such students (R.S. 17:399 (B)5).

5. In 1989, for funding purposes, a student receiving remediation in English language arts and mathematics shall be counted for both areas (R.S. 17:398 B).

6. Students counted to generate funds for state remedial education are also eligible to generate allotments for regular or special education teachers, or both (R.S. 17:398 B).

7. Students other than speech only students receiving special education services directed toward the educational deficits identified through the state testing program shall not be eligible for funding (R.S. 17:398 B).

8. The remedial education program shall be coordinated with locally funded and/or federally funded remedial education programs, but shall remain as a separate remedial program to be funded by the state (R.S. 17:399 B 4).

9. If the department determines through its monitoring authority that a city or parish board is not actually providing the type of remedial education program that was approved through its pupil progression plan, or is not complying with state evaluation regulations, the department shall withhold remedial education funding until such time as it is determined that the school board is in compliance with its approved pupil progression plan and with state evaluation regulations (R.S. 17:400 A).

10. The state and local funds expended in the program shall be accounted for separately from all other funds expended by the city or parish school board. Expenditures shall be reported

as a categorical program in the manner prescribed by the state board (R.S. 17:399 B (3)).

V. Criteria for State Approval

A. Student Eligibility

1. Any public elementary or secondary student, including a student in specially designed regular instructional programs, who does not meet the performance standards established by the department and approved by the state board, as measured by the state criterion-referenced tests, shall be provided remedial education (R.S. 17:397).

2. The failure of Special Education students to achieve performance standards on the state criterion-referenced tests does not qualify such students for extended special education programs (board policy).

3. Students other than speech only students receiving special education services directed toward the educational deficits identified through the state testing program are not eligible to participate in remedial education programs (R.S. 17:398 B).

B. Teacher Qualifications

1. Remedial teachers shall possess the appropriate certification/qualifications as required by the state board. Parish and city school boards may employ an instructional paraprofessional under the immediate supervision of a regularly certified teacher to assist with the remediation. This individual must have all the following qualifications.

- a. must be at least 20 years of age;
- b. must possess a high school diploma or its equivalent;

and

c. must have taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student (R.S. 17:398A and board policy).

2. Parish and city school boards may employ educators already employed as regular or special education teachers to provide remedial instruction. These educators may receive additional compensation for remedial instruction, provided the services are performed in addition to their regular duties (R.S. 17:398 A).

C. Program Requirements

1. Student Profile

The remedial education student profile provided by the State Department of Education shall be used by the local school system for providing remediation for each eligible student (board policy).

2. Coordination with Other Programs

The school system shall assure that communication occurs on a regular basis among all who provide instruction for a student receiving remedial instruction (board policy).

3. Instruction

a. Instruction in the state funded remedial education program shall be based on student deficits as identified on the state testing programs in English language arts and mathematics. Included in the instruction shall be the mastery of the prerequisite skills in the areas of deficiency. Beginning in either the summer of 1990 or the regular school year 1990-91, instruction shall be provided in science and social studies (R.S. 395 B and C, 24.4 G and board policy).

b. Instruction shall include but not be limited to the philosophy, the methods, and the materials included in the state approved curriculum guides (Board Policy 3.01.08).

c. Remedial methods and materials shall supplement and reinforce those methods and materials used in the regular program (board policy).

d. Each student achieving mastery criteria shall continue receiving instruction for maintenance of grade appropriate skills. The amount of instruction shall be based upon student need (R.S. 17:395.E).

4. Student Assessment

a. The parish and city school boards shall develop, as part of their Pupil Progression Plans, mastery criteria based on the State Board-approved Louisiana State Standards in the corresponding state-approved curriculum guides (R.S. 17:395 D and board policy).

b. These mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts and mathematics in which he was found deficient. Beginning in either the summer of 1990 or the regular school year 1990-91, mastery criteria for measuring student achievement shall be established to measure skills in science and social studies (R.S. 17:395 D, 17:24.4 G and board policy).

c. School systems shall describe the methods used to measure student achievement of these criteria (R.S. 17:395 D and board policy).

VI. Local Program Development and Evaluation

1. Each parish and city school board shall develop annually a remedial education program as part of its Pupil Progression Plan which complies with established regulations adopted by the department and approved by the state board pursuant to R.S. 17:24.4. The remedial education plan shall be reviewed annually by the department prior to recommendation for approval by the State Board of Elementary and Secondary Education (R.S. 17:395 A and board policy).

2. The remedial education plan shall describe all remedial instruction and proposals for program improvement. Proposals shall include a narrative which shall incorporate the following:

- a. a statement of the educational objectives and how they are determined;
- b. the student population to be served and the selection criteria to be used;
- c. the methodologies to be used in meeting the educational problems;
- d. a description of the course content to be taught;
- e. a detailed budget including excess costs above regular programs;

f. an evaluation plan encompassing both the educational process and the extent of growth and achievement evidenced by pupils (R.S. 17:399 A).

3. The remedial program shall be based on performance objectives related to educational achievement in grade appropriate skills addressed through the statewide curriculum standards for required subjects, and shall provide supplementary services designed to meet the educational needs of each participating student (R.S. 17:399 B (1)).

4. Each local school system shall adhere to the remedial education plan as stated in its approved Pupil Progression Plan and shall provide services accordingly (R.S. 17:400 A and board policy).

5. Each local school system shall include within the remedial education plan a summary of how state, federal, and

local funds allocated for remediation have been coordinated to ensure effective use of such funds (R.S. 399 A (5) and B (4) and board policy).

6. Each local school system shall maintain a systematic procedure for identifying students who are eligible for remedial education (R.S. 17:397).

7. A list of all eligible students shall be maintained at the central office level with individual school lists maintained at the building level (board policy).

8. Each school system shall participate in the evaluation of the Remedial Education Program conducted by the department (R.S. 17:399 A (6) and board policy).

9. Each school system shall complete an annual evaluation of its program using the approved department guidelines and shall submit the evaluation report to the state superintendent by June 15 of each year (R.S. 17:399 B (1) and board policy).

a. The evaluation plan shall include specific means to examine and document: (1) student performance, (2) coordination with other programs, and (3) instruction. The evaluation shall be conducted as described in the local evaluation plan (board policy).

b. Persons responsible for planning, conducting, and reporting the evaluation of the local remedial education program shall have a valid Louisiana certificate in program evaluation (board policy).

c. The evaluations shall apply the state board-adopted standards for educational evaluations (board policy).

d. The evaluation report shall be submitted to the department (board policy).

10. Annually, prior to October 15, each school system shall report to the public the results of its remedial efforts and the results of the monitoring review submitted by the state superintendent (board policy).

VII. State Department of Education Responsibilities

1. The department shall be responsible for reviewing plans, monitoring implementation, and evaluating the remedial education programs of the local school system (R.S. 17:400 A).

2. The state superintendent of education shall prepare an annual report for submission to the State Board of Elementary and Secondary Education and the Joint Committee on Education of the Louisiana Legislature which shall contain:

a. the number of students participating in remedial education programs;

b. the level of student achievement; and

c. an analysis of the expenditures of funds by the city and parish boards (R.S. 17:400 B).

3. The department shall provide guidelines for local evaluation of programs, shall review the local evaluation plans, shall monitor the implementation of remedial education plans, and shall receive and approve annual evaluation reports (R.S. 17:400 A and board policy).

4. The department shall submit to the local school system an analysis of the system's evaluation report and department monitoring results within 60 days of receipt of the evaluation report from the local school system (board policy).

5. The department shall provide technical assistance to the city and parish school boards which shall include:

a. assistance with development of the remedial section of the Pupil Progression Plan;

b. assistance with staff development;

c. assistance with the use of appropriate departmental forms;

d. assistance with program implementation; and

e. assistance with conducting local evaluations.

Suggested Remedial Programs

1. summer school programs;

2. locally designed enrichment courses offered as electives;

3. before-and/or after-school programs;

4. remediation within the regular classroom setting by an aide, paraprofessional, or regular certified teacher;

5. required courses, addressing state standards, designed to incorporate unique instructional strategies to meet the needs of the remedial student.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Revisions to SSD Number 1 Reduction in Force Policy

The State Board of Elementary and Secondary Education, at its meeting of March 23, 1989, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R. S. 49:953B and adopted the following revisions to Board Policy 3.02.80, Reduction in Force Policy for Special School District Number 1.

Change the first paragraph to read:

When conditions, such as a significant enrollment decline, the loss of federal or special state funds, the discontinuance of special programs or projects necessitate a reduction in force greater than what can be accommodated through attrition and appropriate reassignments, it shall be the policy of Special School District Number 1 through the State Board of Elementary and Secondary Education to accomplish the reduction in force utilizing the following priorities and procedures. All possible alternatives to the layoff of employees will be explored and used prior to implementation of the reduction in force policy. Reduction in force will be determined on an individual school basis and implemented district wide. As appropriate and when possible, administrative, supervisory and classified personnel positions will be reduced proportionately with the reductions in the number of teaching positions. The basic considerations in making decisions regarding the reduction in force will be both the administration and maintenance of a quality, balanced educational program and services for the students of Special School District Number 1. Therefore, it is understood that in making decisions regarding the reduction in force of certificated and classified personnel in the various areas of employment, persons with the skills necessary to provide a balanced educational program and to maintain and operate the school system must be retained.

Under - Other Policy Provisions Governing Reduction in Force for Teachers and Other Certificated Personnel, Change Number 3 to read:

3. Seniority begins to accrue with the initial date of board-approved appointment to SSD Number 1 for full-time employ-

ment. Under - Other School Personnel, change 2.a to read:

2. Seniority defined as:

a. Total years of full-time employment in SSD Number 1 beginning with BESE approval or such employment.

b. Accrued years of experience in a school system acquired prior to the transfer of programming by that school system to the administrative control of SSD Number 1.

ADD:

If, in the event the reduction in force policy is implemented, an employee is transferred from one SSD Number 1 school program site to another, the employee will continue to be paid the contracted salary for the remainder of that current contract year. At the beginning of the next contract year, the employee's salary will be based on the pay scale for the parish school system in which the new SSD Number 1 school program is located.

The emergency adoption of these revisions is necessary because this involves personnel actions and the policy must be in place at all times. The effective date of this emergency rule is April 20, 1989.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, the Department of Health and Hospitals, Office of Public Health through emergency rulemaking intends to amend the Fee Adjustment Schedule as contained in the regulations for the Family Planning Program found in the *Louisiana Register*, Vol. 14, No. 8, page 534 (August 20, 1988). This emergency rulemaking is mandated by Federal Regulation 42CFR Part 59 as issued February 16, 1989.

Title 48 PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 13. Family Planning Services

Chapter 37. Fees

§3703. Fee Adjustment Schedule

A. . . .

B. Persons whose adjusted income in accordance with family size is at or below 100 percent of poverty as is defined by the United States Community Services Administration poverty guidelines shall not be charged for Family Planning services. Persons whose gross family income is at or above 250 percent poverty as is defined by the United States Community Services Administration poverty guidelines shall be charged the full cost of services provided. Between these two levels, fees shall be adjusted in accordance with the formula included in the "Schedule of Charges." Effective June 20, 1989 the current fee schedule shall be revised as follows:

% Poverty Income	I 100% or Less No Charge	II 101%-115% 10% of Cost	III 116%-130% 20% of Cost	IV 131%-145% 30% of Cost	V 146%-160% 40% of Cost
Family Size					
1	5,980	6,040	6,937	7,834	8,731
2	8,020	8,100	9,303	10,506	11,709
3	10,060	10,161	11,670	13,179	14,688
4	12,100	12,221	14,036	15,851	17,666
5	14,140	14,281	16,402	18,523	20,644
6	16,180	16,342	18,769	21,196	23,623
7	18,220	18,402	21,135	23,868	26,601
8	20,260	20,463	23,502	26,541	29,580
9	22,300	22,523	25,868	29,213	32,558
10	24,340	24,583	28,234	31,885	35,536
11	26,380	26,664	30,601	34,558	38,515
12	28,420	28,704	32,967	37,230	41,493
13	30,460	30,765	35,334	39,903	44,472
14	32,500	32,825	37,700	42,575	47,450
15	34,540	34,885	40,066	45,247	50,428
16	36,580	36,946	42,433	47,920	53,407
17	38,620	39,006	44,799	50,592	56,385

% Poverty Income	VI 161% - 175% 50% of Cost	VII 176%-190% 60% of Cost	VIII 191%-205% 70% of Cost	IX 206%-220% 80% of Cost	X 221%-235% 90% of Cost	XI 236%-250% 100% of Cost
Family Size						
1	9,628	10,525	11,422	12,319	13,216	14,113
2	12,912	14,115	15,318	16,521	17,724	18,927
3	16,197	17,706	19,215	20,724	22,233	23,742
4	19,481	21,296	23,111	24,926	26,741	28,556
5	22,765	24,886	27,007	29,128	31,249	33,370
6	26,050	28,477	30,904	33,331	35,758	38,185
7	29,334	32,067	34,800	37,533	40,266	42,999
8	32,619	35,658	38,697	41,736	44,775	47,814
9	35,903	39,248	42,593	45,938	49,283	52,628
10	39,187	42,838	46,489	50,140	53,791	57,442
11	42,472	46,429	50,386	54,343	58,300	62,257
12	45,756	50,019	54,282	58,545	62,808	67,071
13	49,041	53,610	58,179	62,748	67,317	71,886
14	52,325	57,200	62,075	66,950	71,825	76,700
15	55,609	60,790	65,971	71,152	76,333	81,514
16	58,894	64,381	69,868	75,355	80,842	86,329
17	62,178	67,971	73,764	79,557	85,350	91,143

AUTHORITY NOTE: Promulgated in accordance with 42 CFR 59.5A5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 15:

This action to revise the Fee Adjustment Schedule is the result of changes in the federal regulations governing this federally funded program as set forth in 42 CFR 59.5A5 dated June 30, 1980. In essence, the federal regulation requires the state agency administering the program to adopt the most recent poverty guidelines as published by the U. S. Office of Management and Budget. The most recently announced federal guidelines were promulgated on February 16, 1989, page 7097-7098 in the *Federal Register* Volume 54, No. 31.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

The Louisiana Maximum Allowable Cost (LMAC) reimbursement regulations currently cover 735 multiple source drugs. Circumstances have necessitated the review of all optional Medicaid Services. As a result two drugs have been identified by the Pharmacy Program as readily available from multiple sources. Inclusion of these drugs under LMAC regulations will allow the Medical Assistance Program to maintain essential Medicaid services at reasonable and adequate reimbursement rates to meet the costs that must be incurred by efficiently and economically operated providers to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards. This rule is necessary to allow the Medical Assistance Program to continue providing essential medical services and avoid imminent peril to the welfare of Medicaid recipients statewide who depend upon current services to maintain their health.

PROPOSED RULE

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

1. Erythromycin ethylsuccinate/Sulfisoxazole acetyl oral suspension
2. Potassium Chloride Tablets 8 mg.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

The Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) mandates that Medicaid state agencies implement provisions to expand coverage for all persons aged 65 years and over, as well as disabled persons, who are Medicare Part A eligible (whether or not they currently have Part A coverage); and who meet certain income and resource criteria. The Medicare Catastrophic Coverage Act (MCCA) mandated an implementation date of January 1, 1989, unless a delay was requested by the state to permit time for necessary legislation, and such re-

quest was approved by the Health Care Financing Administration (HCFA). The basis for approval for delays in implementation was dependent upon the necessity for state legislation to avoid conflict with existing laws. A delay based on lack of funding was specifically precluded. Louisiana requested a delay based on a legal interpretation that Louisiana law prohibited deficit spending and implementation of MCCA would result in deficit spending. Thus, legislation to repeal the prohibition on deficit spending or to grant exception to the agency to permit deficit spending was needed. However, Louisiana's request was denied by HCFA as HCFA categorized the needed legislation as an appropriation issue and determined it was not eligible for delay under the provisions of P.L. 100-360. Therefore, the Medicaid agency was advised that it must implement the provisions of MCCA no later than March, 1989. This rule is necessary to ensure compliance with mandated federal regulations and laws and to avoid sanctions from HCFA. The rule shall be effective March 28, 1989 with eligibility determined in compliance with HCFA instructions for implementation.

PROPOSED RULE

The Medicaid Program shall implement the provisions of the Medicare Catastrophic Coverage Act of 1988 to expand coverage for certain persons aged 65 years and over, as well as disabled persons, who:

1. are eligible for Medicare Part A coverage
2. have incomes less than 85 percent of the federal poverty level (in Calendar Year 1989);
3. have countable resources worth less than twice the level allowed for Supplemental Security Income (SSI) applicants; and
4. meet the general nonfinancial requirements or conditions of eligibility for medical assistance (i.e. filing of application, residency, citizenship, assignment of rights, etc.).

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

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

1. DUAL QMB ELIGIBLES are individuals who: are over age 65 or disabled; eligible for Medicare A; meet the income and resource limits noted above; and are eligible for Medicaid in another category (i.e. SSI, Medically Needy, or Long Term Care). Benefits for these individuals include:
 - a. payment of Medicare Part A premium if not eligible for "free" premium as a result of work history;
 - b. payment of Medicare Part B premium;
 - c. payment of Medicare deductibles and coinsurance for all Medicare covered services; and
 - d. payment of services covered by Medicaid which are not covered by Medicare.
2. QUALIFIED MEDICARE BENEFICIARIES (QMB Only) are individuals who: are over age 65 or disabled; eligible for Medicare Part A; meet the income and resource limits noted above; and are otherwise not eligible for Medicaid under any

other category of assistance. Benefits for these individuals are the same as those noted above for Dual Eligibles with the exception of payment for Medicaid only services (d). QMBs are only eligible for Medicare cost sharing expenses; not other Medicaid benefits outside of Medicare coverage.

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

Providers of service to these eligibles have the right to accept the patient as Medicare only, QMB only, or as a Dual (Medicare/Medicaid) eligible, but must advise the patient as to his payment status to ensure that the patient is aware of his potential liability for payment of the services. If a provider accepts a patient as a QMB only, and accepts Medicare assignment, he may not bill the patient for any difference between his charge for the services and Medicare's allowable rate for the service. If a provider does not accept Medicare assignment for treating a QMB only, he may bill the patient for the difference between his charge for the service(s) and Medicare's allowable rate for the service. In either instance, for QMB only, the provider may not bill the patient for any difference between the Medicare deductible or coinsurance amount and the amount paid by Medicaid for these Medicare cost-sharing benefits. In the case of Dual eligibles, as Medicaid requires that Medicare assignment be accepted in order to bill Medicaid, no amount may be charged to the patient for any difference between billed charges and the combined payment of Medicare and Medicaid. Medicaid reimbursement for deductible and coinsurance amounts shall not exceed the state maximum payment for service. Medicaid only covered services provided to Dual eligibles shall be reimbursed in accordance with current payment standards. All providers of service must be duly enrolled Medicaid providers whether billing for Dual eligibles or QMBs only. Providers choosing to bill only for QMBs should denote this on their enrollment forms, but will not be permitted to bill for Dual eligibles or Medicaid only patients.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S.49:953(b), the Administrative Procedure Act, R.S.49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and R.S.56:325.3 which established an annual quota for spotted seatrout; the secretary of the Department of Wildlife and Fisheries, pursuant to a resolution passed by the Louisiana Wildlife and Fisheries Commission on March 3, 1989 in Baton Rouge, hereby declares an emergency and adopts the following rule:

Pursuant to R.S.56:325.3 the commercial fishery for spotted seatrout is hereby closed until midnight, August 31, 1989, effective at midnight, Sunday April 9, 1989.

The purchase, barter, trade or sale of spotted seatrout taken from Louisiana waters after the closure is prohibited.

The commercial taking or landing of spotted seatrout in Louisiana, whether caught within or without the territorial waters of Louisiana after the closure is prohibited.

Effective with the closure, no vessel possessing or fishing any seine, gill net, trammel net, or hoop net shall have spotted seatrout aboard the vessel, whether caught within or without the waters of the state.

Pursuant to R.S.56:322 and effective with the closure, the legal commercial mesh size for all gill nets, trammel nets and seine nets used in saltwater areas of the state, other than strike nets, shall be a minimum of 4 1/2 inches stretched and a person shall have in possession or use aboard a vessel no more than two strike nets.

Nothing shall prohibit the possession of fish legally taken prior to the closure and all commercial dealers possessing spotted seatrout taken legally prior to the closure shall maintain appropriate records in accordance with R.S.56:306.4.

Virginia Van Sickle
Secretary

Rules

RULE

Department of Agriculture and Forestry Office of Management and Finance Central Registry

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

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

Chapter 181. Central Registry

§18117. Farm Products List and Codes

A. In accordance with R.S. 3:3655 (B) and Section 1324 of the Food Security Act of 1985, Public Law 99-198 as amended, and regulations issued thereunder as applicable, only those products listed below shall be deemed farm products by the Central Registry.

CODE	PRODUCT	CODE	PRODUCT
1005	Broccoli		
1010	Cabbage	1200	Peanuts
1020	Cantaloupes	1210	Peas
1030	Cauliflower	1220	Pecans
1040	Corn	1230	Peppers
1050	Cotton	1240	Rice
1060	Cucumbers	1250	Rye Grass Seed
1070	Cushaw	1260	Sorghum Grain
1075	Eggplant		
1080	Flowers, Shrubs and Ornamentals	1270	Soybeans
1090	Garlic	1280	Squash
1100	Grapes	1290	Strawberries
1110	Grass	1300	Sugarcane
1120	Greens	1310	Sunflower Seed
		1320	Sweet Potatoes (Yams)
1130	Hay	1330	Sweet Sorghum
1145	Irish Potatoes		
1150	Mushrooms	1340	Tomatoes
1160	Oats	1350	Watermelons
1165	Okra		
1170	Onions	1360	Wheat
1180	Oranges		
1190	Peaches	3010	Alligators
		3020	Catfish
		3030	Cattle
		3040	Chickens
		3045	Crabs
		3050	Crawfish
		3060	Goats
		3070	Hogs
2010	Cheese	3080	Honeybees
2020	Eggs	3090	Horses
2030	Honey	3100	Mink
2040	Milk	3110	Oysters
		3120	Quail
		3130	Prawns
		3140	Sheep (Lamb)
		3150	Shrimp
		3160	Turkeys
		4000	Timber

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3654 and R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

Bob Odom
Commissioner

RULE

**Department of Economic Development
Auctioneers Licensing Board**

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part III. Auctioneers**

Chapter 21. Rulemaking Process

§2103. Licensing of Auction Business

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

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

1. owners and length of time of ownership;
2. all business addresses of applicant;
3. occupational license number, if available;
4. all auctioneers licensed by this state employed on a

regular basis;

5. length of time the business has been in existence;
6. previous auction businesses owned by applicant's own-

ers.

C. An applicant must submit a bond identical to that required of individual auctioneers by this Statute and rules. A business entity shall be exempt from this requirement if one of the following conditions exist:

1. if a sole proprietorship, by having the owner be licensed pursuant to the provisions of this Statute and rules;
2. if a partnership, by having one of the partners be licensed pursuant to the provisions of this Statute and rules;
3. if a corporation, by having the majority stockholder be licensed pursuant to the provisions of this Statute and rules.

D. No further bond is required for those business entities exempt from the bond as provided for herein, other than that bond required to be posted by all licensed auctioneers.

E. An auction business must display in its office its current license to do business as an auction business at all times.

F. The license to do business as an auction business may be revoked or suspended for the same reasons as individual auctioneers. All provisions of this Statute and rules relating to the nonissuance, suspension, revocation or restriction of licenses granted to individual auctioneers will apply to the auction businesses and the business' license to do business as an auction business. All provisions of this Statute and rules relating to the reinstatement of licenses will also apply.

G. The cost of this license shall be the same as the total amount due for the fees required for application, examination and initial licensing.

H. The provisions of §3115 relating to the renewal of license, certificate and penalties for failure to renew the license timely shall also apply to auction business licenses.

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneer Licensing Board LR 15: (April 1989).

Mary Norton
Executive Assistant

RULE
Department of Economic Development
Used Motor Vehicle and Parts Commission

The Used Motor Vehicle and Parts Commission, in accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, hereby adopts the following amendments.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part V. Automotive Industry
Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 27. Used Motor Vehicle and Parts Commission
§2701. Meetings of the Commission

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

B. Special Meetings

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

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

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

§2703. Quorum of the Commission

Six members of the commission shall constitute a quorum for the transaction of official business. Fewer than a quorum may adjourn the meeting.

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

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

Chapter 29. Used Motor Vehicle Dealer
§2903. License for Dealer

Dealer license will be issued in the legal name of the individual, proprietorship, partnership or corporation as identified on the application for dealer license.

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

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

§2905. Qualifications and Eligibility for Licensure

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

1. The ability of the applicant to establish an adequate place of business, properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway in front of the establishment which denotes that vehicles are offered for sale at the location to which the sign is affixed. Applicant must have a usable telephone at the place of business, the number of which should be listed on the application for license. The commission must be notified of any change in the telephone number.

2. All dealers are required to furnish and keep in force the minimum required liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state.

3. The applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business.

B. A dealer's license shall consist of a signed certificate bearing the official seal of the commission and the name and address of the dealership and assigned a dealer number, which shall be posted in a conspicuous place in the dealer's place or places of business. The dealer's license number will be prefixed with UD, followed by a four-digit number and then the current year of license (UD-0000-89).

C. The valid dealer's license permits the dealer to transfer and assign titles, purchase and sell used motor vehicles without paying Louisiana general sales tax.

D. A dealer who has multiple locations will be allowed from his salesman's license to sell at all locations owned by him.

E. Dealers in new and used motor homes, new and used semitrailers and new and used motorcycles likewise must meet the above qualifications to be eligible and all these types license numbers will be prefixed by NM, followed by a four digit number then the current year of license (NM-0000-89). Semitrailers are described in the title law as every single vehicle without motive power designed for carrying property and passengers and so designed in conjunction and used with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle and having one or more load carrying axles. This includes, of course, recreational trailers and boat trailers, but excludes mobile homes. Once license shall be due for new and used operators at the same location.

AUTHORITY NOTE: Promulgated in accordance with RS. 32:772 F(2).

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

Chapter 31. License for Salesman
§3101. Qualifications and Eligibility for Licensure

A. The commission, in determining the qualifications and eligibility of an applicant for a salesman license, will base its determinations upon the following factors:

1. The applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his busi-

ness history, and whether such applicant will devote full or part time to the business.

2. A license for a salesman will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ. It is not intended that the dealer pay for licenses for its salesmen. However, for convenience, the dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All salesman licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. A salesman's license shall consist of an identification card bearing the name, address, name of employer, date, signature of the executive director, salesman's license number prefixed with SM, followed by a four-digit number, then the current year of license (SM-0000-89). The card shall be carried upon his person at all times when acting as a salesman at licensee location.

C. Upon termination of employment, the salesman license will be returned by the dealer to the office of the Used Motor Vehicle and Parts Commission within 10 days.

D. A salesman may not hold more than one salesman's license at any one time or be employed by or sell for, any dealer other than the dealer and at the address designated on the salesman's license, with the exception that the licensed dealer has more than one location. The licensed dealer and licensed salesman may sell on each location properly licensed as additional locations, provided the additional locations are in the same name as the principal location.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended LR 15: (April 1989).

Chapter 35. Buyer Identification Card

§3501. Buyer Identification Card Required

Sales at a salvage pool or salvage disposal sale shall be opened only to persons possessing a buyer's identification card.

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

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

§3503. Qualifications and Eligibility for Buyer Identification Card.

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

1. The applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his business history, whether such applicant will devote full or part time to the business and whether such applicant is a resident of the state in which he is employed.

2. Completion of official Used Motor Vehicle and Parts Commission application forms. Payment of Louisiana state general sales tax is due on all vehicles purchased at a salvage pool or salvage disposal sale and such payment must be reflected.

B. The buyer's identification card shall include the name, driver's license number signature of the applicant; and number prefixed with BI, followed by a four-digit number, then the current year (BI-0000-89). Cards obtained for the buyers will be

\$25 each for Louisiana residents and \$200 each for out-of-state residents.

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

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

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

Chapter 37. Changes to be Reported to Commission

§3701. Changes to be Reported to Commission

A. Any changes of address, ownership or employment by the dealer shall be reported to the commission within 10 days of the change. A picture of the new location must be sent with notification.

B. The dealer will notify the commission when a salesman's employment is terminated by returning the salesman's certificate as set out in Chapter 31.

C. Each salesman shall surrender his identification card to the commission and obtain a new license for the new location before again engaging in the business as a salesman for another used motor vehicle dealer.

D. Any change which renders no longer accurate any information contained in an application for dealer or automotive dismantler license filed with the commission shall be amended within 30 days after the occurrence of the change on the form prescribed by the commission, accompanied by the appropriate fee.

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

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

Chapter 41. Condition of Sale of a Motor Vehicle

§4103. Condition of Sale Contracts and Warranty Disclaimers

A. Condition of Sale Contracts and Warranty Disclaimers are considered approved if the language meets all other state and federal laws and conditions to constitute a bona fide represented sale. All conditions of sale and warranties to the consumer shall be in writing.

B. Dealers are required to keep on file copies of all Condition of Sale, Warranty Disclaimers and Service Contracts and any other related conditional forms which express the condition of sale for a period of three years from date of sale or as required by any other federal, state or local regulations.

C. Sale of extended warranties will be expressly covered in Chapter 47 upon promulgation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772F (3).

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

Chapter 45. Complaints
§4501. Complaints

All forms of complaints made to the commission must be made on the complaint form provided by the commission. A consumer action panel will hear complaints on a condition of sale, implied and written warranties and service complaints on those warranties, if complaints cannot be satisfied in any other manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776A (3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1065 (November 1985), amended LR 15: (April 1989).

Rodley J. Henry
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published January 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 1.10.00.d

Amend Part 140 of the 8(g) Policy and Procedure Manual as follows:

Page 18, Insert as "J"

Any other source of public funds (such as JTPA, Chapter 11, local revenues, etc.) identified by type and amount, to be utilized by the proposed project:

Page 20, Insert as "10."

Supplement (only for applications requesting continued funding)

An application for 8(g) Support Funds for an additional year shall be supplemented by a concise report of the results or perceived results of the on-going project. This supplement shall be attached to the Support Fund applications.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

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

Rule 3.01.51.aa(7)

Amend Standard 2.015.41 (Bulletin 741) to permit approval of correspondence courses taken at accredited universities other than LSU and Southern as follows:

Reword standard 2.015.41 and add the following procedural block to page 100 of Bulletin 741 which states the following:

2.105.41

Credit toward high school graduation for high school students shall be earned through correspondence work from Louisiana State University, Southern University, or other accredited universities as approved by the Bureau of Secondary Education. Procedural Block

In order to be approved to award high school credit for correspondence courses, a university must apply to the Bureau of Secondary Education. The application shall include a detailed course description with objectives for each course offering. Courses will be approved on an individual basis. Required courses must address all standards listed in the appropriate state curriculum guide.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published January 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 3.01.51.aa(4)

Amend Bulletin 741 as follows:

Standard 2.015.14

Journalism course offerings shall be as follows:

Course Title	Unit(s)	Bulletin
Journalism I	1	
Journalism II	1	
Publications I (Yearbook)	1	1816
Publications II (Yearbook)	1	1816
Publications I (Newspaper)	1	1819
Publications II (Newspaper)	1	1819

Procedural blocks

"Teachers must be certified in Journalism to teach Journalism."

"Teachers certified in the areas of Journalism, English, and/or Business Education are qualified to teach Publications I and II (Yearbook)."

“Teachers certified in the areas of Journalism and English are qualified to teach Publications I and II (Newspaper).

“Publications I is a prerequisite to Publications II.

“A maximum of two Carnegie units may be earned from the six courses listed under Journalism.”

Standard 2.105.18
Delete

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published January 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 3.01.51.aa(6)

Revise standards for approval of local electives (Bulletin 741) as follows:

Add Standard 1.105.38 following the second procedural block on page 98.1 to state the following:

During the year preceding the system's accreditation on-site review, an end-of-the-year evaluation shall be completed for all specially designed elective courses. The department will review each course evaluation as a part of the on-site review and make a determination concerning the continuation for each course.

NOTE: All other policy and standard numbers will be changed accordingly.

Add Standard 1.090.10 to page 71.1 which states the following:

During the year preceding the system's accreditation on-site review, an end-of-the year evaluation shall be completed for all specially designed elective courses. The department will review each course evaluation as a part of the on-site review and make a determination concerning the continuation for each course.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published January 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 3.01.51.aa(5)

Amend Bulletin 741 to change the deadline for submission of secondary local elective courses from March 1 to 60 days prior to implementation.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published January 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 4.01.50(3)

The board adopted the following amendment to the non-public school standards:

Instructional time includes scheduled time within the normal school day approved by a school(s) for teaching courses outlined in the Program of Studies for parent/teacher conferences wherein the progress of the student or the student's program of study is assessed and semester or quarterly testing and evaluation of the student according to the adopted school calendar.

Em Tampke
Executive Director

RULE

Department of Environmental Quality Office of Water Resources

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Environmental Quality adopted the addition of new language under LAC 33:IX.708 Exploration for and Production of Oil and Gas on April 12, 1989. The effective date of this rule will be April 20, 1989.

The secretary initiated rulemaking procedures to adopt this rule on January 19, 1989. Prior to the final adoption by the secretary, this rule was forwarded to, and found acceptable by, the Joint Committees on Natural Resources.

Persons needing further information concerning this rule may contact Lynn Wellman, Department of Environmental Quality, Water Pollution Control Division, Box 44091, Baton Rouge, LA 70804-4091.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations

Chapter 7. Effluent Standards

§708. Exploration for and Production of Oil and Natural Gas

A. A radioactivity measurement, acute toxicity test, and chronic toxicity test shall be conducted using test methods approved by the Administrative Authority on representative samples of all existing produced water discharges which flow to the surface waters of the state. The results of the radioactivity analysis and the average daily discharge rate (barrels per day) shall be submitted to this office by August 20, 1989. The results of the toxicity analyses and the average daily discharge rate (barrels per day) shall be submitted to this office by February 20, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in L.R. (April, 1989).

Paul H. Templet, Ph.D.
Secretary

RULE

Office of the Governor
Architects Selection Board

Pursuant to the provisions of R.S. 38:2310 et seq. as amended, the Louisiana Architects Selection Board, hereinafter referred to as board, has promulgated such rules and procedures as it deemed necessary to carry out the provisions of the said statutes. These rules are established by the board, and are subject to change by said board, in accordance with the Administrative Procedure Act.

Title 4
ADMINISTRATION
Part VII. Governor's Office

Chapter 1. Architects Selection Board

Subchapter A. Organization

§103. Authority

The Architects Selection Board shall be organized in accordance with the provisions of R.S. 38:2310 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 15: (April 1989).

§107. Members

A. The board shall be composed of members, serving terms in accordance with the provisions of the authority set forth in Article II.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 15: (April 1989).

§109. Officers

A. The officers of this board shall be a chairman and a vice chairman elected by the board at the first regular meeting following each January 1 and July 1. The board member who serves as chairman and the board member who serves as vice chairman shall be from different, overlapping terms of service to the board. In the event, for whatever reason, the offices of both chairman and vice chairman of the board become vacant, a special board meeting shall be called within 30 days of the second vacancy to fill both vacancies for the remainder of the unexpired term of each respective office.

B. 1-6. ...

C. The duties of the vice chairman shall be as follows:

1-3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15: (April 1989).

§111. Meetings

A. A regular meeting of the board shall be held on the last Friday of January and July, unless such meeting is waived by the chairman as unnecessary.

B-C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of Governor, Louisiana Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15: (April 1989).

§125. Application

A. Any applicant (proprietorship, partnership, corporation or joint venture of any of these) meeting the requirements of Title 38 of the Louisiana Revised Statutes of 1950, R.S. 38:2310 et seq., may submit application for selection consideration for a particular project upon which official advertisement has been published. The applicant shall submit data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information which the board may request.

B-E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 1:180

(April 1975), amended LR 4:494 (December 1978), re-promulgated LR 10:454 (June 1984), amended LR 15: (April 1989).

§127. Selection

A. ...

B. The selection procedure shall be as follows:

1-5. ...

6. In the event that during the selection of a designer for a particular project the first ballot is unanimous for the first place choice, the selection shall be awarded to that firm, and a second ballot will not be required.

7-10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 1:181 (April 1975), amended LR 4:495 (December 1978), re-promulgated LR 10:454 (June 1984), amended LR 15: (April 1989).

§133. Information

Any person may obtain information concerning the board, its rules, regulations and procedures from the board's secretary at the Office of Facility Planning and Control, Division of Administration, Box 94095, Capitol Station, Baton Rouge, LA 70804. Requests for information may be made verbally or in writing. There may be a nominal fee charged to defray the cost of information furnished. Said fee shall be set by Facility Planning and Control, with the approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 4:495 (December 1978), re-promulgated LR 10:455 (June 1984), amended LR 15: (April 1989).

Roger Magendie
Director

RULE

**Office of the Governor
Office of Elderly Affairs**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs has amended the FY 1988 - FY 1991 Louisiana State Plan on Aging, effective October 1, 1989.

§1303. Assurances

The Governor's Office of Elderly Affairs makes the following assurances:

A. State Agency Designation

1. The Governor's Office of Elderly Affairs shall develop and administer the State Plan on Aging and serve as the effective visible advocate for the elderly within the state. [45 CFR 1321.9(a)]

B. State Agency Administration, Organization and Staffing

The Governor's Office of Elderly Affairs:

1. has an adequate number of qualified staff to carry out

the functions prescribed in 45 CFR 1321. [45 CFR 1321.9(b)]

2. The Governor's Office of Elderly Affairs will use such methods of administration, including methods relating to the establishment and maintenance of personnel standards on a merit basis as are necessary for the proper and efficient administration of the plan, and, where necessary, provide for reorganization and reassignment of functions to assure efficient administration. [OAA Sec. 307(a) (4)]

3. The Governor's Office of Elderly Affairs has and follows written policies governing all aspects of programs operated under 45 CFR Part 1321, including the manner in which the ombudsman program operates at the state level and the relation of the ombudsman program to area agencies. [45 CFR 1321.17 (F) (7)]

4. Subject to the requirements of merit employment systems, the Governor's Office of Elderly Affairs gives preference to individuals aged 60 or older for any staff positions (full time or part time) in state and area agencies for which such individuals qualify. [OAA Sec. 307 (a) (11)]

5. The Governor's Office of Elderly Affairs has assigned personnel to provide state leadership in developing legal assistance programs for older individuals throughout the state; to provide for the coordination of the furnishing of legal assistance to older individuals within the state; to provide advice and technical assistance in the provision of legal assistance to older individuals within the state; and to support the furnishing of training and technical assistance for legal assistance for older individuals. [OAA Sec. 307 (a)(15)(C), 307(a)(18)]

6. The Governor's Office of Elderly Affairs provides inservice training opportunities for personnel of agencies and programs funded under the Older Americans Act. [OAA Sec. 307 (a)(17)]

7. The Governor's Office of Elderly Affairs will make such reports, in such form, and containing such information, as the commissioner may require, and comply with such requirements as the commissioner may impose to insure the correctness of such reports. [OAA Sec. 307(a)(6)]

8. The state agency employs appropriate procedures for data collection from area agencies on aging to permit the state to compile and transmit to the commissioner accurate and timely statewide data requested by the commissioner in such form as the commissioner directs. [45 CFR 1321.17(f)(9)]

C. State Agency Fiscal Management Responsibilities

The Governor's Office of Elderly Affairs:

1. has adopted such fiscal control and fund accounting procedures as may be necessary by the commissioner or the secretary to assure proper disbursement of, and accounting for, federal funds paid under Title III to the state, including any such funds paid to the recipients of a grant or contract. [OAA Sec.307(a) (7)];

2. will spend in each fiscal year, for services to older individuals residing in rural areas in the state assisted under Title III, an amount not less than 105 percent of the amount expended for such services (including amounts expended under Title V and Title VII) in fiscal year 1978. [OAA Sec. 307(a) (3) (B)];

3. will not fund program development and coordination activities as a cost of supportive services for the administration of the area plans until it has first spent 10 percent of the total of its combined allotments under Title III on the administration of area plans. [45 CFR 1321.17(f) (14) (i)];

4. submits the details of any proposals to pay for program development and coordination as a cost of supportive services, to the general public (including older persons, government officials, and the aging services network) for review and comment. [45 CFR 1321.17(f) (14) (ii)];

5. requires area agencies on aging to submit the details of their proposals to pay for program development and coordination as a cost of supportive services, to the general public (including older persons, government officials, and the aging services network) for review and comment. [45 CFR 1321.17(f) (14)(ii)];

6. certifies that any expenditure by an area agency for program development and coordination will have a direct and positive impact on the enhancement of services for older persons in the planning and service area. [45 CFR 1321.17(f) (14)(iii)];

7. requires that area plans be amended annually to include details of the amount of funds expended for each priority service during the past fiscal year. [45 CFR 1321.17(f) (6)];

8. each fiscal year, to meet the required non-federal share applicable to its allotments under 45 CFR 1321, spends under the state plan for both services and administration at least the average amount of state funds it spent under the plan for the three previous fiscal years. [45 CFR 1321.49]

9. from funds allotted under Section 304(a) for Part B and for Paragraph (12) (relating to the State Long-Term Care Ombudsman) shall expend to carry out for Paragraph (12), for each fiscal year in which the allotment for Part B for the state is not less than the allotment for fiscal year 1987 for Part B for such state, and amount which is not less than the amount expended by such state in fiscal year 1987 to carry out Paragraph (12) as in effect before the effective date of the Older Americans Act Amendments of 1987. [OAA Sec. 307(a) (21)]

10. will use funds under Section 303(e) for Part E relating to the special needs of older individuals, the state agency will use such funds for Part E purposes, if such funds are received. [OAA Sec. 307 (a) (28)]

11. will use funds for Part G relating to abuse, neglect, and exploitation of older individuals, the state agency will use funds for Part G purposes, if such funds are received. [OAA Sec. 307(a) (30)]

12. Governor's Office of Elderly Affairs will comply with requirements of Section 306(a) (6) (P) and other requirements in Subsection 307(a), if the state agency receives funds for SSI/ Food Stamp Medicaid outreach. [OAA Sec. 307(a) (31)]

13. If the state agency proposes to use funds received under Section 303(f) of the Act for services other than those for preventive health specified in Section 361, the state plan shall demonstrate the unmet need for the services and explain how the services are appropriate to improve the quality of life of older individuals, particularly those with the greatest economic or social need, with special attention to low-income minorities. [45 CFR 1321.17(f) (10)]

D. State Agency Advocacy Responsibilities

The Governor's Office of Elderly Affairs:

1. reviews and, where appropriate, comments on all state plans, budgets, and policies which affect older persons;

2. solicits comments from the public on the needs of older persons;

3. coordinates statewide planning and development of activities related to the purposes of the Older Americans Act and

assures that each area agency has effective procedures to coordinate programs related to the purposes of the Act within the planning and service area;

4. provides technical assistance to agencies, organizations, associations, or individuals representing older persons;

5. has established and is operating an Office of the State Long-Term Care Ombudsman Program and shall carry out through the office a long-term care ombudsman program which meets all statutory and regulatory provisions concerning establishment and operation of the program. [OAA Sec. 307(a) (12)]

6. reviews and comments, upon request, on applications to state and federal agencies for assistance relating to meeting the needs of older persons. [45 CFR 1321.13 (a) (3)]

E. State Agency Systems Development Responsibilities

1. Development of the State Plan on Aging

The state plan will be based upon area plans developed by area agencies on aging within the state. The state will prepare and distribute a uniform format for use by area agencies in developing area plans under Section 306. [OAA Sec.307(a) (1)]

2. Amendments to the State Plan

The state amends the State Plan whenever necessary to reflect:

a. new or revised federal statutes or regulations;

b. a material change in any law, organization, policy, or state agency operation; or

c. information required annually by Sections 307(a)(23) and (29) of the Act. [45 CFR 1321.19(a)]

3. Designation of Planning and Service Areas

a. The Governor's Office of Elderly Affairs approves or disapproves the application of any unit of general purpose local government with a population of 100,000 or more, region with the state recognized for areawide planning, metropolitan area, or Indian reservation which makes application to be designated as a planning and service area, in accordance with state agency procedures. [45 CFR 1321.29(b)]

b. The Governor's Office of Elderly Affairs provides an opportunity for a hearing on the denial of any application submitted under Subparagraph (a) above, if requested by the applicant, and issues a written decision. [45 CFR 1321.29 (d)]

4. Uniform Format for Area Plans

The Governor's Office of Elderly Affairs will prepare and distribute a uniform format for use by area agencies in developing area plans. [OAA Sec. 307(a) (1)]

5. Area Plans

Each area agency will develop and submit to the state agency for approval an area plan which complies with Section 306 of the Act. [OAA Sec. 307(a)(2)]

6. Public Participation

a. The Governor's Office of Elderly Affairs has established rulemaking procedures to consider the views of older persons in developing and administering the State Plan. [45 CFR 1321.27]

b. The Governor's Office of Elderly Affairs will take into account, in connection with matters of general policy arising from the development and administration of the State Plan for any fiscal year, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan. [OAA Sec. 305 (a) (2) (B)]

7. Intrastate Funding Formula

a. The Governor's Office of Elderly Affairs has developed

an intrastate funding formula for the allocation of funds to area agencies.

b. The formula has been published for review and comments by older persons and the general public.

c. The formula reflects the proportion among the planning and service areas of persons age 60 and over in greatest economic need with particular attention to low income minority individuals.

d. The Governor's Office of Elderly Affairs reviews and updates the intrastate funding formula every four years. [45 CFR 1321.37]

8. Needs Assessment

The Governor's Office of Elderly Affairs will evaluate the need for supportive services (including legal assistance), nutrition services, and multipurpose senior centers and determine the extent to which existing public or private programs meet the need. [OAA Sec. 307 (a) (3) (A)]

9. Project Evaluation

The Governor's Office of Elderly Affairs will conduct periodic evaluations of activities and conduct public hearings on projects carried out under this plan. The state agency will evaluate its effectiveness in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals. [OAA Sec.307(a) (8)];

10. Withdrawal of Area Agency Designation

The Governor's Office of Elderly Affairs withdraws the area agency designation whenever it, after reasonable notice and opportunity for a hearing, finds that:

(i) an area agency does not meet the requirements of 45 CFR 1321;

(ii) an area plan or plan amendment is not approved;

(iii) there is substantial failure in the provisions or administration of an area plan to comply with any provisions of the Older Americans Act or 45 CFR 1321 or policies and procedures established and published by GOEA; or

(iv) activities of the area agency are inconsistent with the statutory mission prescribed in the Act or in conflict with the requirement that it function only as an area agency on aging. [45 CFR 1321.35(a)]

11. Hearing Provisions

The Governor's Office of Elderly Affairs will afford an opportunity for a hearing upon request to any area agency on aging submitting a plan under Title III, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan. [OAA Sec. 307 (a) (5)]

12. Residence

No requirements as to duration of residence or citizenship will be imposed as a condition of participation in the state's program for the provision of services.

13. Services for Older Individuals with Disabilities

The Governor's Office of Elderly Affairs will coordinate planning, identification, assessment of needs, and services for older individuals with disabilities. Particular attention will be given to those persons with severe disabilities. Coordination will take place with the state agency(s) that has (have) primary responsibility for individuals with disabilities, including severe disabilities. Where appropriate, collaborative programs will be developed to meet the needs of older individuals with disabilities. [OAA Sec. 307(a) (25)]

14. Community-Based Long-Term Care Services

Governor's Office of Elderly Affairs will require Area Agencies on Aging to facilitate the coordination of community-based long-term care services for older individuals at risk. These are individuals at risk of institutionalization, or of prolonged institutionalization, or who could leave a long-term care facility and return home, if community-based services are provided to them. [OAA Sec. 307 (a) (26)]

15. In-Home Services for Frail Older Individuals

The state agency will consult and coordinate in the planning and provision of in-home services under Section 341 of the Act with state and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services. [OAA Sec. 307(a) (27)]

16. Area Agency Activities

Each area agency engages only in activities which are consistent with its statutory mission as prescribed in the Act and as specified in state policies under 1321.11; [45 CFR 1321.17(f) (1)]

17. Coordination with Title VI Services

The services provided under this Part will be coordinated, where appropriate, with the services provided under Title VI of the Act. [45 CFR 1321.17(f) (13)]

18. Outreach to Older Indians

Where there is a significant population of older Indians in any planning and service area that the area agency will provide for outreach as required by Section 306(a) (6) (N) of the Act. [45 CFR 1321,17(f) (15)]

F. State Agency Service Development Responsibilities

1. Direct Delivery of Services

No supportive services, nutrition services or in-home services, (as defined in Section 342(1)), will be directly provided by the state agency or an area agency on aging, except where, in the judgment of the Governor's Office of Elderly Affairs, provision of such services by the state agency or an area agency on aging is necessary to assure an adequate supply of such service, or where such services are directly related to the state or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such state or area agency on aging. [OAA Sec. 307(a) (10)]

2. Preference in the Delivery of Services

Preference is given to older persons in greatest social or economic need in the provisions of services under the plan, with particular attention to low-income minority individuals. [45 CFR 1321.17(f)(2)]; [OAA Sec. 305(a) (2) (E)]

3. Means Tests

The Governor's Office of Elderly Affairs has established procedures to ensure that all services under Title III are provided without use of any means tests. [45 CFR 1321.17(f) (3)]

4. Confidentiality and Disclosure of Information

a. The Governor's Office of Elderly Affairs has procedures to protect the confidentiality of information about older persons collected in the conduct of its responsibilities. The procedures ensure that no information about an older person, or obtained from an older person by a service provider or the state or area agencies, is disclosed by the provider or agency in a form that identifies the person without the informed consent of the person or of his or her legal representative, unless the disclosure is re-

quired by court order, or for program monitoring by authorized federal, state, or local monitoring agencies. [45 CFR 1321.51(a)]

b. Neither the state agency nor the area agencies may disclose those types of information that are exempt from disclosure by a federal agency under the Federal Freedom of Information Act. [45 CFR 1321.51(c)]

5. Licensure, Health and Safety Requirements

All services provided under Title III meet any existing state and local licensing, health and safety requirements for the provision of those services. [45 CFR 1321.17(f) (4)]

6. Voluntary Contributions by Participants

Older persons are provided opportunities to contribute voluntarily to the cost of services. [45 CFR 1321.17(f) (5)]

7. Information and Referral Services

The Governor's Office of Elderly Affairs shall provide for the establishment and maintenance of information and referral services in sufficient numbers to assure that all older individuals in the state who are not furnished adequate information and referral services under Section 306(a) (4) will have reasonably convenient access to such services. [OAA Sec. 307(a)(9)]

8. Education and Training Services

a. Area agencies on aging may enter into grants and contracts with providers of education and training services which can demonstrate the experience or capacity to provide such services (except that such contract authority shall be effective for any fiscal year only to such extent, or in such amounts, as are provided in appropriations Acts). [OAA Sec. 307(a) (19)]

b. Area agencies shall compile available information, with necessary supplementation, on courses of post-secondary education offered to older individuals with little or no tuition. Area agencies shall make a summary of the information available to older individuals at multipurpose senior centers, congregate nutrition sites, and in other appropriate places. [45 CFR 1321.17(f) (11)]

9. Services for the Prevention of Abuse of Older Individuals

a. Area agencies on aging shall coordinate efforts with those agencies in their respective planning and service areas responsible for prevention, identification, and treatment of abuse, neglect, and exploitation of older individuals in accordance with R.S. 14:403.2, the Adult Protective Services Act.

b. The state will not permit involuntary or coerced participation in the program of services described in this Subparagraph by alleged victims, abusers, or their households.

c. All information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency. [OAA Sec. 307(a) (16)]

10. Multipurpose Senior Centers

With respect to multipurpose senior centers, all statutory and regulatory requirements concerning the purpose of making awards; health and safety and construction requirements; federal labor standards; length of use of an acquired or constructed facility; special conditions for acquiring by purchase, or constructing a facility; prohibition on sectarian use of a facility; and funding and use requirements will be met. [OAA Sec. 307(a) (14)]

11. Nutrition Services

With respect to nutrition services, all statutory and regulatory provisions concerning nutrition services eligibility, selection of nutrition service providers, special requirements for nutrition services providers and food requirements for all nutrition services providers will be met. [OAA Sec. 307(a)(13); CFR 1321.17(f) (12)]

12. Legal Assistance

With respect to legal assistance, all statutory and regulatory provisions concerning the purpose of making the awards; the definition of legal assistance; the conditions legal assistance providers must meet; case priorities; and limitations on information about income and resources will be met. [OAA Sec. 307(a) (15)]

13. Outreach

The state agency will require area agencies on aging to arrange for outreach at the community level that identifies individuals eligible for assistance under this Act and other programs, both public and private, and informs them of the availability of assistance. The outreach efforts shall place special emphasis on reaching older individuals with the greatest economic or social needs with particular attention to low-income minority individuals, older individuals residing in rural areas, including outreach to identify older Indians in the planning and service area and inform such older Indians of the availability of assistance under the Act. [OAA Sec. 307(a) (24); 45 CFR 1321.17(f) (8)]

14. Provisions for Limited English-Speaking Elderly

The Governor's Office of Elderly Affairs requires the area agency on aging for any planning and service area in the state where a substantial number of the older individuals are of limited English-speaking ability:

a. to utilize, in the delivery of outreach services under Section 306(a) (2) (A) and 306(a) (6) (P), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and

b. to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include:

(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and

(ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences. [OAA Sec. 307(a) (20)]

G. State Agency Civil Rights Responsibilities

1. Equal Employment Opportunity

The Governor's Office of Elderly Affairs has an equal employment opportunity policy, implemented through an affirmative action plan for all aspects of personnel administration as specified in 45 CFR Part 74.

2. Services Delivery

The Governor's Office of Elderly Affairs has developed and is implementing a system to ensure that benefits and services available under the State Plan are provided in a non-

discriminatory manner as required by Title VI of the Civil Rights Act of 1964, as amended.

3. Non-Discrimination on the Basis of Handicap

All recipients of funds from the Governor's Office of Elderly Affairs are required to operate each program so that, when viewed in its entirety, the program or activity is readily accessible to and useable by handicapped persons. Where structural changes are required, these changes will be made as quickly as possible, in keeping with 45 CFR Part 84.

§1325. Priority Services and Targeting Requirements

The plan shall specify a minimum percentage of Part B funds which each area agency will expend, in the absence of a waiver, for access services, in-home services and legal assistance. (307)(a)(22).

The following chart illustrates the minimum percentages of available funds area agencies will be required to expend in each category:

	FY 1990	FY 1991
Access Services	25%	30%
In-home Services	10%	15%
Legal Assistance	3%	5%
TOTALS	38%	50%

The area agencies will be required to expend at least 25 percent of available Title III-B funds for access services (transportation, outreach, and information and referral), beginning with FY 1990, increasing to 30 percent in FY 1991.

The area agencies will be required to expend at least 10 percent of available Title III-B funds for in-home services (home-maker and home health aide, visiting and telephone reassurance, chore maintenance, and supportive services for families of elderly victims of Alzheimer's disease and related disorders with neurologic and brain dysfunction), beginning with FY 1990, increasing to 15 percent in FY 1991.

Beginning with FY 1990, and annually thereafter, GOEA will operate a statewide Ombudsman Legal Assistance Program designed to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities. GOEA has determined that this will ensure compliance with Sec. 307(a)(12)(G)(ii) of the Act.

Each area agency will be required to expend a minimum of 3.0 percent of available Title III-B funds for Legal Assistance for elderly not residing in long-term care facilities in FY 1990, increasing to 5.0 percent in FY 1991.

Maintenance of effort will be required for all priority services after FY 1991.

In approving area plans, GOEA shall waive this requirement for any category of services described above if the area agency demonstrates that services being furnished for all services in such category are sufficient to meet the need for such services in the planning and service area. Waivers must be requested in accordance with Paragraph (2) of Subsection 306(b) of the Older Americans Act Amendments of 1987.

The State Plan must, with respect to the fiscal year preceding the fiscal year for which the plan is prepared, identify the number of low-income minority older individuals in the state; and describe the methods used to satisfy the service needs of such minority older individuals. 307(a)(23)

The most recent statistical information available concern-

ing the elderly in Louisiana is the 1986 update of the 1980 Census by the United States Bureau of the Census. The following chart illustrates the total number of individuals age 60 and older in each minority group; the percentage of the total population in each minority group having incomes at or below the poverty level; the estimated number older individuals in each minority group with incomes at or below the poverty level; and the estimated number of older minority individuals with incomes at or below the poverty level:

GROUP	TOTAL 60 +	% BELOW POVERTY	# BELOW POVERTY
Black	162,359	38.0	61,696
Asian	1,390	26.4	366
Indian	926	22.8	211
TOTAL NUMBER OF LOW-INCOME MINORITY AGE 60 +			62,273
PERCENTAGE OF OLDER MINORITY INDIVIDUALS BELOW POVERTY			%37.81

During FY 1988, GOEA provided information to the AAAs concerning proposed changes in the rules governing the Medicaid and Food Stamp programs, allowing them to review and comment in a timely manner.

For the second time, GOEA provided written comments on the Community Services Block Grant proposal, contesting the exclusion of "diseases related to aging" as eligibility criteria for respite care.

GOEA and the Department of Natural Resources co-authored a proposal which was approved by the U.S. Department of Energy. The \$1.6 million project, called the "Louisiana Outreach Energy Program," will serve low-income elderly and Indians. The objectives of the program are to identify individuals in the target population, and educate them on energy conservation practices and services available to them, such as the LI-HEAP Weatherization Program. The outreach program will incorporate the assistance of local volunteer groups and non-profit associations to implement the program.

The plan shall include proposed methods of carrying out preference for providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals. 305(a)(2)(E)

GOEA will establish criteria for service priorities which will lead to increased participation by the target population. For example, service procurement guidance will encourage AAAs to award service contracts to minority owned and operated businesses; businesses with service delivery sites located in neighborhoods occupied by minority elderly; businesses which customarily recruit, hire, train and promote the elderly in paid employment; and businesses which provide volunteer opportunities for socially or economically needy older individuals. AAAs will be encouraged to consider the relative percentage of minority elderly participation, both as service recipients and as volunteers, as a factor in evaluating service provider performance.

During FY 1990, GOEA will review the configuration of PSAs, taking into consideration the location and incidence of older citizens with "greatest economic or social needs, with particular attention to low-income minority older individuals." Criteria for the designation of PSAs will include the incidence of low-income minority individuals.

In reviewing and updating the intrastate funding formula, emphasis shall be placed on serving those with "greatest economic or social needs, with particular attention to low-income minority older individuals."

The Louisiana Aging Advisory Board will seek to bring about policy and social change on behalf of the target population by acting as a policy advisor to GOEA; reviewing and commenting on proposed rules and regulations affecting the elderly; participating in policy conferences, legislative and other public hearings; and consulting with decision makers and other advocates outside of government.

At the sub-state level, efforts will be conducted in each PSA to identify older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals; and assist them in applying for entitlement programs such as Medicare, Medicaid and Food Stamps. Such activities will include reviewing intake forms for possible eligibility, personal and telephone contacts with older individuals to inform them of the programs, assisting in the preparation of applications, providing transportation to apply for and/or receive benefits, explaining the programs in agency newsletters and newspaper articles, and making emergency referrals, as appropriate.

The plan shall, with respect to the fiscal year preceding the fiscal year for which the plan is prepared, described the methods used to satisfy the service needs of older individuals who reside in rural areas. 307(a) (29)

Rural parishes in Louisiana have been unable to obtain satisfactory legal services for the elderly either through the Legal Services Corporations or the private bar. The few efforts to contract were successful in providing only community legal education but no direct representation. Last year, the Legal Services Developer worked with the state and local Bars to meet this need. There is now in place in Morehouse, Franklin, Richland, Caldwell, West Carroll and Jefferson Davis Parishes, a pro bono project which furnishes lawyers for both direct representation and community legal education. Morehouse, Franklin, Richland and West Carroll have legal services contracts with the Pro Bono projects and the other two, Jefferson Davis and Caldwell, probably will do so next year. Efforts continue in other rural areas to promote the pro bono concept.

Also GOEA distributed information on projected needs for certain services from a special study conducted by Savant, Inc. to all parishes (including rural parishes) during FY 1988.

Vicky Hunt
Director

RULE

Office of the Governor Office of Women's Services

The Office of Women's Services amends the following guidelines for allocation of marriage license surcharge fees from the Programs for Victims of Family Violence Fund.

TITLE 4 ADMINISTRATION Part VII. Governor's Office

Chapter 17. Women's Services

§1737. Guidelines for Application of Additional Marriage License Fees

A. - D. ...

E. Application Process

1. Notification of the availability of funds for family violence programs for fiscal year 1989-90 will be given through the Office of Women's Services.

2. Application packets will be sent to all existing family violence program providers, and all persons/organizations who have made past inquiries regarding funding. Interested potential applicants may request application packets from the Office of Women's Services, Box 94095, Baton Rouge, LA 70804-9095.

3. The application packet will be mailed within five working days of receipt of request.

4. The applications must be received by the Office of Women's Services by June 1, 1989.

5. All applications will be evaluated and prioritized according to the stated criteria for evaluation. During the evaluation process, applicants may be contacted by the Office of Women's Services to review and negotiate the application and proposed budget.

6. Applicants will be notified by the Office of Women's Services as to the final decision within 60 days of receipt of the application.

7. The contracts will be signed, and distribution of funds will begin within 45 days of final approval of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121.1(1), R.S. 46:2126, R.S. 45:2127 and R.S. 46:2128.

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Women's Services, April 20, 1987, amended LR 15: (April 1989).

Glenda Parks
Executive Director

RULE

Department of Health and Hospitals Board of Medical Examiners

Notice is hereby given, in accordance with R.S. 49:950, et seq., that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B)(1) and (6), and R.S. 37:1278(B) adopted rules governing board requests and subpoenas, pursuant to R.S. 37:1278(B), for information and medical records relating to physician impairment. The rules are set forth hereinafter.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Profession
Subpart 4. Administrative Provisions
Chapter 83. Investigation of Information and Records
Relating to Physician Impairment

§8301. Scope of Chapter

The rules of this Chapter prescribe the policy and procedures governing the board's exercise of its authority under R.S. 37:1278(B) to obtain, either by informal request or through the mandate of investigative or adjudicatory proceeding subpoena, disclosure of medical information and records relative to the physical and mental condition of physicians licensed by the board.

§8303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified:

Health Care Provider — The term "health care provider" means an individual or institutional state-licensed provider of health care services.

Medical Records — The term "medical records" means any and all notes, records, charts, memoranda, test results, reports, radiographic films, or other written, graphic or recorded items and materials, on whatsoever media recorded or stored and howsoever maintained relating to professional services in the nature of examination, history, evaluation, diagnosis, therapy or treatment by a health care provider.

Physician — The term "physician" means a person possessing a doctor of medicine or equivalent degree who has applied to the board for a license or permit to practice medicine in the state of Louisiana or who holds a medical license or permit issued by the board.

B. Masculine terms wheresoever used in this Chapter shall be deemed to include the feminine.

§8305. Statement of Policy and Intent

A. The privilege of confidentiality with respect to communications between a patient and a physician, recognized equally as a matter of Louisiana law and professional medical ethics, serves an important public policy interest in encouraging and permitting a patient's forthright, full and unfettered communication of medically relevant information to a physician, communication vital to the integrity and effectiveness of the physician-patient relationship. The board recognizes that the principle of confidentiality is no less important with respect to a physician who is himself a patient of another physician. Contrasted with its solicitude for such principles and interests, however, is the board's statutory responsibility to safeguard the public against physicians whose capacity to practice medicine with reasonable skill and safety is compromised by physical or mental condition, disease or infirmity. In appropriate instances in which the board has reasonable cause to believe that a physician's ability to practice medicine safely is impaired, as in other instances recognized by law, it is necessary and appropriate that the individual physician's interest in the confidentiality of his medical records and information yield to the overriding public interest.

B. The board interprets R.S. 37:1278(B) to authorize the board to obtain disclosure of medical information and records in the possession of physicians and other health care practitioners and institutions which relate to the diagnosis or treatment of a

physician when the board, on the basis of a written complaint, has reasonable cause to believe that the physician to whom such information or records relate is or may be incapable of practicing medicine with reasonable skill and safety to patients by virtue of mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or the loss of motor skills, and/or the excessive use or abuse of drugs, including alcohol. The board specifically interprets R.S. 37:1278(B), in intent and effect, to confine the scope of the board's authority to obtain disclosure of medical information and records to obtaining, by request or subpoena, only such information and records as are relevant to the patient-physician's capacity to practice medicine with reasonable skill and safety.

C. In the implementation of this authority, it is and shall be the policy of the board to exercise due regard for the important interests served by confidentiality of medical information and records and, accordingly, to exercise such authority only in circumstances in which the information or records sought are not otherwise reasonably available to the board and the board's exercise of the authority conferred by R.S. 37:1278(B) is necessary to discharge its responsibilities under the Medical Practice Act.

§8307. Basis for Obtaining Medical Information and Records

A. Pursuant to the authority vested in the board by R.S. 37:1278(B), the board may request, subpoena or otherwise seek to obtain otherwise privileged or confidential medical information and records from a health care provider relating to such health care provider's diagnosis or treatment of a physician licensed by the board, without such physician's express authorization or consent, when:

1. the board has grounds for an objectively reasonable belief that the subject physician's capacity to practice medicine with reasonable skill and safety to patients is impaired by mental illness or deficiency, or physical illness, including but not limited to deterioration through the aging process or the loss of motor skills, and/or the excessive use or abuse of drugs; and

2. the board has a reasonable basis for believing that the health care provider is in possession of information or records relevant to a determination as to whether the subject physician is incapable of practicing medicine with reasonable skill and safety to patients.

B. The reasonable belief required by Subsection A.1 of this Section must be based, in whole or in part, upon information provided to the board in writing which is apparently reliable and is subscribed by an identifiable individual or institution or upon information developed by investigation of the board initiated upon a complaint of or against the subject physician submitted in written form to the board and signed by the complainant.

§8309. Procedure for Obtaining Medical Information and Records

A. When the board has a basis, pursuant to R.S. 37:1278(B) and as specified by §8307, for seeking and obtaining disclosure from a health care provider of otherwise privileged or confidential medical information and records relating to the diagnosis or treatment of a physician, and such information is required in connection with an official investigation or pending adjudication of the board, prior to a request or service of an investigative subpoena by the board for such information or records, the board shall first serve an initial inquiry in writing on the

health care provider. Such initial inquiry shall:

1. clearly identify the physician who is the subject of the board's inquiry;

2. indicate the nature of the condition, disease or infirmity which the board believes affects the subject physician's capacity to practice medicine with reasonable skill and safety;

3. request the health care provider's response as to whether such health care provider: (a) does have in his or its possession information and/or records relevant to a determination as to whether the subject physician is incapable of practicing medicine with reasonable skill and safety to patients; (b) does not have in his or its possession information or records relevant to such determination; or (c) is unable to determine whether information or records in his or its possession are relevant to such determination;

4. request that the health care provider:

a. if an institution, submit to the board a true and complete copy of all relevant medical records in the possession of the health care provider; or

b. if an individual, submit to the board, at the election of the health care provider, either:

i. a written report and evaluation summarizing the nature and course of the health care provider's services to the subject physician, the condition for which the subject physician was seen, the health care provider's diagnosis, the course of treatment, if any, the results of such treatment, and the health care provider's prognosis for the subject physician, to the extent that such information may be relevant to a determination of the physician's capacity to practice medicine with reasonable skill and safety, together with the health care provider's opinion, if any, as to whether, as of the date of such report, or as of the date that the subject physician was last seen, examined or evaluated by the health care provider, the subject physician was capable of practicing medicine with reasonable skill and safety; or

ii. a true and complete copy of all medical records in the possession of the health care provider relevant to the physician's capability of practicing medicine with reasonable skill and safety;

5. provide a summary of the provisions of R.S. 37:1278(B); and

6. prescribe a reasonable deadline for the health care provider to submit its response to the board.

B. If the board has reason to believe that a health care provider's response to its initial inquiry is inaccurate, incomplete or insufficient in any respect, notwithstanding a timely response or the submission of a written report or medical records, the board may appoint an independent consultant to consult with the health care provider concerning his or its response. The independent consultant shall be a physician licensed by the board who shall, to the extent possible and practicable, be designated by the board from among physicians engaged in the same specialty practice as the responding health care provider. In the selection of such consultant the board may consult with the Impaired Physicians Committee of the Louisiana State Medical Society or with appropriate specialty medical organizations. Such independent consultant shall be authorized to consult with the health care provider concerning the information and records in the possession of the health care provider relative to the subject physician, to examine the records of the health care provider relative to the subject physician, and to advise the board as to whether, in the opinion of the independent consultant, the

health care provider is in possession of relevant medical information and records not previously reported or provided to the board. The independent consultant's consultation with the health care provider and his examination of the health care provider's records shall otherwise be maintained in confidence, and the independent consultant shall not disclose to the board the contents of any information or records in the possession of the health care provider.

C. the board may issue and serve a subpoena for the appearance and testimony and/or the production of relevant medical information and records of a health care provider relative to a subject physician:

1. with respect to information or records, previously provided to the board in response to an initial inquiry under Subsection A of this Section, which are sought to be introduced, offered into evidence or otherwise used in connection with an adjudicatory proceeding before the board pursuant to R.S. 37:1285; or

2. when a health care provider fails to timely respond to an initial inquiry under Subsection A of this Section; or

3. when an independent consultant appointed by the board pursuant to Subsection B of this Section determines that the health care provider is in possession of relevant medical information and records not previously reported or provided to the board; or

4. when a health care provider fails or refuses to consult with or permit examination of records by an independent consultant appointed by the board pursuant to Subsection B of this Section; or

5. when the board has reasonable grounds to believe immediate disclosure or production of relevant medical information and records is imperatively required to prevent imminent danger to the public health and safety.

D. With respect to relevant medical information and records in the possession of a health care provider not subject to the board's subpoena authority or not located within the state of Louisiana who or which fails or refuses to respond to an initial inquiry by the board pursuant to Subsection A of this Section, or who fails or refuses to provide relevant medical information or records in his or its possession, the subject physician, upon reasonable prior notice and request by the board, shall be obligated to execute and subscribe a written instrument, directed to such health care provider, authorizing such health care provider to disclose and provide relevant medical information and records to the board. A physician's failure to provide such written authorization and consent, when so requested by the board pursuant to this Section, shall be deemed a violation of the rules and regulations of the board, constituting sufficient grounds under R.S. 37:1285(A)(30) for the denial of an application by the physician for licensure or for the suspension or revocation of the physician's medical license.

§8311. Confidentiality of Medical Information and Records

Medical information and records obtained by the board pursuant to R.S. 37:1278(B) and the rules of this Chapter, and as to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be maintained in confidence by the board, its officers, members, employees and agents, shall not be deemed or treated as public records, and shall be privileged against disclosure or production pursuant to administrative or judicial subpoena; provided, however, that any such information

or records which are admitted into evidence and made part of the administrative record in an adjudicatory proceeding before the board pursuant to R.S. 37:1285 shall remain confidential but shall not be privileged from disclosure and production pursuant to administrative or judicial subpoena and provided further that any such information or records made a part of an administrative adjudicatory record shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

Delmar Rorison
Executive Director

RULE

Department of Health and Hospitals Board of Medical Examiners

The Louisiana State Board of Medical Examiners (Board), under authority of R.S. 37:1270B(1) and (6) and R.S. 37:3351-61, and in accordance with the applicable provisions of the Administrative Procedure Act, has adopted the following amendments to its rules governing the qualifications for licensure and temporary licenses for respiratory therapists and respiratory therapy technicians.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Subpart 2. Licensing and Certification

Chapter 25. Licensure Qualification, Temporary License §2507. Requirements for Licensure of Respiratory Therapist

A. To be eligible and qualified to obtain a respiratory therapist license, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;

4. possess current credentials as a registered respiratory therapist granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; provided, however, that an applicant who has failed such written examination four times shall not thereafter be eligible for licensure in Louisiana;

5. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 C.F.R.);

6. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

7. satisfy the procedures and requirements for application provided by §§2513 to 2517 of this Chapter; and

8. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

§2509. Requirements for Licensure of Respiratory Therapy Technician

A. To be eligible and qualified to obtain a respiratory therapy technician license, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;

4. possess at least one of the following credentials:

a. current credentials as a certified respiratory therapy technician granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; provided, however, that an applicant who has failed such written examination four times shall not thereafter be eligible for licensure in Louisiana; or

b. be a graduate of a respiratory therapy technician program approved by the American Medical Association or its successor and have taken and successfully passed the examination administered by the board as further detailed in §§2519 to 2537 of this Chapter; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana; or

c. a temporary license issued in accordance with the provisions of §2547B of these rules and who has taken and passed the licensing examination administered by the board; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana.

5. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 C.F.R.);

6. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

7. satisfy the procedures and requirements for application provided by §§2513 to 2517 of this Chapter; and if applicable, the procedures and requirements for examination provided by §§2519-2537 of this Chapter; and

8. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

§2547. Temporary License

A. An applicant may obtain an eighteen-month temporary license as a respiratory therapy technician if he has completed the appropriate American Medical Association approved program and has applied for and is awaiting examination. The temporary license shall be valid until the date on which the results of the qualifying examination has been known and acted on by the board. The temporary license shall be renewable only once if the applicant fails the examination or if the applicant fails to take the qualifying examination. Exceptions may be made at the discretion of the board based upon an appeal identifying extenuating circumstances.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 B(1)(6) and R.S. 37:3351-61.

Delmar Rorison
Executive Director

RULE

Department of Health and Hospitals Board of Medical Examiners

The Louisiana State Board of Medical Examiners, under authority of R.S. 37:1270(B)(1) and (6), R.S. 37:1275 and R.S. 37:1272, as amended by Acts 1988, No. 887, and in accordance with the applicable provisions of the Administrative Procedure Act, has adopted the following rule governing the criteria and procedure for the licensure of certain physicians having been actively engaged in the practice of medicine in the state of Louisiana under authority of an Institutional Temporary Permit previously issued by the board pursuant to R.S. 37:1275.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Subpart 1. General

Chapter 3. Licensing and Certification of Physicians and Surgeons

Subchapter A. General Provisions

§326. Alternative Qualification (Transitional Rule)

A. A foreign medical graduate who possesses and meets all of the qualifications and requirements specified by §§323 to 325 of this Chapter, save for having successfully completed post-graduate clinical training of the duration and type otherwise required by §323.A.4, shall nonetheless be eligible for licensure, upon application, if, for a period of not less than 48 consecutive months, he has been actively engaged in the practice of medicine in the state of Louisiana under authority of an Institutional Temporary Permit previously issued by the board pursuant to R.S. 37:1275, and his professional performance in exercising privileges under such permit is determined by the board to have been satisfactory relative to the physician's cognitive and clinical competence.

B. In considering an application made pursuant to this Section, the board may make such inquiry and require the applicant to submit, or cause to be submitted, such documentation as the board deems necessary or appropriate to provide a reasonable basis for determining whether the applicant's professional performance while holding an Institutional Temporary Permit has been satisfactory and whether, at the time of the application, the applicant is capable of practicing medicine with reasonable competence, skill and safety to patients. Without limitation on such authority, as a condition to consideration of an application made pursuant to this Section, the board may require an applicant to authorize and cause to be submitted to the board, in writing, an evaluation of the applicant's medical competence and professional performance while holding an Institutional Temporary Permit by: (i) the physician serving as chief of staff (or equivalent position) at the time application for licensure is made hereunder, and (ii) the physician(s) serving as the applicant's immediate medical supervisor(s), responsible for his professional performance, at the time application for licensure is made hereunder and for the preceding two years. Each such written evaluation shall include a description of the nature and scope of the applicant's clinical practice at the subject institution, the author's general evaluation of the applicant's professional performance at such institution, advice as to whether the applicant has been the sub-

ject of employment or professional complaint or disciplinary action while at such institution (including the nature and result of any such complaint or action), and the author's opinion as to whether the applicant is currently capable of practicing medicine with reasonable skill and safety to patients pursuant to unrestricted medical licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1)(6), R.S. 37:1275 and R.S. 37:1272.

Delmar Rorison
Executive Director

RULE

Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Vital Records Registry of the Office of Public Health, Department of Health and Hospitals has amended the procedures and evidence requirements to alter a Certificate of Live Birth based on an Acknowledgement of Paternity or Judgment of Filiation as provided for in the Louisiana Civil Code, Articles 203 and 209. The promulgation of rules is authorized by 40:33C. and 40:59, 60.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 115. Acknowledgements

§11501. Acknowledgement of Paternity

A. Introduction

1. All documents submitted to accomplish changes on a birth certificate as a result of Acknowledgements of Paternity or Judgments of Filiation shall be either the original or certified, true copies of the original instruments bearing an official seal. All documents submitted shall be retained by the state registrar.

2. Certificates of Live Birth, new or altered as a consequence of an Act of Acknowledgement or Judgment of Filiation, shall be distinctly marked "Acknowledgement" or "Filiation Judgment" in the confidential section and shall include the evidentiary basis for the action, the date of the action, and the full signature of the state registrar or his designee.

3. A birth certificate which bears a father's surname and data shall only be altered when there has been a successful disavowal of paternity by the father or heirs in accordance with Codal Articles 187 and 190 within the time specified by Codal Article 189. When such a disavowal can not be obtained, it is suggested that an adoption be considered.

B. Voluntary Acknowledgement of Paternity - Minors

1. In circumstances wherein the birth certificate of a child on file in the Vital Records Registry does not reflect the name of a father, the certificate may be altered by an authentic Act of Acknowledgement in compliance with the provisions of Louisiana Civil Code, Article 203.

2. The state registrar of Vital Records shall recognize formal and authentic Acts of Acknowledgement executed before the notary public, by the father and the mother jointly in the presence of two competent witnesses; when the mother is unable to appear before a notary public, the registrar shall recognize a formal and authentic Act of Acknowledgement executed by the father before a notary public and two competent witnesses which has been endorsed by the mother in the presence of two competent witnesses signifying that the mother concurs. An acknowledgement by the child's mother or father alone, while authorized pursuant to Article 203, shall have no effect on the birth record. In other words, the child's mother or father, acting alone, may not cause a father's name or data to be added onto a birth record.

3. The Act of Acknowledgement shall set forth the acknowledging father's address and full name, city and state of birth, age at the time of the child's birth, and the father's race. In the event that the above information relating to the child's father is not a part of the authentic act itself, that information may be otherwise provided in writing by the acknowledging parent(s) or an attorney acting on his or their behalf.

4. The surname of the child that the parents desire appear on the birth certificate shall be specifically included in the Acknowledgement of Paternity. The surname may be either the maiden name of the mother, the surname of the biological father or a hyphenated combination of the two surnames in the order specified by the parents.

5. After a birth record has been filed and registered in the Vital Records Registry and upon presentation of an Act of Acknowledgement and parental information, the state registrar or his designee shall prepare a new Certificate of Live Birth for the child incorporating the specified birth facts. The biological father shall sign the new certificate. The date of the informant's signature shall be left blank on the Certificate of Live Birth. The mother's signature shall be obtained if the father is not available. If neither are available, the state registrar is authorized to sign for the parents.

6. Except in instances of "in-hospital" acknowledgements, when the attendant's name is not legible on the original Certificate of Live Birth, it shall be the responsibility of the parents to obtain a written, signed statement from the attendant attesting to his attendance at the birth. When such a signed statement cannot be obtained from the attendant, the statement may be obtained from the administrator of the medical institution where the birth occurred or his designee on the letterhead of that institution. The name of the attendant shall be typed on the Certificate of Live Birth along with the date of the attendant's signature as it appeared on the original birth document.

7. No alterations of birth data other than the child's surname, and the data relative to the biological father may occur based on an Act of Acknowledgement.

8. The fee specified for an Acknowledgement (See R.S. 40:40 [8]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for any copies of the revised Certificate of Live Birth desired by the parents.

C. Obtaining a "New" Certificate of Live Birth on an "Old" Acknowledgement of Paternity for those Persons Who have not reached the Age of Majority

1. The mother or father of a child who was acknowledged prior to the effective date of this rule may formally request

that a new Certificate of Live Birth be issued. Provided that the acknowledgement documents on file are in proper order as specified in "A.1." above and the information regarding the attendant is provided, a new certificate may be issued. Any deviation from the surname of the child as it appears on the Certificate of Live Birth already on file shall be in accordance with the naming process outlined above and shall require an affidavit in which the mother and biological father concur in the revised surname.

2. The fee specified for a Certificate of Live Birth "correction" (See R.S. 40:40 [10]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for any copies of the revised Certificate of Live Birth desired by the parents. Fees previously paid shall not be credited against the correction fees.

D. Judgment of Paternity or Filiation Concerning a Minor

1. A Certificate of Live Birth which does not have a father's name and data on file with Vital Records Registry may be altered by a judgment of paternity or filiation issued by a court of competent jurisdiction. Only the surname of the child may be altered and/or the facts relative to the father may be added as a result of the judgment. A certified copy of the paternity or the filiation judgment, along with a certified copy of the petition shall be submitted to the state registrar.

2. The fee specified for an Acknowledgement (See R.S. 40:40 [8]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for any copies of the revised Certificate of Live Birth desired by the parents.

E. Acknowledgement of Paternity on Persons who have Reached the Age of Majority

1. If at the time of Acknowledgement of Paternity, or Judgment of Paternity or Filiation the registrant shall have reached the age of majority, the state registrar shall require an affidavit(s) to be obtained from the district attorney(s) of the place(s) of residence and domicile of the said person for the past five years, wherein the district attorney(s) shall state objections, if any exist, to the name change aspects, prior to the preparation of the altered or new Certificate of Live Birth. If there is no objection, the state registrar may proceed to alter the birth record or issue the "new" certificate, whichever is appropriate. If there is an objection, the state registrar may not proceed with the alteration or new certificate until the district attorneys' objections, if any, have been resolved.

AUTHORITY NOTE: Promulgated in accordance with La. Civil Code Art. 203; R.S. 40:32, R.S. 40:33, R.S. 40:46, and R.S. 40:59-60.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1978), amended LR 15: (April 1989).

David L. Ramsey
Secretary

RULE

Department of Revenue and Taxation Office of the Secretary

The Department of Revenue and Taxation adopts LAC 61:I.4359, relative to the penalty for failing to maintain proper books and records as required under the sales tax law.

Title 61

REVENUE AND TAXATION

Part I. Taxes collected and administered by the Secretary of Revenue and Taxation

Chapter 43. Sales and Use Tax

§4359. Dealers Required to Keep Records

A. Every person required to collect or remit the tax imposed under this Chapter shall keep a permanent record of all transactions in sufficient detail to be of value in determining the correct tax liability under this Chapter. The records to be kept shall include all sales invoices, purchase orders, merchandise records, inventory records, credit memoranda, debit memoranda, bills of lading, shipping records, and all other records pertaining to any and all purchases, sales, or use of tangible personal property whether or not the person believes them to be taxable under this Chapter. Full detail must be kept of all property leased or rented from or to others and all services performed for or by others. They must also keep all summaries' recapitulations, totals, journal entries, ledger accounts, accounts receivable records, accounts payable records, statements, tax returns, and other documents listing, summarizing, or pertaining to such sales, purchases, inventories, shipments, or other transactions dealing with tangible personal property.

B. Where such records are voluminous, they must be kept in chronological order or in some other systematic order compatible with the taxpayer's regular bookkeeping system which will enable the secretary to verify the accuracy of information contained in tax returns.

C. 1. Records kept on punched cards, magnetic tape, magnetic (floppy) diskettes or other mechanical or electronic record keeping equipment are permissible provided the taxpayer makes available all necessary codes, program specifications, and equipment to enable the secretary to audit such records, or provides the secretary with written transcripts of these parts of the records which the secretary wishes to examine.

2. If it is mutually agreed, the dealer may furnish the secretary with data in a machine readable form, such as on floppy disk or magnetic tape, in addition to the source documents necessary to verify the data in order to facilitate the examination.

D. The books and records must contain complete information pertaining to both taxable and non-taxable items which are the subject of taxes imposed herein, and must be retained until the taxes to which they relate have prescribed according to R.S. 47:1579. If a notice of assessment has been issued by the secretary, the records for the period covered by the notice must be retained until such time as the issues involved in the assessment have been completely disposed of. Records required by this Section must be available at all times during the regular business hours of the day for inspection by the secretary or his duly authorized agents.

E. Any person who fails to keep records required herein or who refuses to make the records available for inspection by the secretary or who keeps records which are insufficient for use by the secretary in determining the correct tax liability makes himself liable for a fine of up to \$500 for each reporting period or imprisonment for up to 60 days, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:309.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 10:107 (February 1987), amended LR 15: (April 1989).

Arnold A. Broussard
Secretary

RULE

Department of Revenue and Taxation Office of the Secretary

The Department of Revenue and Taxation adopts a regulation numbered LAC 61:I.4901 for LSA R.S. 47:1561.1, concerning the personal liability corporate officers and directors for income taxes withheld from wages of employees and sales and use taxes collected from customers and not remitted.

Title 6

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 49. Tax Collection

§4901. Alternative Remedies for the Collection of Taxes

A. R. S. 47:1561.1 provides an alternative means of enforcing collection of income taxes withheld from wages of employees and sales and use taxes collected from customers, should a corporation fail to file returns or fail to remit such taxes, by holding certain officers or directors of the corporation personally responsible. Three criteria must be met before a corporate officer or director can be held personally liable:

1. The corporation must have failed to remit the collected taxes.

2. The officer or director must have direct control over or supervision of such taxes or must be charged with the responsibility for filing returns and remitting the taxes.

3. The officer or director must have willfully failed to remit or account for such taxes.

B. Failure to Remit by Corporation

1. A corporation must have actually withheld income taxes from the wages of its employees or must have actually collected sales or use taxes from customers or consumers and failed to account for or remit these taxes to the secretary before a claim can be made against an officer or director. Officers or directors cannot be held personally responsible for sales and use tax amounts determined by audit to be due but not actually collected by the corporation.

2. Taxes Actually Withheld or Collected

a. If a corporation pays net wages to its employees, it will

be deemed to have withheld any income taxes required to be withheld.

b. If a corporation pays wages in property other than money, it will be deemed to have withheld income taxes on such payment.

c. Where a corporation makes sales on credit or on open account and the sales tax is shown on the invoice, some payment on the invoice must be received before the tax will be deemed to have been collected.

i. Any payment on open account will be applied to the oldest invoice first, unless otherwise indicated.

ii. Any partial payment on an invoice will be applied to the sales tax first, unless otherwise indicated.

3. Reasonable efforts must be made to collect the designated taxes from the corporation before proceeding against an officer or director. It will be assumed that collection from the corporation cannot be made if the corporation has filed bankruptcy, has discontinued business and has no unencumbered assets, or has been liquidated.

4. Payments made by a corporation on its tax account will be applied toward any non-trust fund taxes first, unless the taxpayer designates in writing how a particular payment is to be applied at the time the payment is made, or the facts and circumstances indicate otherwise. For example, if a corporation owes, for a particular period, both sales taxes which have been collected and use taxes on purchases, any partial payment will be applied first to the use taxes owed by the corporation.

C. Responsible Officers or Directors

1. Definition. A responsible officer or director is one who has the duty to perform or the power to direct the act of collecting, accounting for, and paying over trust fund monies. He or she must be an officer or director of the corporation which failed to remit the taxes and must have sufficient control over funds to direct disbursement of such funds.

2. Designation of responsible officer or director. The law provides that a corporation by resolution of the board of directors may designate an officer or director having direct control or supervision of withheld or collected taxes or charged with the responsibility of filing returns and remitting such taxes, and such resolution shall be filed with the Secretary of State. If such a designation has been filed the named officer or director shall be considered responsible. If no designation has been filed, all facts and circumstances must be considered. No one factor will determine whether the officer or director is responsible. In all cases, there will be at least one corporate officer with the responsibility for collection and payment of taxes. Some factors to be considered are:

a. what the individual's duties were as outlined by the corporate bylaws;

b. whether the individual had the authority to sign company checks;

c. whether the individual signed the tax returns of the company;

d. whether the individual paid or directed payment to creditors other than the state of Louisiana;

e. whether the individual was a principal stockholder;

f. whether the individual hired and discharged employees;

g. whether the individual controlled the financial affairs of the company in general; or,

h. whether an officer or director was designated as responsible for filing returns and remitting taxes even though no resolution was filed with the Secretary of State. An officer or director to whom such responsibility has been delegated cannot avoid his responsibility by delegating it to a subordinate employee.

3. Multiple responsible persons. There may be instances when more than one officer or director has responsibility for taxes. If such a determination is made, the secretary may assess all responsible officers and directors and may proceed to recover the entire amount from any one officer or director or partial payments from any combination thereof. The total amount of tax collected must not exceed the corporation's total liability. For example, if the corporation pays the liability after an assessment is made against a responsible officer, a corresponding credit should be given to that officer.

D. Willfulness

1. The term "willful" means intentional, deliberate, voluntary, and knowing, as distinguished from accidental. Willfulness is construed to be the attitude of a person who, having free will or choice, either intentionally disregards the law or is plainly indifferent to the requirements of the law. Willfulness includes a "reckless disregard for obvious or known risks" or a "failure to investigate or correct mismanagement."

2. If an officer or director permits withheld or collected taxes to be used to pay operating expenses of the business, whether by direction or tacit approval, he has willfully failed to account for or remit such taxes.

3. The determination of willfulness does not require a finding of bad motives, such as intent to defraud.

E. Alternative Remedies for Collection of Taxes

Any of the methods of collection provided by R.S. 47:1561 may be used to collect taxes from responsible officers or directors.

F. Prescription and Waivers

The prescription period of the tax in question will also apply to any assessment under R.S. 47:1561.1. A waiver of prescription executed by the corporation will not be valid for assessments against officers or directors. Separate waivers must be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1561.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 15: (April 1989).

Arnold A. Broussard
Secretary

RULE

Department of Social Services Board of Examiners of Licensed Professional Vocational Rehabilitation Counselors

Notice is hereby given that the Louisiana Licensed Professional Counselors Board of Examiners, in accordance with the Administrative Procedure Act R.S. 49:950, et seq., adopted

rules and regulations implementing Act 555 of the 1988 Legislature. R.S. 37:3441-3552 and R.S. 36:478 (I) are contained in the rules and regulations.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXVI. Vocational Rehabilitation Counselors

Chapter I. General Provisions

§101. Statutory Authority

The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners was created and empowered by Act 555 of the 1988 Legislature to provide regulation of the practice of vocational rehabilitation counseling and provide for the regulation of the use of the title "Licensed Professional Vocational Rehabilitation Counselor" (R.S. 37: 3441), which will be known as L.R.C. Therefore, the Professional Vocational Rehabilitation Counselors Board of Examiners establishes the rules and regulations herein pursuant to the authority granted to, and imposed upon said board under the provisions of the Louisiana Revised Statute, Title 37, Chapter 53, R.S. 37:3441-3452, and R.S. 36-478(I).

§103. Description of Organization

The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, hereafter referred to as the board, resides in the Department of Social Services, and consists of five members, who shall be residents in the state of Louisiana. Board members are appointed by the governor as specified in §3444 within 60 days after the effective date of Chapter 13 of Title 37 to serve the following terms: one member for a term of two years, two members for a term of three years, and two members for a term of four years. Thereafter, each term shall be for four years and each of these appointments shall be submitted to the Senate for confirmation. Board members consist of three licensed professional vocational rehabilitation counselors, and two individuals from the public at large. No board member shall serve more than two full consecutive terms.

Appointments to the board are made from a list of qualified candidates submitted by the Executive Committee of the Louisiana Association for Rehabilitation Professionals. No board member shall be liable in any civil action for any act performed in good faith in the execution of his duties under Chapter 53 of Title 37 (R.S. 37:3446-3452, and R.S. 36:478(I)).

§105. Vacancies

A vacancy occurring in board membership for an unexpired term shall be filled for the remainder of the term by the governor, within 30 days, from a list of qualified candidates submitted by the Executive Board of the Louisiana Association of Rehabilitation Professionals. Unexpired terms shall be filled by appointment by the governor, within 30 days, from a list of qualified candidates prescribed in Section 3444 of R.S. 37:3441-3452.

§107. Reimbursement

Each board member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board business.

Chapter 3. Board Meetings, Procedures, Records, Powers and Duties

§301. Officers

The board shall hold a meeting within 60 days after October 1, 1988, and semiannually thereafter, and elect from its

membership a chairman, vice-chairman, and secretary. The chairman shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 53 of Title 37 (R.S. 37:3441-3452, and R.S. 36:478(I)) and the board. The chairman is authorized by the board to make day-to-day decisions regarding board activities to facilitate the responsiveness and effectiveness of the board. The vice-chairman shall perform the duties of the chairman in case of absence or disability of the chairman. In the event the office of chairman becomes vacant, the vice-chairman shall serve as chairman until a successor is named. In the absence of the chairman and vice-chairman, the secretary will preside until the chairman or vice-chairman is present. The secretary shall keep the minutes of board meetings and send said minutes to board members and clerical secretary of the board before each regular meeting of the board.

§305. Board Staff

The board shall hire a clerical secretary, who shall not be a member of the board, within the limits of funds received by the board pursuant to R.S. 37:3446. In place of a full-time secretary, the board may hire two part-time staff. The clerical secretary will keep the records and files of the board and communicate with the candidates for licensure and others concerning board activities under the direction of the chairman of the board.

§307. Meetings

The board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board within the state of Louisiana, after reasonable notice. The board shall hold a meeting within 60 days after October 1, 1988, and semiannually thereafter. The chairperson may call meetings after consultation with the board members or by a majority of members voting at a regular meeting. Reasonable notice of all board meetings will be given seven days before the meeting. The board may examine, deny, approve, revoke, suspend, and renew the license of applicants and shall review applications at least once a year.

309. Quorum

Three members of the board shall constitute a quorum of the board at any meeting or hearing for the transaction of business and may examine, approve, and renew the license of applicants.

§311. Procedures

The board shall adopt such rules, regulations, and examination procedures as it may deem necessary to effect the provisions of Act 555 (Chapter 53, R.S. 37:3441-3452 and R.S. 36:478(I)). The board shall be empowered to accept grants from foundations and institutions to carry on its functions. The board shall submit an annual report to the governor containing the financial and professional actions of the board during the past year. The board shall adopt a seal which shall be affixed to all licenses issued by the board. The board hereby adopts *Robert's Rules of Order Revised* as the basis of parliamentary decisions by the board except as otherwise provided by board rules.

§313. Code of Ethics

The board has adopted the Code of Ethics of the National Association of Rehabilitation Professionals in the Private Sector as specified in R.S. 37:3445 and may adopt any revisions or additions deemed appropriate or necessary by the board.

§315. Records of Proceedings

The board shall keep a record of its proceedings including applicant examinations, a register of applicants for licenses, and

a register of licensed professional counselors which shall be made available to the public.

Chapter 5. License and Practice of Vocational Rehabilitation Counseling

§501. License of Title and Practice

As stated in R.S. 37:3450(A), no person shall assume or use the title or designation "Licensed Professional Vocational Rehabilitation Counselor" or engage in the practice of vocational rehabilitation counseling unless he has in his possession a valid license issued by the board under the authority of this Chapter. Only licensed rehabilitation counselors can engage in the practice of vocational rehabilitation counseling.

§503. Definitions

For purposes of this rule, the following definitions will apply:

A. *Board* - means the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners.

B. *Licensed professional vocational rehabilitation counselor*- means any person who holds himself out to the public for a fee or other personal gain by any title or description of services incorporating the words "licensed professional vocational rehabilitation counselor" or any similar term, and who offers to render professional rehabilitation counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organization, or the general public, and who implies that he is licensed to practice vocational rehabilitation counseling.

C. *Practice of vocational rehabilitation counseling* - means rendering or offering to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures or the vocational rehabilitation counseling profession which include but are not limited to:

1. *Rehabilitation counseling* - which means assisting an individual or group, through the counseling relationship, to define vocational goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs, as these are related to rehabilitation concerns, educational progress, and occupations and careers.

2. *Referral activities* - which means the evaluating of data to identify problems and to determine the advisability of referral to other specialists.

3. *Vocational rehabilitation services* - which includes but is not limited to vocational assessment, vocational counseling, education and training services including on-the-job training, self employment plans and job placement.

4. Referral activities and vocational rehabilitation services shall not include neuropsychological testing.

D. *Rehabilitation counseling services* - means those acts and behaviors coming within the practice of rehabilitation counseling as defined in R.S. 37:3443.

Chapter 7. Requirements for Licensure and Renewal of License

§701. General Provisions

The board shall license to practice all persons who present satisfactory evidence of qualifications as specified in these rules and regulations of the board. Such licensure shall be signed by the chairman and vice-chairman of the board under the seal of the board. No license shall be denied any applicant

solely based upon the applicant's age, race, religion, creed, national origin, sex or physical impairment.

§703. Requirements

The board shall issue a license to each applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by R.S. 37:3447 and who furnishes satisfactory evidence to the board that he:

A. is at least 21 years of age;

B. is of good moral character;

C. is not in violation of any of the provisions of R.S. 31:3441-3452 and the rules and regulations adopted herein;

D. has declared special competencies and demonstrated professional competence by successfully passing the Certified Rehabilitation Counselor Examination offered by the Commission on Rehabilitation Counselor Certification, and forwarding such documentation to the board;

E. has received a Master's degree in Rehabilitation Counseling or related field and two years of experience under the direct supervision of a licensed vocational rehabilitation counselor or a Bachelor's degree in Vocational Rehabilitation or related field and five years of work experience, working under the direct supervision of a licensed vocational rehabilitation counselor. Rehabilitation counselors who employ or supervise other professionals or students will facilitate professional development of such individuals. They provide appropriate working conditions, timely evaluations, constructive consultation, and experience opportunities.

§705. Renewal

A licensed professional vocational rehabilitation counselor shall renew his license by paying the renewal fee every year by August 1, and by meeting the requirement that 50 clock hours of continuing education be obtained every two years prior to each renewal date every year in an area of professional rehabilitation counseling as approved by CRC, NCC, or by the board. The chairman shall issue a document renewing the license for a term of one year. The license of any vocational rehabilitation counselor who fails to have his license renewed during the month of June shall lapse; however, the failure to renew said license shall not deprive said counselor the right of renewal thereafter. A lapsed license may be renewed upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement.

Chapter 9. Fees

§901. General

A. The board shall collect the following fees stated in § 3446:

1. Application, license and seal \$100

2. Renewal of license \$ 50

3. Reissuance for lost or destroyed license . \$ 50

B. No part of any fee shall be refundable under any conditions other than failure of the board to hold examinations on the date originally announced. All fees for licensing must be paid to the board by certified check or money order.

§903. Deposit and Use of Fees and Funds

All fees collected and all gifts or grants shall be deposited and credited to the account of the board in a licensed financial institution of the board's choosing. The funds of the board may be used for printing, travel expenses of the board, and for other

necessary expenses as are essential to carrying out of the provisions of R.S. 37:3441-3452. Expenses shall be paid under the written direction of the chairman of the board in accordance with procedures established by the Division of Administration. Any surplus at the end of the fiscal year shall be retained by the board for future expenditures.

Chapter 11. License

§1101. Denial, Revocation, or Suspension of License

A. The board, by affirmative vote of at least four of its five members, shall withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37: 3441-3452 or otherwise discipline a licensed professional vocational rehabilitation counselor upon proof that the applicant or licensed professional vocational rehabilitation counselor:

1. has been convicted in a court of competent jurisdiction of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof;

2. has violated the code of ethics of the National Association of Rehabilitation Professionals in the Private Sector;

3. is abusing drugs or alcohol to an extent or in a manner dangerous to any other person or the public, or to an extent that said use impairs his ability to perform the work of a licensed rehabilitation counselor;

4. has impersonated another person holding a professional vocational rehabilitation counselor license or allowed another person to use his license;

5. has used fraud or deception in applying for a license or in taking an examination provided for in this Chapter;

6. has allowed his name or license issued by the board to be used in connection with any person who performs vocational rehabilitation counseling services outside of the area of their training, experience, or competence;

7. is legally adjudicated mentally incompetent, the record of such adjudication being conclusive evidence thereof;

8. has willfully or negligently violated any of the provisions of R.S. 37:3441-3452 or these rules and regulations.

B. Notice of denial, revocation, suspension, or disciplinary action shall be sent to the applicant or licensee by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing. The written notice shall be sent to the person's last known address, but the nonappearance of the person shall not prevent such a hearing. For the purpose of such a hearing, the board may subpoena persons, books, and papers, on its own behalf or on behalf of the applicant or licensee who may appear by counsel or personally in his own behalf.

C. On the basis of any hearing or upon default of applicant or licensee, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision of the board denying, revoking, or suspending the license shall become final 30 days after being mailed or served unless within said period the applicant or licensee appeals the decision as provided by the Administrative Procedure Act. No such appeal while pending appropriate court action shall supersede such denial, revocation, or suspension. All proceedings and evidence presented at hearings before the board may be admissible during appellate proceedings.

D. Every order and judgment of the board shall take effect immediately on its promulgation unless the board in such order or judgment fixes a probationary period for applicant or licensee. Such order and judgment shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgments in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

E. The board is authorized to suspend the license of a licensed professional vocational rehabilitation counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

Chapter 13. Exclusions

§1301. Scope

The following persons and their activities are exempted from the licensing requirements of R.S. 37:3441-3452 and these rules.

§1303. Exemptions

A. A certified school counselor who meets the standards prescribed by the State Department of Education and the Board of Elementary and Secondary Education, while practicing school counseling within the scope of his employment by a board of education or by a private school.

B. Any nonresident temporarily employed in this state to render vocational rehabilitation counseling services for not more than 30 days a year, who meets the requirements for licensure in R.S. 37:3447 or who holds a valid license or certificate issued under the authority of the laws of another state or national certifying agency.

C. Any persons employed or supervised by a licensed professional vocational rehabilitation counselor, while carrying out specific tasks under the licensee's supervision. The supervisee shall not represent himself to the public as a licensed professional rehabilitation counselor.

D. Any student in an accredited educational institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a professional rehabilitation counselor. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.

E. Any individual using the official title of the position and activities for which that person is employed by federal or state agency, any agency of a parish, municipality, or their political subdivision, any private non-profit agency, accredited clinic, non-profit hospital, or for-profit hospital provided that such persons are performing these activities as part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization by which they are employed. Such persons shall not render rehabilitation counseling services to the public for a fee, monetary or otherwise, over and above the salary they receive for the performance of their official duties with the organization by which they are employed.

F. Any persons licensed, certified, or registered under any other provision of state law, or under the rules of the Louisiana Supreme Court practicing those arts, utilizing counseling, and utilizing those titles that are allowed and within the standards and ethics of their profession or within new areas of practice that represent appropriate extensions of their profession.

G. Any priest, rabbi, Christian Science practitioner, or minister of the gospel of any religious denomination.

Chapter 15. License Without Examination

§1501. License Without Examination

As prescribed in R.S. 37:3448, for a period of one year from the effective date of Act 555, July 14, 1988, the board shall waive both written and oral examination and shall issue a license as a licensed professional vocational rehabilitation counselor to each applicant who files an application upon a form and in such a manner as the board prescribes, accompanied by such fees required by R.S. 37:3446, and who furnishes satisfactory evidence to the board that he:

- 1. is at least 21 years old;
- 2. is of good moral character;
- 3. is not in violation of any of the provisions of R.S. 37:3441-3452 and the rules and regulations adopted hereunder.
- 4. has received one of the following:
 - a. a Master's degree in Rehabilitation Counseling or related field and two years experience in a vocational rehabilitation setting;
 - b. a Bachelor's degree in Rehabilitation Counseling or related field and five years experience in a vocational rehabilitation setting.
 - c. Certified rehabilitation counselor, certified insurance rehabilitation specialist and 10 years of vocational rehabilitation experience.

§1503. Completion of Licensure Process

Applicants who apply for a license upon a form prescribed by the board before the termination of the license without examination period R.S. 37:3448, are granted a term of six months to furnish the board with all information and documents required for said license under R.S. 37:3448.

Larry S. Stokes
Chairman

RULE

**Department of Social Services
Office of Community Services
Children's Trust Fund**

The Louisiana Children's Trust Fund "Plan for Preventing Child Abuse, 1989-91" has been approved by the Joint Committee on Health and Welfare of the Louisiana Legislature and adopted by the Children's Trust Fund Board.

The "Plan for Preventing Child Abuse, 1989-91" becomes effective upon publication of this rule and will form the basis for future activities of the Children's Trust Fund.

Larry J. Hebert, M.D.
Chairman

RULE

**Department of Social Services
Office of Eligibility Determinations**

The Department of Social Services, Office of Eligibility Determinations, proposes to adopt the following rule in the Aid to Families with Dependent Children Program.

Implementation of this policy is optional under federal regulations 233.20(a)(3)(iv)(F). The OED is electing to implement this policy as it is expected to favorably impact the AFDC error rate. Recipients do not, as a rule, report receipt of gifts as they do not consider gifts to be income. Thus, gifts are not usually budgeted. When Quality Control later determines a gift was, in fact received, an AFDC error occurs.

Rule

Monetary gifts, such as birthday, Christmas and graduation gifts, up to \$30 per recipient per calendar quarter will not be counted as income in determining AFDC eligibility or benefit amount.

May Nelson
Secretary

RULE

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program amended its Plan Document of Benefits to impose a \$50 deductible for emergency room treatment unless the covered person is hospitalized immediately following the emergency room treatment, as follows:

Add the following language under SCHEDULE OF BENEFITS, COMPREHENSIVE MEDICAL BENEFITS. . .

Deductibles: . . .

Emergency Room (Waived for immediate admission to a Hospital from the Emergency Room) Per visit (Prior to and in addition to Calendar Year Deductible) . . . \$50
and

Under ARTICLE 3, SECTION III., A. - SUPPLEMENTAL EMERGENCY ACCIDENT BENEFITS amend the language in the second paragraph as follows:

The supplemental emergency accident benefits will be payable prior to benefits available under all other provisions of this contract, and no deductible amount shall apply to benefits payable under this Section except for the emergency room deductible as specified in the Schedule of Benefits.

James D. McElveen
Executive Director

RULE

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program adopted the following fee schedule as mandated by Act 1009 of the 1988 Regular Legislative Session, effective July 1, 1989:

This rule may be viewed in its entirety at the Board of Trustees of the State Employees Group Benefits Program, 5825 Florida Boulevard, Baton Rouge, LA.

James D. McElveen
Executive Director

RULE

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its rules to implement the following rate increase, effective July 1, 1989. The listed COBRA rates are for part-time employees only. There is no state contribution for other COBRA participants.

	Current Rates	Revised Rates Eff. 7/1/89	Employer Cost Increase	Employee Cost Increase	Total Increase
Employee Only	\$ 119.52	\$ 150.20	\$ 15.34	\$ 15.34	\$ 30.68
Emp. w/Medicare	62.32	72.08	4.88	4.88	9.76
COBRA Participant	121.88	153.20	15.66	15.66	31.32
Emp. & 1 Dep.	\$ 207.40	\$ 266.12	\$ 29.36	\$ 29.36	\$ 58.72
One w/Medicare	148.08	183.72	17.82	17.82	35.64
Two w/Medicare	136.72	169.16	16.22	16.22	32.44
COBRA Participant & One Dependent	\$ 211.52	\$ 271.44	\$ 29.96	\$ 29.96	\$ 59.92
Employee & Family	\$ 275.16	\$ 329.08	\$ 26.96	\$ 26.96	\$ 53.92
One w/Medicare	207.16	241.48	17.16	17.16	34.32
Two w/Medicare	191.72	223.04	15.66	15.66	31.32
COBRA Participant & Family	\$ 280.64	\$ 335.64	\$ 27.50	\$ 27.50	\$ 55.00

Rates for surviving spouses are the same as those listed above. However, the surviving spouse must pay the entire premium amount as there is no state contribution.

Sponsored dependent rates will be \$125.56 per person without Medicare, and \$70.08 per person with Medicare. There is no state contribution for sponsored dependent parents.

James D. McElveen
Executive Director

RULE

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its Plan Documents of Benefits as follows:

Under ARTICLE 3, SECTION IX. COORDINATION OF BENEFITS, C. delete the following paragraph in its entirety:

Benefits not paid due to the application of the coordination of benefits provision may be accrued for a single claim determination period. Such accrued amounts may be used, with respect to that covered person only, to provide additional benefits when the combined payment of the primary plan and all secondary plans does not provide 100 percent reimbursement for all allowable expenses. This accrued amount shall not carry over to the next claim determination period.

James D. McElveen
Executive Director

RULE

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

The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations establishing a marking system for all gill nets and trammel nets used in the saltwater areas of the state delineated by R.S. 56:322:

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§325. Marking System for Saltwater Gill Nets and Trammel Nets

A. Each gill net or trammel net shall be marked with a waterproof tag attached to the corkline at each end of the net, no more than three feet from the edge of the webbing. Said tags shall be supplied by the commercial fisherman and to be completely waterproof. Each tag shall have the fisherman's full name (no initials) and commercial fisherman's license number (not the net license number) printed thereon in the English language, so as to be clearly legible.

B. Each gill net or trammel net shall be marked with buoys which shall be visible above the surface of the water. Said buoys shall be supplied by the commercial fisherman, have a minimum diameter of six inches and be international orange in color. The buoys shall be attached to each end of the net.

Virginia Van Sickle
Secretary

RULE

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

Pursuant to the authority granted under R.S. 56:22, the Louisiana Wildlife and Fisheries Commission hereby adopts the following rule to prohibit fish seining on the Louisiana sides of Old River Lake, Vidalia, and Old River Lake, Deer Park, Concordia Parish, Louisiana; except, that fish seining will be legal under a special permit issued by the Louisiana Department of Wildlife and Fisheries as described below:

Date

SPECIAL COMMERCIAL FISH SEINING PERMIT NUMBER: _____

NAME: _____

ADDRESS: _____

FOR PERIOD: January 1, _____ to December 31, _____

This permit entitles the holder, who must have a valid fish seine license, to conduct legal fish seining operations on the Louisiana sides of Old River Lake, Vidalia, and Old River Lake, Deer Park, Concordia Parish, Louisiana.

In addition to existing Louisiana fish seining rules the following special permit regulations shall apply.

1. Seining shall be permitted only on Monday through Friday, during daylight hours from sunrise to sunset.

2. Permittee shall notify enforcement personnel, Louisiana Department of Wildlife and Fisheries, located at the Region IV office headquarters, Ferriday, Louisiana, at least 24 hours prior to conducting each seining operation.

3. Permittee shall make every effort to conduct seining operations as per R.S. 56:328 which states: Nets shall not be hauled out upon the shore in such a way that any illegal fish which may happen to be taken therein cannot be returned to the water without injury.

4. Permittee shall leave no fish captured during a seining operation, on or in the vicinity of the shoreline.

5. Permittee must have this permit on his person while using or transporting commercial fish seines in the above described waters.

6. Failure to comply with the terms of this permit or any Louisiana commercial fishing regulations, or any Mississippi State commercial fishing regulations on the Mississippi side of the above lakes shall result in immediate cancellation of the permit, and the option to deny the issuance of another seine permit in the future.

7. This permit is issued on a calendar year basis and shall be renewed each year.

I have read and understand the terms of this permit and agree to comply.

SIGNATURE: _____

COMMERCIAL FISHERMAN LICENSE NUMBER: _____

Virginia Van Sickle
Secretary

**Notices
of
Intent**

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

The State Civil Service Commission will hold a public hearing Wednesday, May 3, 1989 to consider amending Civil Service Rule 19.8. The public hearing will begin at 8 a.m. in the Second Floor Commission Hearing Room, DOTD Annex Building, Baton Rouge, LA.

Consideration will be given to the following:

PROPOSAL TO AMEND RULE 19.8

§19.8. Adjustment of the Range Minimums

a. Upon approval of the commission, the interim minimum may be replaced by range minimums which have been adjusted upward in order to partially or completely restore the uniform 50 percent range spread.

b. Upon adjustment of the range minimums as referenced in Rule 19.8(a), all employees whose rate of pay fall below that new minimum shall have their pay established in accordance with Section 19.3(c) and 19.4 as applied to the new range minimum rather than the interim minimum.

EXPLANATION

We are revising 19.8 in order to postpone movement to the real minimum because we do not wish to increase salaries of the newly hired state employee when the more senior state employee has not received a merit increase this year. Also, because merit increases were not given in fiscal year 88/89, the estimated cost of moving to real minimum has more than doubled. This would place an unnecessary burden on state departments expected to absorb the costs in the 89/90 budget.

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

Herbert L. Sumrall
Director

NOTICE OF INTENT

**Department of Economic Development
Economic Development Corporation**

The Board of the Louisiana Economic Development Corporation proposes to amend its rules. At the February 22, 1989 board meeting the amended rules were adopted.

The rules may be viewed in their entirety in the emergency rule section of this issue.

Written comments concerning the rules should be addressed to the Louisiana Minority and Women Business Development Program, Box 94185, Baton Rouge, LA 70804-9185 to the attention of Patricia Sanders.

Patricia Sanders
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Minority and Women's Business
Development Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect to local governmental units or state.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No origination fee will be charged if the applicant pays closing costs. It is estimated that \$8000 of origination fees will not be collected. The state will also not collect registration fees from appraisers. Collateral requirements will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The removal of the \$25 fee imposed on appraisers will be a savings to them as well as a stimulation for more persons to submit applications to be a LEDEC approved appraiser. Removal of the origination fee for guaranteed loans will save the borrower 1 percent of the loan.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Removing the appraiser registration fee will have no effect on employment but will increase competition among appraisers trying to become LEDEC approved appraisers.

Arnold M. Lincove
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Louisiana Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation proposes to adopt the following rule in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2351 through 2360:

Title 19

CORPORATIONS AND BUSINESS

**Part VII. Louisiana Economic Development Corporation
Subpart 3. Small Business Equity Program**

Chapter 7. Loan Guaranty Program

§701. Purpose

To provide for a method of stimulating business development, business acquisition, business growth, and retention of Louisiana based businesses through participation in or guaranteeing debt or equity leverage that uses the private commercial financial sector as the primary source of funds and responsible lead lender. Authority: Attorney General Opinion 88-470.

§703. Eligibility

A. Small business concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

B. Small business growth concerns which fall in the specific Standard Industrial Codes as provided by R.S. 51:2325.

C. Priority will be given to, but not be restricted to, businesses owned and operated by disadvantaged individuals in high unemployment areas, as defined by the Louisiana Department of Labor and as stated in R.S. 51:2321.

§705. Application Process

A. The application shall include but not be limited to:

1. personal information

a. name

b. address

c. Social Security Number

d. telephone number

e. title of individual

f. a personal credit report supplied by the applicant at the applicant's expense. The credit report shall be supplied by a national credit reporting company such as, but not limited to the Credit Bureau, Chiltons Credit Bureau, TRW Credit Bureau, etc.

2. business information

a. name of business

b. address (mail and physical)

c. phone number

d. year established

e. state chartered in

f. legal structure of business

g. IRS tax number

h. business line

3. owner/manager information

a. name

b. address

c. title

d. Social Security Number

e. percentage of ownership

f. annual compensation

4. loan information

a. purpose

b. amount

c. proposed terms

d. breakdown of loan funds

i. building cost

ii. land cost

iii. equipment cost

iv. inventory cost

v. other costs

e. attached exhibits for loan purpose and use of funds with complete cost break down.

5. summary of collateral available to secure loan
 - a. type and description
 - i. exhibits attached for description
 - b. present market value
 - i. exhibits attached for appraisals
 - c. present balance owed
 - d. total value of collateral
6. source of repayment
 - a. primary source
 - b. secondary source
7. recap of five-year history of earnings and cash flow
 - a. year
 - b. net income
 - c. income taxes accrued
 - d. depreciation
8. schedule of debt
 - a. to whom
 - b. date opened
 - c. original balance
 - d. present balance
 - e. monthly payment
 - f. date of maturity
 - g. rate
 - h. collateral
9. list of trade creditors/suppliers
 - a. creditor name
 - b. address
 - c. date opened
 - d. high credit
 - e. balance
 - f. terms
10. contingencies
 - a. list any co-signer(s) or guarantor(s) on any present loans;
 - b. list all litigation pending on owner or company;
 - c. list all bankruptcy or insolvency proceedings involving owner or company;
11. a comprehensive business plan must be attached to the application that contains but is not limited to the following:
 - a. a cover letter which contains:
 - i. dollar amount requested
 - ii. terms and timing of loan request
 - iii. type and price of collateral
 - b. summary
 - i. business description
 - (a). name
 - (b). location and plant description
 - (c). product
 - (d). market and competition
 - (e). management expertise
 - ii. business goals
 - iii. summary of financial needs and application of funds
 - iv. earnings projections and potential return to investors
 - c. market analysis
 - i. description of total market
 - ii. industry trends
 - iii. target market
 - iv. competition

- d. products or services
 - i. description of product line
 - ii. proprietary position: patents, copyrights and legal and technical considerations
 - iii. comparison to competitors products
- e. manufacturing process (if applicable)
 - i. materials
 - ii. sources of supply
 - iii. production methods
- f. marketing strategy
 - i. overall strategy
 - ii. pricing policy
 - iii. sales terms
- iv. method of selling, distributing and servicing products
- g. management plan
 - i. form of business organization
 - ii. board of directors composition
 - iii. officers: organization chart and responsibilities
 - iv. resumes of key personnel
 - v. staffing plan/number of employees
 - vi. facilities plan/planned capital improvements
 - vii. operating plan/schedule of upcoming work for next one to two years.
- h. financial data
 - i. financial history (five years to present) - See NOTE 1
 - ii. five-year financial projections (first year by quarters; remaining years annually)
 - (a). profit and loss statements
 - (b). balance sheets
 - (c). cash flow chart
 - (d). capital expenditure estimates
 - iii. explanation of projections
 - iv. key business ratios
 - v. explanation of use and effect of new funds
 - vi. potential return to investors compared to competitors and industry in general.

NOTE 1: All financial statements *must* meet Generally Accepted Accounting Principals (GAAP)

§707. Submission and Review Procedure

A. General Policy

1. The corporation shall not approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The corporation shall not approve any loan or guarantee if the applicant or business has been or is presently in any bankruptcy proceedings.

3. The terms or conditions imposed and made part of any loan or loan guarantee authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Louisiana Economic Development Corporation except by subsequent vote of approval by the board at the next meeting of the board.

4. The requirement of personal guarantees shall be negotiated on a project-to-project basis.

B. Submission and Review Policy

1. All applications must be submitted no later than four weeks prior to the scheduled screening committee meeting for consideration at the next scheduled board meeting of the corporation following the screening committee meeting.

2. The bank will submit to LEDEC a completed application with analysis. The LEDEC staff will do analysis independent of bank analysis.

3. The bank will submit to LEDEC the same pertinent data that it did to the bank's loan committee, whatever pertinent data the bank can legally supply.

4. LEDEC staff will review the application and analysis then make recommendations. The staff will work with the bank on terms of loan and LEDEC loan stipulations.

5. The screening committee will review the completed application and will make recommendations to board.

6. The Board of Directors will review all recommendations and will approve or reject the proposal.

7. The applicant will be notified within five working days by mail of the outcome of the application.

8. A guarantee commitment letter will be mailed to the bank within five working days of approval by the board.

§709. Collateral

A. Collateral to loan ratio will be no less than one to one.

B. Collateral position shall be negotiated but will be no less than a sole second position.

C. Collateral Value Determination.

1. The appraiser must be certified by recognized organization in area of collateral.

2. The appraisal cannot be over 90 days old.

D. Acceptable collateral may include, but not be limited to, the following:

1. fixed assets - real estate, buildings, fixtures;

2. equipment, machinery, inventory;

3. personal guarantees are open for negotiation, if used, there must be signed and dated personal financial statements;

4. accounts receivable with supporting aging schedule. Not to exceed 90 percent of receivable value.

E. Unacceptable collateral may include but not be limited to the following:

1. stock in applicant company and or related companies;

2. personal items.

§711. Terms

A. No less than five years nor more than statutory maximum.

B. There is no penalty for early pay out.

§713. Rate

A. Prime Rate of applicants bank on date of application to bank.

§715. Equity

A. Will be 25 percent of LEDEC guarantee amount.

B. Equity is defined to be

1. cash

2. paid in capital

3. paid in surplus and retained earnings

4. partnership capital and retained earnings

C. No research, development expense nor intangibles of any kind will be considered equity.

§717. Use of Funds

A. Purchase fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent for the term of the guarantee, unless otherwise approved by the bank and LEDEC.

B. Equipment or machinery.

C. Line of credit for accounts receivable or inventory.

D. Working capital, limited to normal use.

E. Debt restructure shall not exceed 49 percent of the total guarantee.

§719. Guaranty Agreement

A. Bank responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

B. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDEC board.

C. LEDEC may guarantee up to a maximum of 75 percent of the total loan.

D. If liquidation through foreclosure occurs, the bank sells collateral and handles legal proceedings.

E. There will be an annual reduction of the guarantee:

1. in proportion to the principal reduction of the amortized portion of the loan;

2. if no principal reduction has not occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

F. The guarantee will cover the unpaid principal amount owed only.

G. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guarantee agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation as stated in the guarantee agreement.

I. Escrowed funds shall be maintained in a manner jointly approved by LEDEC and the state Treasurer's office in an amount equal to the amount of the outstanding guarantees.

§721. Loan Closing

A. The secretary-treasurer of the corporation and one of the following: president of the corporation, chairman of the board, or executive director shall execute all necessary legal instruments at or for the loan closing.

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

§723. Loan Administration and Tracking

A. Loan administration shall be the responsibility of the bank. Administration fees paid by the borrower for extraordinary administration will be allowed within reason with consent of the Board of Directors.

B. The guarantee agreement will outline any information needed from the borrower or the bank for loan tracking by the corporation.

§725. Confidentiality

A. Confidential information in the files of the corporation acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give out a credit rating or confidential information out regarding any applicant.

§727. Conflict of Interest

A. No member of the corporation, employee thereof, or employee of the Department of Economic Development, or members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against the corporation. If any con-

tract or agreement shall be made in violation of the provisions of this Section the same shall be null and void and no action shall be maintained thereon against the corporation.

Any comments may be addressed in writing to Garry Neal, Executive Director, Box 94185, Baton Rouge, LA 70804-9185. They must be received by May 10, 1989.

Nadia L. Goodman
Acting Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Guaranty Loan**

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

There are no costs to state or local governmental units connected with these rules. \$2,150,689 of the total appropriation of \$14,697,749 for the Corporation has been allocated to this program.

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

The General Fund may see an increase of \$161,300 in FY 89 and \$280,250 in FY 90. This money will be earned through collection of interest earned on investment.

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

Small business applicants might expect an effective loan rate some 3-8 percent lower than conventional loan rates. Applicants will also bear the cost of preparing required information to submit a proposal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will have little effect on competition and employment in the public sector. There will be no direct competition as a result of these rules. If the ratio of \$15,000 of investment per job created is used, 33 jobs would be created for each \$500,000 of co-investment or 66 for \$1,000,000 of investment.

Nadia L. Goodman
Director Policy and Planning

John M. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation proposes to adopt the following rule in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Louisiana

Economic Development Corporation Act, R.S. 51: 2351 through 2360:

**Title 19
CORPORATIONS AND BUSINESS
Part VII. Economic Development Corporation
Subpart 3. Small Business Equity Program**

**Chapter 9. Loan Participation Program
§901. Purpose**

To provide for a method of stimulating business development, business acquisition, business growth, and retention of Louisiana based businesses through participation or guaranteeing in debt or equity leverage that uses the private commercial financial sector as the primary source of funds and responsible lead lender. Authority: Attorney General Opinion 88-470.

§903. Eligibility

A. Small business concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

B. Small business growth concerns which fall in the specific Standard Industrial Codes as provided by R.S. 51:2325.

C. Priority will be given to, but not be restricted to, businesses owned and operated by disadvantaged individuals in high unemployment areas, as defined by the Louisiana Department of Labor and as stated in R.S. 51:2321.

§905. Application Process

A. The application shall include but not be limited to:

1. personal information

a. name

b. address

c. Social Security Number

d. telephone number

e. title of individual

f. a personal credit report supplied by the applicant at the applicant's expense. The credit report shall be supplied by a national credit reporting company such as, but not limited to the Credit Bureau, Chiltons Credit Bureau, TRW Credit Bureau, etc.

2. business information

a. name of business

b. address (mail and physical)

c. phone number

d. year established

e. state chartered in

f. legal structure of business

g. IRS tax number

f. description of business

3. owner/manager information

a. name

b. address

c. title

d. Social Security Number

e. percentage of ownership

f. annual compensation

4. loan information

a. purpose

b. amount

c. proposed terms

d. breakdown of loan funds

i. building cost

ii. land cost

- iii. equipment cost
- iv. inventory cost
- v. other costs
- e. attached exhibits for loan purpose and use of funds with complete cost break down.

5. summary of collateral available to secure loan

- a. type and description
 - i. exhibits attached for description
- b. present market value
 - i. exhibits attached for appraisals
- c. present balance owed
- d. total value of collateral

6. source of repayment

- a. primary source
- b. secondary source

7. recap of five-year history of earnings and cash flow

- a. year
- b. net income
- c. income taxes accrued
- d. depreciation

8. schedule of debt

- a. to whom
- b. date opened
- c. original balance
- d. present balance
- e. monthly payment
- f. date of maturity
- g. rate
- h. collateral

9. list of trade creditors/suppliers

- a. creditor name
- b. address
- c. date opened
- d. high credit
- e. balance
- f. terms

10. contingencies

- a. list any co-signer(s) or guarantor(s) on any present loans
- b. list all litigation pending on owner or company
- c. list all bankruptcy or insolvency proceedings involving owner or company

11. A comprehensive business plan must be attached to the application that contains but is not limited to the following:

- a. a cover letter which contains:
 - i. dollar amount requested
 - ii. terms and timing of loan request
 - iii. type and price of collateral
- b. summary
 - i. business description
 - (a). name
 - (b). location and plant description
 - (c). product
 - (d). market and competition
 - (e). management expertise
 - ii. business goals
 - iii. summary of financial needs and application of funds
 - iv. earnings projections and potential return to investors

c. market analysis

- i. description of total market
- ii. industry trends
- iii. target market
- iv. competition
- d. products or services
 - i. description of product line
 - ii. proprietary position: patents, copyrights and legal and

technical considerations

- iii. comparison to competitors' products
- e. manufacturing process (if applicable)
 - i. materials
 - ii. sources of supply
 - iii. production methods
- f. marketing strategy
 - i. overall strategy
 - ii. pricing policy
 - iii. sales terms
 - iv. method of selling, distributing and servicing products
- g. management plan
 - i. form of business organization
 - ii. board of directors composition
 - iii. officers: organization chart and responsibilities
 - iv. resumés of key personnel
 - v. staffing plan/number of employees
 - vi. facilities plan/planned capital improvements
 - vii. operating plan/schedule of upcoming work for next

one to two years.

h. financial data

- i. financial history (five years to present) - See NOTE 1
- ii. five-year financial projections (first year by quarters;

remaining years annually)

- (a). profit and loss statements
- (b). balance sheets
- (c). cash flow chart
- (d). capital expenditure estimates
- iii. explanation of projections
- iv. key business ratios

v. explanation of use and effect of new funds

vi. potential return to investors compared to competitors and industry in general.

NOTE 1: All financial statements *must* meet Generally Accepted Accounting Practices (GAAP)

§907. Submission and Review Procedure

A. General Policy

1. The corporation shall not approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The corporation shall not approve any loan or guarantee if the applicant or business has been or is presently in any bankruptcy proceedings.

3. The terms or conditions imposed and made part of any loan or loan guarantee authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Louisiana Economic Development Corporation except by subsequent vote of approval by the board at the next meeting of the board.

4. The requirement of personal guarantees shall be negotiated on a project-to-project basis.

B. All applications must be submitted no later than four weeks prior to the scheduled screening committee meeting for consideration at the next scheduled board meeting of the corporation following the screening committee meeting.

C. The bank will submit to LEDEC a completed application with analysis. Staff will do analysis independent of bank analysis.

D. The bank will submit to LEDEC the same pertinent data that it did to the bank's loan committee, whatever pertinent data the bank can legally supply.

E. The staff will review the application and analysis and will make a recommendation. Staff will work with the bank on terms of loan and LEDEC loan stipulations.

F. The screening committee will review the completed application and will make recommendations to board.

G. The Board of Directors will review the recommendations and will approve or reject the proposal.

H. The applicant will be notified within five working days by mail of the outcome of the application.

I. A loan commitment letter will be mailed to the bank within five working days.

§909. Collateral

A. Collateral to loan ratio will be no less than one to one.

B. Collateral position shall be negotiated but will be no less than a sole position.

C. Collateral Value Determination.

1. The appraiser must be certified by recognized organization in area of collateral.

2. The appraisal cannot be over 90 days old.

D. Acceptable collateral may include, but not be limited to, the following:

1. fixed assets - real estate, buildings, fixtures;

2. equipment, machinery, inventory;

3. personal guarantees are open for negotiation, if used there must be adequate supporting signed and dated personal financial statements.

E. Unacceptable collateral may include, but not be limited to, the following:

1. accounts receivable;

2. stock in applicant company and or related companies;

3. personal items.

§911: Terms

A. No less than five years nor more than 30 years.

B. There is no penalty for early pay out.

§913. Rate

A. Open to negotiations, adjustable rates and fixed rates available

B. Less than commercial rate (Chase Prime)

§915. Equity

A. There will be no less than 25 percent of LEDEC injection.

B. Equity is defined to be

1. cash

2. paid in capital

C. No research, development expense nor intangibles of any kind will be considered equity.

§917. Use of Funds

A. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

B. Purchase of equipment, machinery, or inventory

C. Working capital, limited to normal use.

D. Debt Restructure restricted to 25 percent of total loan.

§919. Participation Agreement

A. The bank is responsible for administration and monitoring of loan.

B. The lead bank will hold no less participation in the loan than that equal to LEDEC's but not to exceed its legal lending limit.

C. The lead bank may sell other participation with LEDEC's consent.

D. LEDEC will participate up to a maximum of 40 percent of the total loan request.

E. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

F. The bank is able to set its rate according to risk.

1. Blend our rate to yield a lower overall rate to project.

G. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation.

§921. Loan Closing and Disbursement of Loan Proceeds

A. The secretary-treasurer of the corporation and one of the following: president of the corporation, chairman of the board, or executive director shall execute all necessary legal instruments at or for the loan closing.

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

2. Disbursement will be made in the name of the lead bank and into an account in the lead bank.

§923. Loan Administration and Tracking

A. Loan administration shall be the responsibility of the lead bank. Administration fees paid by the borrower for extraordinary administration will be allowed within reason with consent of the Board of Directors.

B. The Loan Participation Agreement will spell out any information needed from the borrower or the bank for loan tracking by the corporation.

§925. Confidentiality

A. Confidential information in the files of the corporation acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give a credit rating or confidential information out regarding any applicant.

§927. Conflict of Interest

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

Any comments may be addressed in writing to Garry Neal, Executive Director, Box 94185, Baton Rouge, LA 70804-9185. They must be received by May 10, 1989.

Nadia L. Goodman
Acting Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Participation Loan**

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

There are no costs to state or local governmental units connected with these rules. \$2,150,689 of the total appropriation of \$14,697,749 for the Corporation has been allocated to this program.

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

The General Fund may see an increase of \$161,300 in 88-89 to \$280,250 in 89-90. This money will be earned through collection of interest earned on investment.

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

Small business applicants might expect an effective loan rate some 3-8 percent lower than conventional loan rates. Applicants will also bear the cost of preparing required information to submit a proposal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will have little effect on competition and employment in the public sector. There will be no direct competition as a result of these rules. If the ratio of \$15,000 of investment per job created is used, 33 jobs would be created for each \$500,000 of co-investment or 66 for \$1,000,000 of investment.

Nadia L. Goodman
Acting Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation proposes to adopt the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2351 through 2360:

**Title 19
CORPORATIONS AND BUSINESS**

**Part VII. Economic Development Corporation
Subpart 3. Louisiana Small Business Equity Program**

Chapter 11. Feasibility Studies

§1101. Eligibility

Any Louisiana business that is science-based or developing new technology is eligible to apply. Basic research for the project must be completed and a prototype completed or process defined. The feasibility study must be able to be completed within 24 months.

§1103. Application

A. The applicant business shall submit a funding request to include but not be limited to:

1. a statement of the problem to be solved by the development;
2. the extensiveness of the problem;
3. history of the research leading to the development of the prototype;
4. if commercialized, effect on economy of Louisiana, U.S. and world;
5. outline of commercialization process;
6. amount requested, use of funds schedule and anticipated schedule of distribution;
7. duration of project;
8. resumes of principal researchers and project developer;
9. requested payback terms;
10. number of jobs to be created if commercialized;
11. financials on company and project developers.

§1105. Use of Funds

Funds use is limited to expenses necessary to demonstrate feasibility of project. Eligible budget items will be negotiated.

§1107. Reporting and Disbursement Requirements

Financial and narrative progress reports shall be submitted quarterly from the start up date of the feasibility study. A final report shall be due within 60 days of completion of the study.

§1109. Loan Terms

A. Contracts for repayment between businesses whose projects are deemed feasible for commercialization and the Corporation shall be completed within 120 days of completion of the feasibility study or all sums shall be due and payable at that time. Methods of payback may include term loan, royalty or equity. Interest shall not exceed two points below New York Prime at the beginning of the payback. The term shall not exceed five years.

B. Contracts for repayment between businesses whose projects are not deemed feasible for commercialization and the corporation shall be completed for repayment of the principal amount only within 120 days of completion of the feasibility study or all sums are due and payable at that time. The term shall not exceed 10 years.

§1111. Size of Project

The maximum amount loaned by the corporation per project is \$500,000. Under no circumstances shall the amount exceed 90 percent of the project cost. The applicant business shall provide at least 10 percent of the project cost.

Any comments may be addressed in writing to Garry Neal, Executive Director, Box 94185, Baton Rouge, LA 70804-9185. They must be received by May 10, 1989.

Nadia L. Goodman
Acting Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LA Small Business Equity Program
Feasibility Studies**

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

There are no costs to state or local governmental units connected with these rules. \$537,672 of the total appropriation of \$14,697,749 the Corporation has been allocated to this program.

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

The General Fund may see an increase of \$13,251 in FY 90. This money will be earned through collection of interest earned on investment.

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

Applicants will bear the cost of preparing required information to submit a proposal. Interest savings will also be realized.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will have little effect on competition and employment in the public sector. There will be no direct competition as a result of these rules. If the ratio of \$15,000 of investment per job created after commercialization is used, 33 jobs would be created for each \$500,000 of investment.

Nadia L. Goodman
Director Policy and Planning

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation proposes to adopt the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2351 through 2360:

**Title 19
CORPORATIONS AND BUSINESS
Part VII. Louisiana Economic Development Corporation
Subpart 2. Louisiana Venture Capital Program
Chapter 1. Louisiana Venture Capital Co-Investment Program**

§101. Eligibility

A. Any venture capital fund, headquartered out of the State of Louisiana, with five years experience in the management of investments made with the capital of other investors and having at least \$7,500,000 under management is eligible to apply for certification under this program.

§103. Application for certification

A. The application for certification shall contain but not be limited to the following:

1. a cover letter that states that application to the program for certification is being made and indicating reason for application for certification;

2. resumés of the principal manager(s);
3. list of all funds managed by the partner(s);
4. amount of fund(s);
5. project preferences including:

- a. role in financing
- b. type of financing
- c. minimum investment
- d. preferred investment
- e. preferred investment (LBO)
6. industry preferences;
7. five-year statement showing investments made and results of those investments;
8. experience with co-investment with any other governmental agency;
9. previous/current experience with projects within Louisiana.

§105. Procedure for Certification Review

A. The application will be submitted to the executive director of the corporation no later than two weeks prior to the regular monthly meeting of the screening committee of the board. He shall review and analyze the information. If the application is complete, he shall submit it and his analysis to the next meeting of the screening committee of the corporation board which shall review the application and make a recommendation to the next meeting of the full board for certification or denial. Upon certification, a certification number shall be assigned the applicant by the corporation.

§107. Co-investment Criteria

A. Certified venture capital funds may apply to the corporation for a co-investment by the corporation in a round of financing in a specific project. The project must be for a Louisiana based enterprise maintaining headquarters and production facilities in Louisiana. The corporation shall not co-invest more than 25 percent of the total venture capital investment in the proposed round of financing of the project. The corporation investment shall not exceed \$500,000 in the proposed round of financing.

§109. Application Procedures for Co-investment

A. The summary application must contain but not be limited to:

1. applicant information
 - a. venture capital fund name
 - b. address
 - c. LEDEC certification number
 - d. telephone number
2. project firm information
 - a. name of business
 - b. address (postal and physical)
 - c. phone number
 - d. year established
 - e. state chartered in
 - f. legal structure of business
 - g. IRS tax number
 - h. product or service
 - i. headquarters location
 - j. location of all production and research and development facilities
 - k. list any pending litigation
 - l. list any bankruptcy or insolvency filings
3. owner/manager information
 - a. name
 - b. address
 - c. title
 - d. social security number
 - e. percent of ownership
 - f. annual compensation
 - g. list any pending litigation
 - h. list any bankruptcy or insolvency filings
4. use of funds
 - a. purpose
 - b. amount
5. securities given in exchange for investment
 - a. list types of securities to be issued in this round of financing to all investors with any terms and/or conditions attached thereto
 6. equity information
 - a. list all equity investors with numbers of shares owned, type of shares owned, dollar value of investment and date of investment
 - b. total shares authorized by class
 - c. total shares outstanding by class
- B. A business plan that contains but is not limited to:
 1. business goals and earnings projections and potential return to investors
 2. market analysis
 - a. description of total market
 - b. industry trends
 - c. target market
 - d. competition
 3. products or services
 - a. description of product line
 - b. proprietary position: patents, copyrights and legal and technical considerations and ownership of same
 - c. comparison to competitors' products
 4. manufacturing process (if applicable)
 - a. materials
 - b. sources of supply
 - c. production methods
 5. marketing strategy
 - a. overall strategy

- b. pricing policy
 - c. sales terms
 - d. method of selling, distributing and servicing products
 6. management plan
 - a. form of business organization
 - b. board of directors composition
 - c. officers: organization chart and responsibilities
 - d. resumé of key personnel
 - e. staffing plan/number of employees
 - f. facilities plan/planned capital improvements
 - g. operating plan/schedule of upcoming work for next one to two years.
 7. financial data (for existing firms)
 - a. financial history (five years to present)

See NOTE 1

 - b. Three-year financial projections (first year by quarters; remaining years annually)
 - i. Profit and loss statements
 - ii. Balance sheets
 - iii. Cash flow chart
 - iv. Capital expenditure estimates
 - c. explanation of projections
 - d. key business ratios
 - e. explanation of use and effect of new funds
 - f. potential return to investors compared to competitors and industry in general.
- NOTE 1. All financial statements *must* meet Generally Accepted Accounting Practices (GAAP)
8. financial data for startup firms
 - a. three-year financial projections (first year by quarters; remaining years annually)
 - i. Profit and loss statements
 - ii. Balance sheets
 - iii. Cash flow chart
 - iv. Capital expenditure estimates
 - b. explanation of projections
 - c. key business ratios
 - d. explanation of use and effect of new funds
 - e. potential return to investors compared to competitors and industry in general.
- NOTE 1. All financial statements *must* meet Generally Accepted Accounting Practices (GAAP)
9. schedule of debt
 - a. to whom
 - b. date opened
 - c. original balance
 - d. present balance
 - e. payment schedule
 - f. date of maturity
 - g. rate
 - h. collateral
 - i. terms of convertibility
 - j. list all liens against the project firm and related firms
10. list of trade creditors/suppliers
 - a. creditor name
 - b. address
 - c. date opened
 - d. high credit
 - e. balance
 - f. terms

11. collateral offered
 - a. type and description
 - b. present market value
 - i. appraisals no more than 90 days old at time of application
 - c. present balance owed
 - d. total value of collateral
 - e. source of repayment
 - i. primary source
 - ii. secondary source
 - f. federal and state tax status
 - i. date of current tax status
 - ii. date of last audit
 - iii. deficiencies assessed/proposed

§111. Procedure for Application Review

The application will be submitted to the executive director of the corporation no later than two weeks prior to the regular monthly meeting of the screening committee of the board. He shall review and analyze the information. If the application is complete, he shall submit it and his analysis to the next meeting of the screening committee of the corporation board which shall review the application and make a recommendation to the next meeting of the full board for approval or denial.

§113. General Policy

A. The corporation shall not approve any co-investment if the project firm has presently pending, at the federal, state or local level, any proceeding concerning denial or revocation of any necessary license or permit.

B. The corporation will invest in the project on the same terms and conditions as the certified venture capital fund.

C. The requirement of personal guarantee shall be negotiated by the board on a project-by-project basis.

D. Nothing contained herein shall limit the ability of the board or committee thereof to make a reasonable decision based on information submitted to it.

§115. Conditions for Disbursements of Funds

A. The secretary-treasurer and one of the following: president of the corporation, chairman or executive director shall execute all necessary legal instruments at the closing after certification by counsel that all legal requirements have been met.

B. In the case that the co-investment is to be disbursed in a phased funding, the monies provided by the corporation shall be placed in an escrow account to be disbursed at the joint written request of both the venture capital fund co-investor and the project firm at the same rate of disbursement as that of the co-investor venture capital firm. The secretary-treasurer shall have the authority to release the funds from escrow.

§117. Compliance Requirements of Project Firms

A. Each year, on the anniversary of the initial disbursement of funds, each recipient of funds shall provide the following:

1. list of all stockholders with the number of shares held by each at any time during the previous year;
2. monthly statement of financial condition including, but not limited to, a balance sheet, profit and loss statement, changes in financial condition, capital reconciliation;
3. current reconciliation of net worth;
4. one-year projected cash flow statement. Statement must be prepared on a month-to-month basis, accompanied with footnotes;

5. current personal financial statement of all principals;
6. annual (within 90 days of the end of the fiscal year) audited financial statement prepared by a certified public accountant;
7. current insurance policies.

§119. Repayment Terms

The board of the corporation shall have the sole responsibility to set repayment terms on a project-by-project basis.

§121. Confidentiality and Conflict of Interest

A. Confidentiality. Confidential information in the files of the Program and its accounts acquired in the course of duty is to be used solely for the Program. The Program is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion #82-860.

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

§123. Ownership of Stock and Incidents Thereof

Stock taken in co-investment shall be held by the Corporation. The board through its duly authorized designee shall vote the stock.

Any comments may be addressed in writing to Garry Neal, Executive Director, Box 94185, Baton Rouge, LA 70804-9185. They must be received by May 10, 1989. Any oral comments may be heard at the Department of Insurance Hearing Room, First Floor, 950 North Fifth Street, Baton Rouge, LA, May 24, 1989 at 1:30 p.m.

Nadia L. Goodman
Acting Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Venture Capital Co-Investment Program**

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

There are no costs to state or local governmental units connected with these rules. \$5,371,271 of the total appropriation of \$14,697,749 for the Corporation has been allocated to this program.

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

The General Fund may see an increase of \$220,737 in FY 89 and \$933,235 in FY 90. This money will be earned through collection of interest earned on investment.

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

The cost of application preparation is minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will have little effect on competition and employment in the public sector. There will be no direct competition as a result of these rules. If the ratio of \$15,000 of investment per job created is used, 33 jobs would be created for each \$500,000 of co-investment or 66 for \$1,000,000 of investment.

Nadia L. Goodman
Acting Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Economic Development Corporation

The Department of Economic Development, Louisiana Economic Development Corporation proposes to adopt the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2351 through 2360:

Title 19

CORPORATIONS AND BUSINESS

Part VII. Louisiana Economic Development Corporation

Subpart 2. Louisiana Venture Capital Program

Chapter 3. Louisiana Venture Capital Match Program

§301. Eligibility

Any Louisiana-owned and headquartered Venture Capital Fund with a minimum of \$5,000,000 of privately raised capital for equity investment under management may apply.

§303. Valuation of Investment Fund

The amount of funds under management shall mean the value of any monies invested in a business plus the unexpended monies available for investment. The value of an equity investment shall be the amount of dollars actually invested.

§305. Fund Management

Management shall be comprised of individuals with substantial experience in business operations and financing, including business startup or expansion financing. The development of these investments may have been done for the individual's own account or on behalf of others.

§307. Application Procedure

A. The application shall contain but not be limited to:

1. resumés of principals;
2. current balance sheet and income statement of applicant fund and individual investments;
3. balance sheet and income statement of all funds and investments managed by applicant principals during the last three years and/or other investments managed by the principals in the last three years;
4. list of fund investors.

§309. Amount of Investment

The corporation may invest up to \$2,500,000. The corporation may use its discretion to set the ratio of corporation

investment to private investment. However, the ratio shall not exceed \$1 of corporation monies to \$2 of privately raised dollars.

§311. Terms of Investments

Corporation investments shall be made on the same terms and conditions as those of other investors in the fund.

§313. Creation of a Louisiana Fund

The applicant shall, on receipt of funds from the corporation, immediately set up an account in a financial institution domiciled in Louisiana to be called the Louisiana Fund and deposit the proceeds of the state's investment into that fund. The proceeds of this fund shall be used solely for investments in enterprises maintaining headquarters and production facilities in Louisiana.

§315. Reporting Requirements

Funds receiving investments under this program shall submit quarterly and annual financial and narrative reports on the use of Louisiana Fund monies and all other investments made by the fund during the reporting period. The narrative report shall include the number of applications received in addition to other activities. The narrative report shall include a listing of all investors in each business and all subsequent financings.

§317. Inactivity

If no activity has occurred in the Louisiana Fund for a period of two years or reporting requirements are not met, the Venture Fund shall be reviewed by the board of the corporation. After review the board may choose to revoke its investment.

Any comments may be addressed in writing to Garry Neal, Executive Director, Box 94185, Baton Rouge, LA 70804-9185. They must be received by May 10, 1989. Any oral comments may be heard at the Department of Insurance Hearing Room, First Floor, 950 North Fifth Street, Baton Rouge, LA, May 24, 1989 at 1:30 p.m.

Nadia L. Goodman
Acting Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Venture Capital Match Program

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

There are no costs to state or local governmental units connected with these rules. \$3,360,452 of the total appropriation of \$14,697,749 for the Corporation has been allocated to this program.

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

The General Fund may see an increase of \$138,100 in FY 89 and \$583,864 in FY 90. This money will be earned through collection of interest earned on investment.

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

The cost of application preparation is minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will have little effect on competition and employment in the public sector. There will be no direct competition as a result of these rules. If the ratio of \$15,000 of investment per job created is used, 33 jobs would be created for each \$500,000 of co-investment or 66 for \$1,000,000 of investment.

Nadia L. Goodman
Acting Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation proposes to adopt the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2351 through 2360:

Title 19

CORPORATIONS AND BUSINESS

Part VII. Louisiana Economic Development Corporation

Subpart 2. Louisiana Venture Capital Program

Chapter 5. Louisiana Minority Venture Capital Match Program

§501. Eligibility

Any Louisiana-owned and headquartered Venture Capital Fund with a minimum of \$250,000 of privately raised capital for equity investment under management may apply.

§503. Valuation of Investment Fund

The amount of funds under management shall mean the value of any monies invested in a business plus the unexpended monies available for investment. The value of an equity investment shall be the amount of dollars actually invested.

§505. Fund Management

Management shall be comprised of individuals with substantial experience in business operations and financing, including business startup or expansion financing. The development of these investments may have been done for the individual's own account or on behalf of others.

§507. Application Procedure

A. The application shall contain but not be limited to:

1. resumés of principals;
2. current balance sheet and income statement of applicant fund and individual investments;
3. balance sheet and income statement of all funds and investments managed by applicant principals during the last three years and/or other investments managed by the principals in the last three years.
4. list of fund investors.

§509. Amount of Investment

The corporation may invest up to \$2,500,000. The corporation may use its discretion to set the ratio of corporation investment to private investment. However, the ratio shall not exceed \$1 of corporation monies to \$2 of privately raised dollars.

§511. Terms of Investments

Corporation investments shall be made on the same terms and conditions as those of other investors in the fund.

§513. Creation of a Louisiana Fund

The applicant shall, on receipt of funds from the corporation, immediately set up an account in a financial institution domiciled in Louisiana to be called the Louisiana fund and deposit the proceeds of the state's investment into that fund. The proceeds of this fund shall be used solely for investments in minority owned enterprises maintaining headquarters and production facilities in Louisiana.

§515. Reporting Requirements

Funds receiving investments under this program shall submit quarterly and annual financial and narrative reports on the use of Louisiana fund monies and all other investments made by the fund during the reporting period. The narrative report shall include the number of applications received in addition to other activities and the number of applications received from minority owned firms. Reports must include a listing of all investors in each business and all subsequent financings.

§517. Inactivity

If no activity has occurred in the Louisiana fund for a period of two years, the Venture Fund shall be reviewed by the board of the corporation. After review the board may choose to revoke its investment.

Any comments may be addressed in writing to Garry Neal, Executive Director, Box 94185, Baton Rouge, LA 70804-9185. They must be received by May 10, 1989. Any oral comments may be heard at the Department of Insurance Hearing Room, First Floor, 950 North Fifth Street, Baton Rouge, LA, May 24, 1989 at 1:30 p.m.

Nadia L. Goodman
Acting Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Venture Capital Match Program**

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

There are no costs to state or local governmental units connected with these rules. \$678,005 of the total appropriation of \$14,697,749 for the Corporation has been allocated to this program.

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

The General Fund may see an increase of \$27,863 in FY 89 and \$77,863 in FY 90. This money will be earned through collection of interest earned on investment.

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

The cost of application preparation is minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will have little effect on competition and employment in the public sector. There will be no direct competition as a result of these rules. If the ratio of \$15,000 of investment per job created is used, 33 jobs would be created for each \$500,000 of co-investment or 66 for \$1,000,000 of investment.

Nadia L. Goodman
Acting Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Office of Financial Institutions**

**CHANGE IN FEES AND ASSESSMENTS FOR SAVINGS
AND LOAN ASSOCIATIONS AND SAVINGS AND LOAN
HOLDING COMPANIES**

Pursuant to the authority granted to the commissioner of Financial Institutions by R.S. 6:121(B)(1) and 911(E), the commissioner proposes to adopt a new rule concerning fees and assessments to savings and loan associations and savings and loan holding companies.

SUMMARY

The enactment of Act 597 of the Regular Session of the 1988 Legislature of Louisiana, and all other authority previously granted by state law affecting state-chartered savings and loan associations and savings and loan holding companies, has necessitated the adoption of a rule to establish a schedule of fees to be assessed on the above named financial institutions.

This proposed rule will partially revamp the fee and assessment structure currently in place for savings and loan associations and savings and loan holding companies domiciled in the state of Louisiana as authorized by Act 597 of the Regular Session of the 1988 Legislature, and all other authority previously granted by state law affecting state-chartered savings and loan associations and savings and loan holding companies domiciled in Louisiana.

Interested parties may request copies of the proposed rule, submit written comments or make written inquiries concerning the rule until 4:45 p.m., May 4, 1989, at the following address: Fred C. Dent, Commissioner, Office of Financial Institutions, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809.

An oral hearing on this proposed rule will be held at 10 a.m., May 4, 1989, at the aforementioned address.

Commissioner Dent is the person responsible for responding to inquiries concerning the proposed rule.

Fred C. Dent
Commissioner

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

**Rule Title: Change in Fees and Charges for Savings and
Loan Associations and Savings and Loan Holding
Companies**

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

Implementation costs are nominal.

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

OFI operates totally on self-generated funds. Revenue to the state general fund is expected to decrease \$279,207 as the result of implementation of this rule.

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

The imposition of this rule will result in increased profits of \$279,207 to the savings and loan association industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effect on competition and employment will be indirect. If an effect can be measured, it will likely occur in the New Orleans area where most of the savings and loan associations are located.

Fred C. Dent
Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

Title 35

HORSE RACING

Part I. General Provisions

**Chapter 17. Corrupt and Prohibited Practices
§1791. Testing for Dangerous Substance Abuse**

A. - B. . . .

C. Any official, jockey, trainer or groom who is requested to submit to a urine test shall provide the urine sample, without undue delay, to a chemical inspector of the commission. The sample so taken shall be immediately sealed and tagged on the form provided by the commission and the evidence of such sealing shall be indicated by the signature of the tested official, jockey, trainer or groom. The portion of the form which is provided to the laboratory for analysis shall not identify the individual official, jockey, trainer or groom by name. It shall be the obligation of the official, jockey, trainer or groom to cooperate fully with the chemical inspector in obtaining any sample who may be required to witness the securing of such sample. Anyone who tampers with a urine sample shall be liable to the penalties provided in R.S. 4:141 et seq. and/or the Rules of Racing.

D. - F. . . .
1. - 4. . . .

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

HISTORICAL NOTE: Promulgated by the Racing Commission LR 13:289 (May, 1987).

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Alan J. LeVasseur, Executive Director or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, May 5, 1989 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Alan J. LeVasseur
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: LAC 35:I.1791 Testing for Dangerous Substance Abuse

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule change benefits and protects all persons and groups of the racing industry by providing for penalties to persons tampering with any human urine sample. Such samples are taken as required by this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition nor employment.

Alan J. LeVasseur
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Used Motor Vehicle and Parts Commission

The Used Motor Vehicle and Parts Commission advertises its intent to adopt rules regulating the sale of extended performance warranty contracts for motor vehicles pursuant to LA Rev. Stat. Ann. 32:772-F(6) (West Supp., 1988). These rules will establish procedures for obtaining permission to market such contracts in Louisiana. The rules will also regulate Used Motor

Vehicle Dealers selling such contracts on behalf of third party underwriters.

No negative fiscal impact upon state government will be made by the proposed rules. All increased costs of implementing the proposed rules will be funded by application fees previously authorized by legislative action. The proposed rules will impact the state's economy solely by enhancing consumers' rights against sellers of extended performance warranty contracts who default on those contracts.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 41. Condition of Sale of a Motor Vehicle

§4101. Vehicle Service Contracts

The vehicle service contract must be approved by the commission in that the contract content and forms to be used will be filed 10 days prior to selling such contract and if not rejected in 10 days from the filing date, the service contract will be conditionally approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772F(3).

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

§4103. Sale and Marketing of Motor Vehicle Performance Warranty Contracts

A. Definitions

1. Extended Performance Warranty: An extended performance warranty (also called an extended warranty) means any contract which insures the purchaser from the following:

- a. breach of warranty by manufacturers, wholesalers, distributors, retailers, or dealers during the initial warranty period;
- b. mechanical failure, breakdown, or required repairs;
- c. expense of repairs during a contractual period stated in the contract.

2. Used Motor Vehicle Dealer: A used motor vehicle dealer is any person who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or exchange of an interest in five or more used motor vehicles in any 12-month period and who is engaged wholly or in part in the business of selling used motor vehicles, whether or not such motor vehicles are owned by such a person. The term shall also include anyone not licensed under Chapter 6 of Title 32 who sells used cars and trucks, new and used motorcycles, new and used trailers, new and used semi-trailers, new and used motor homes. The term does not include employees of persons who would fall under the designation of used motor vehicle dealer.

3. Issuer: Any used motor vehicle dealer who/which enters into a contract of extended performance warranty, which is not underwritten by any third party, with a consumer in exchange for money or other item of value, or as part of the consideration of an act which transfers any interest in, or which creates any security interest in, a used motor vehicle as defined in R.S. 32:771(12).

4. Agent Dealer: Any used motor vehicle dealer who/which sells or brokers a contract of extended performance war-

ranty, which is wholly or partially underwritten by any third party, to a consumer in exchange for money, a commission, or other item of value, or as part of the consideration of an act which transfers any interest in, or which creates any security interest in, a used motor vehicle as defined in R.S. 32:771(12).

B. No extended performance warranty may be offered for sale in the state of Louisiana by an issuer unless the following requirements have been met.

1. Any issuer seeking to sell extended performance warranties in Louisiana shall make application to the Used Motor Vehicle and Parts Commission (UMVPC) for authorization to issue such warranties. The application shall consist of:

a. A balance sheet and profit and loss statement for the previous five years for the company seeking authorization to issue extended warranties. A shorter time period will only be considered where the company seeking authorization has been doing business for less than five years.

b. A balance sheet and profit and loss statement for the previous five years for any parent company of the company seeking authorization to issue extended warranties. A shorter time period will only be considered where the parent company has been doing business for less than five years or has owned the subsidiary for a shorter period of time.

c. A good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in Louisiana as surety in the sum of \$150,000. The bond shall be delivered to the UMVPC and shall be conditioned that the applicant shall comply with the conditions of any written contract made by such applicant in connection with the sale of an extended performance warranty and shall not violate any provisions of the Used Motor Vehicle and Parts Commission Act or any other law of Louisiana in the conduct of the business for which he is licensed. Such bond shall be made payable to the state of Louisiana through the Used Motor Vehicle and Parts Commission for the use, benefit, and indemnity of any persons who shall suffer any loss as a result of any violation of the conditions contained herein. Should the bond be cancelled on any date, the approval to sell extended warranties shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

d. An application fee of \$1,500.

C. No extended performance warranty may be offered for sale in the state of Louisiana by an agent dealer unless the following requirements have been met.

1. Any agent dealer seeking to sell extended performance warranties, on behalf of third parties, shall make application to the Used Motor Vehicle and Parts Commission (UMVC) for authorization to sell such warranties. The application shall consist of:

a. Proof sufficient to the UMVPC that the third party represented by the agency dealer has been properly licensed by the commissioner of insurance for the state of Louisiana to market such warranties. Such proof may consist of a duplicate original or certified copy of the third party's license as issued by the commissioner of insurance.

b. A duplicate original of the agent dealer's contract or agreement with the third party.

c. Certification by the commissioner of insurance that the third party is in good standing with that commission.

d. A specimen copy of the contract which agent dealer intends to sell on behalf of the third party.

e. Certification by the commissioner of insurance that the agent dealer is properly licensed to sell or broker such contracts, or certification that licensing is not required.

f. Annual renewal applications shall be required but will consist only of update information as to any changes which occurred during the previous year or, if there have been no changes during the previous year, a signed statement to that effect.

D. The UMVPC will consider the above applications, as well as the applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business and the UMVPC shall either issue the applicant a license to issue, or to sell as agent for third parties, extended warranties in Louisiana or shall deny the application in writing stating the reasons for denial. A company may resubmit its application upon showing that UMVPC objections have been resolved. The UMVFC shall maintain a list of all licensed issuers of extended performance warranty contracts.

E. To continue issuing extended performance warranty contracts in Louisiana, the issuer shall:

1. File with the UMVPC a profit and loss statement and a balance sheet for each calendar year that sales of extended warranties are made in Louisiana. The report is to be filed within 90 days of the end of the company's fiscal year.

2. Maintain a minimum bond of \$150,000. The bond must equal or exceed the amount collected as sales on extended performance warranties during the previous 24 months. The bond shall be updated twice per year. The bond must be updated within 90 days following the end of the company's fiscal year and within 90 days following the midpoint of the company's fiscal year.

3. Cover all items specified in the extended performance warranty contract in descriptive terms such as "Coverage Includes the Power Train," which may be specified as a part of that equipment by the Federal Trade Commission. The coverage may only deviate from this standard where each piece to be excluded from the warranty is specifically listed as an exclusion in the contract.

4. Not sell its extended performance warranty to any consumer unless that consumer has received a copy of the proposed contract at least 48 hours prior to the purchase of the contract. The completed contract of extended performance warranty must be returned to the purchaser within 10 working days from the date of purchase.

5. The issuer shall prominently display at his place of business on a sign not smaller than 2' by 2' the following information:

a. THIS DEALER MAY ONLY SELL EXTENDED WARRANTIES AFTER THE CUSTOMER HAS BEEN FURNISHED WITH AN ACTUAL COPY OF THE EXTENDED WARRANTY CONTRACT.

b. THIS DEALER MUST FURNISH A COPY OF THE CONTRACT OF THE EXTENDED WARRANTY AT LEAST 48 HOURS PRIOR TO PURCHASE OF THE CONTRACT.

c. FAILURE OF THIS DEALER TO FURNISH A COPY OF THE EXTENDED WARRANTY CONTRACT TO THE PUR-

CHASER 48 HOURS PRIOR TO SALE OF THE CONTRACT OF WARRANTY MAY SUBJECT THIS DEALER TO A FINE OF UP TO \$1,000 BY THE USED MOTOR VEHICLE AND PARTS COMMISSION.

F. The following shall regulate the marketing of extended performance warranties by licensed agent dealers.

1. It is the responsibility of the licensed agent dealer to determine and make certain that the third party which underwrites the extended warranty has complied with the requirements of licensure through the Office of the Commissioner of Insurance.

G. The following shall govern the method of reporting a suspected violation of "A." through "F." of these rules and the method of review by the UMVPC.

1. Anyone who believes that an agent dealer, or issuer, of an extended warranty contract has violated these rules may submit a signed sworn written complaint to the UMVPC stating the suspected violation that the party believes was committed. The party must send, by certified mail, a copy of the complaint to the company who the party believes has violated these rules. The complainant must also be willing to appear at a public hearing should one be required at a later date.

2. The company who is the subject of the complaint shall have 15 days to answer the complaint in writing to the UMVPC and to the consumer.

3. The complaint shall be considered by a minimum of three members of the UMVPC. The three members must include at least one of the members nominated from a Consumer Group.

4. Within 45 days of receipt of the complaint, the UMVPC shall notify the complainant and the company who is the subject of the complaint of its finding as to the substance of the complaint and its recommendations. The complainant and the company may then accept those recommendations or request that a public hearing in compliance with the Louisiana Administrative Procedure Act be held. Where both the complainant and the company accept the commission's decision, such acceptance shall act as a waiver of the right to a hearing under the Louisiana Administrative Procedure Act.

H. The following paragraphs shall set forth the penalties which the UMVPC may impose upon an agent dealer or issuer of an extended performance warranty and a used car dealer for violations of these rules.

1. Any issuer, or agent dealer who markets an extended warranty for an issuer or third party not properly authorized to do business in Louisiana may be held responsible for a consumer's cost of repairs when 1) the contracting company has defaulted on the contract; and 2) the Used Motor Vehicle and Parts Commission has ordered such a payment.

2. Any issuer of an extended performance warranty contract, who markets such warranty to a consumer, without first providing a copy of the contract to the consumer at least 48 hours prior to the sale of the contract of warranty may be subject to a fine of up to \$1,000 by the UMVPC.

3. Any issuer or agent dealer of an extended performance warranty contract who fails to return the completed contract of warranty to the consumer within 30 working days, from the date of sale of such warranty, may be subject to a fine of up to \$1,000 by the UMVPC.

4. Should the UMVPC determine that these regulations have been violated by either the company issuing the extended performance warranty or by the agent dealer in excess of once per year, fines of up to \$5,000 and forfeiture of the license to do business in Louisiana may be ordered. The minimum fine shall be \$1,000 upon a finding of a second violation within one year from the date of the previous violation. A license to do business may only be revoked following a hearing held under the rules of the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:

Interested persons may submit written comments concerning these proposed amendments to Linda Stroud, Business Services Manager, Louisiana Used Motor Vehicle and Parts Commission, 10925 Perkins Road, Suite A, Baton Rouge, LA, 70810.

Rodley J. Henry
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Title 46: Part V, Subpart 2,
Used Motor Vehicle and Parts Commission**

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

The costs to implement the regulatory provisions of the proposed rule are \$4,000 in FY 88-89. The costs for FY 89-90 and 90-91 will be \$6,000 each. These costs would include additional office work time, license forms and applications and copying costs to evaluate, verify and license requests for authorization to sell the extended warranty contracts. The expenses for personnel and forms will be absorbed within the current source of funding and fees generated from the licenses issued.

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

Total fee collections by the Used Motor Vehicle and Parts Commission are estimated at 10 companies in FY 89-90 making application to sell extended warranties at \$1,500 per application = \$15,000. The same amount of \$15,000 is estimated for FY 89-90 and 90-91. This fee is authorized by LA Rev. State. Ann. 22:1801 (West supp., 1988).

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

The economic benefits to consumers are estimated at six complaints per month times 12 months times 5 years times an average of \$1,000 per consumer = \$360,000 plus an estimated twice that amount in savings to consumers through elimination of poorly funded and potentially fraudulent marketers of extended warranty contracts. In addition to paying the \$1,500 application fee, Used Motor Vehicle Dealers who issue and underwrite performance warranty

(extended warranty) contracts will have to post a \$150,000 surety bond before they are licensed to conduct this business.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of these regulations will affect competition and employment since it will limit the number of businesses and dealers who will be authorized to sell extended warranty contracts in the state of Louisiana. They will equalize competition by providing that all companies demonstrate ability to fulfill the contracts which they are entering into.

Rodley J. Henry
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Presidential Election Day to be a Statewide School Holiday

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education amended Board action of April 26, 1984 to provide that general election day shall be a statewide school holiday every four years for the presidential election and that all schools of this state shall be closed on that day. (Amendment to Bulletin 741)

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., June 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Presidential Election Holiday

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

The revision and distribution of Bulletin 741 will cost approximately \$50.

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

There will be no effect on revenue collection 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 costs to directly affected non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Graig Luscombe
Assistant Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 1213

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved as an amendment to Bulletin 1213, *Minimum Standards for School Buses*, the request from the State Department of Education to introduce a new bus version, Type "D" - Buses Mid Range Rear Engine.

The chassis shall be equipped with a diesel engine that meets specifications. (These specifications may be seen in the Office of the State Register, the State Department of Education, or in the Office of the Board of Elementary and Secondary Education, located at 626 North Fourth Street, Room 104, Baton Rouge, LA.) The chassis must be a truck type of engine. Diesel powered vehicles shall have full air brakes and shall have chassis air for stop arm operation. The vehicle shall also be equipped with power steering, dual electric horns, batteries with 1400 CCA, and front and rear shock absorbers.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., June 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA, 70804-9064.

Em Tampke
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amend Bulletin 1213 to include Type "D" Mid-Range Bus-Rear Engine

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

The estimated implementation cost is approximately \$50 to cover the cost of printing and dissemination.

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

There is no effect on revenue collections of state or local governmental units.

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

The economic benefit will be for school boards and bus drivers to have another bus type to purchase for their school system.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Graig Luscombe
Assistant Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1104.A.(1), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Environmental Quality gives notice that rulemaking procedures have been initiated to amend the Louisiana Radiation Regulations, specifically, to add Chapter 14, entitled "Regulation and Licensing of Naturally Occurring Radioactive Materials (NORM)" to LAC 33:XV. In addition, an amendment to Chapter 25 of the Louisiana Radiation Regulations is proposed to add a fee category to the existing schedule. The proposed amendment to Chapter 25 would establish an initial fee of \$100 and an annual maintenance fee of \$100 for the general license issued in §1410.

The amendment to the Louisiana Radiation Regulations became effective February 20, 1989, under the emergency rule procedures. This notice initiates the standard rulemaking procedure for this amendment, and proposes a fee schedule to cover a portion of the cost associated with implementation of the rule.

A public hearing will be held at 10 a.m. on May 2, 1989 in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendment.

Interested persons are also invited to submit written comments on the proposed amendments. Written comments should be submitted no later than May 12, 1989, to: Louisiana Nuclear Energy Division, Box 14690, Baton Rouge, LA 70898, attn: David Zaloudek. He may be contacted at the address above, or telephone (504) 925-4518. A copy of the proposed amendments may be obtained from the Louisiana Department of Environmental Quality at the above address.

**Title 33
ENVIRONMENTAL QUALITY
Part XV. Nuclear Energy**

Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Materials (NORM)

§1401. Purpose

The regulations in this Chapter establish radiation safety requirements for the possession, use, transfer, and disposal as approved by the division, of naturally occurring radioactive materials which do not include source, special nuclear or by-product materials regulated pursuant to the licensing requirements in Chapter 3.

§1402. Scope

A. These regulations apply to any person who engages in the extraction, mining, beneficiating, processing, use, transfer, or disposal of NORM in such a manner as to technologically alter the natural sources of radiation or their potential exposure pathways to humans.

B. These regulations also apply to scale deposits in tubulars and equipment and to soil contaminated by the cleaning of the scale deposits.

C. The regulations in this Chapter address the introduction of NORM into materials or products in which neither the NORM nor the radiation emitted from the NORM is considered to be beneficial to the materials or products. The manufacture and distribution of materials or products containing NORM in which the NORM and/or its associated radiation(s) is considered to be a beneficial attribute are licensed under the provisions of Chapter 3.

D. This Chapter also addresses waste management, transfer, and disposal with regard to both inactive and active sites and facilities involved in storage and/or cleaning of tubulars and contaminated equipment. In the case of closed or inactive pits, surveys are required only at the time of transfer for unrestricted use.

§1403. Definitions

As used in this Chapter, the following definitions apply:

A. *Beneficial attribute or beneficial to the product* means that the radioactivity of the product is necessary to the use of the product.

B. *Beneficiating* means the processing of materials for the purpose of altering the chemical or physical properties to improve the quality, purity, or assay grade of a desired product.

C. *Naturally occurring radioactive materials (NORM)* means any nuclide which is radioactive in its physical state (i.e., not man-made), but does not include source or special nuclear material.

§1404. Exemptions

A. Persons who receive, possess, use, process, distribute, and dispose of NORM are exempt from the requirements of these regulations if the materials based on evaluation procedures approved by the division contain or are contaminated at concentrations less than 30 picocuries per gram (1110 Bq/kg) of radium-226, 0.05 percent by weight of uranium or thorium, or 150 picocuries per gram (5550 Bq/kg) of any other NORM radionuclide.

B. Persons who receive source material as authorized under the general license in §321.A., and products or materials containing NORM distributed in accordance with a specific license issued by the division or an equivalent license issued by another licensing state are exempt from these regulations.

C. Persons who receive, possess, store, use, process, transfer, sell, manufacture, distribute, or dispose of raw materials, intermediates, process streams, products, by-products (including bauxite refinery and phosphogypsum recycle/reuse raw materials and products), and wastes, related to the production of bauxite refinery and phosphate fertilizer materials, products and by-products, are exempt from these regulations.

D. The manufacturing, distribution, use, and disposal of the following products/materials are exempt from the requirements of these regulations:

1. potassium and potassium compounds which have not been isotopically enriched in the radionuclide K-40; and

2. Brazil nuts.

E. The wholesale and retail distribution (including custom blending), possession, and use of the following products/materials are exempt from the requirements of these regulations:

1. phosphate and potash fertilizer;

2. phosphogypsum for agricultural uses;

3. materials used for building construction if such materials contain NORM which has not been technologically enhanced;

4. natural gas and natural gas products; and

5. crude oil and crude oil products.

F. Produced waters from crude oil and natural gas production are exempt from the requirements of these regulations.

§1405. Effective Date

The provisions and requirements of this Chapter shall take effect June 20, 1989, and shall apply to all facilities, sites, equipment, and/or materials owned or controlled by a person on or after that date.

§1410. General License

A. A general license is hereby issued to mine, extract, receive, possess, own, use, and process NORM not exempted in §1404 without regard to quantity. This general license does not authorize the manufacturing or distribution of products containing NORM in concentrations greater than those specified in §1404 A.

B.1. Facilities and equipment contaminated with NORM in excess of the levels set forth in Appendix A of this Chapter shall not be released for unrestricted use. The decontamination or maintenance of such equipment and facilities shall only be performed by a general licensee for on-site maintenance or by persons specifically authorized by the division or another licensing state to conduct such work. Each general licensee shall establish written procedures to ensure worker protection and for the survey (or screening) of equipment and components to ensure that the levels in Appendix A of this Chapter are not exceeded.

2. Equipment contaminated with NORM in excess of the levels set forth in Appendix A of this Chapter may be released for maintenance and/or overhaul provided the recipient is operating under a general license or is specifically authorized to perform the activity on contaminated equipment. The decontamination, remediation, or maintenance of equipment, facilities, and land shall only be performed by persons operating under a general license or specifically authorized by the division or another licensing state to conduct such work.

C. No person shall transfer land for unrestricted use where the concentration of radium-226 in soil averaged over any 100 square meters exceeds the background level by more than:

1. 5 pCi/gm, averaged over the first 15 cm. of soil below the surface; and

2. 15 pCi/gm, averaged over 15 cm. thick layers of soil more than 15 cm. below the surface.

D. Persons subject to the general license established by §1410.A shall file the following information with the division: name of owner or possessor, name of responsible person, mailing address, telephone number, address or location where NORM exists. The information shall be submitted to: Nuclear Energy Division; Box 14690; Baton Rouge, LA 70898; attn: NORM Program. A confirmatory survey for each of the locations

shall be submitted by December 31, 1989 pursuant to the NORM Regulatory Guide issued by the division.

§1411. Protection of Workers During Operations

Each person subject to the general license in §1410 shall conduct operations in compliance with the standards for radiation protection set forth in Chapters 4 and 10.

CHAPTER 14
APPENDIX A
ACCEPTABLE SURFACE CONTAMINATION
LEVELS FOR NORM

NUCLIDE ^a	AVERAGE ^{b,c}	MAXIMUM ^{b,d}	REMOVABLE ^{b,e,f}
U-nat, U-235, U-238, and associated decay products, except Ra-226, Th-230, Ac-227, Po-210, and Pa-231	5,000 dpm alpha/100 cm ²	15,000 dpm alpha/100 cm ²	1,000 dpm alpha/100 cm ²
Transuranics, Ra-226, Ra-228, Th-230, Th-228, Pa-231, Ac-227	100 dpm/ 100 cm ²	300 dpm/ 100 cm ²	20 dpm/ 100 cm ²
Th-nat, Th-232, Ra-223, Ra-224, U-232	1,000 dpm/ 100 cm ²	3,000 dpm/ 100 cm ²	200 dpm/ 100 cm ²
Beta-gamma emitters including Pb-210 (nuclides with decay modes other than alpha emission or spontaneous fission) except others noted above.	5,000 dpm beta, gamma/ 100 cm ²	15,000 dpm beta, gamma/ 100 cm ²	1,000 dpm beta, gamma/ 100 cm ²

^a Where surface contamination by both alpha and beta-gamma emitting nuclides exists, the limits established for alpha and beta-gamma emitting nuclides should apply independently.

^b As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed by an appropriate detector for background, efficiency, and geometric factors associated with the instrumentation.

^c Measurements of average contamination level should not be averaged over more than one square meter. For objects of less surface area, the average should be derived for each object.

^d The maximum contamination level applies to an area of not more than 100 cm².

^e The amount of removable radioactive material per 100 cm² of surface area should be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing the amount of radioactive material on the wipe with an appropriate instrument of known efficiency. When removable contamination on objects of less surface area is determined, the pertinent levels should be reduced proportionally and the entire surface should be wiped.

^f The average and maximum radiation levels associated with surface contamination resulting from beta-gamma emitters should not exceed 0.2 mrad/hr (2 uGy/hr) at 1 cm and 1.0 mrad/hr (10 uGy/hr) at 1 cm, respectively, measured through not more than 7 milligrams per square centimeter of total absorber.

Amendment to Chapter 25

Appendix A to Chapter 25 of the Louisiana Radiation Regulations is changed as follows:

Item II.A.6. is hereby deleted.

Item III. is amended in entirety as follows:

NOTICE OF INTENT
Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Louisiana Hazardous Waste Regulations (LAC, Volume 13, Title 33).

The proposed amendments to the Louisiana Hazardous Waste regulations are to conform to existing federal regulations.

The proposed regulations are to become effective on June 6, 1989, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be at 10 a.m. on May 5, 1989, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed regulations.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than May 19, 1989 to Glenn Miller, Administrator, Hazardous Waste Division, Department of Environmental Quality, Box 44307, Baton Rouge, LA 70804-4307. He may be contacted at the above address or telephone (504) 342-9072. A copy of the proposed regulations may be obtained from the Hazardous Waste Division at the address provided. In addition, copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

State Land and Natural Resources Building, Room 615, Sixth Floor, 625 North Fourth Street, Baton Rouge, LA 70804.
 State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101.

Department of Environmental Quality, 1155 Ryan Street, Second Floor, Lake Charles, LA 70601.

Department of Environmental Quality, 804 31st Street, Monroe, LA 71201.

Department of Environmental Quality, 2945 North I-10 Service Road, Metairie, LA 70002.

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70506.

Paul H. Templet, Ph.D.
 Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Conformity Regulation II

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

There will be no implementation costs or savings to state or local governments as the proposed regulations will make corrections to the existing regulations to conform to federal regulations. There will be no impact on industry or any other segment of the private sector. The regulated community is

	Initial Fee	Annual Maintenance Fee
--	----------------	------------------------------

- | | | |
|--|-----|-----|
| III. General licenses | | |
| A. General license authorized under §1410 | 100 | 100 |
| B. All other general licenses which require registration | 55 | 0 |

Paul Templet
 Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Regulation and Licensing of Naturally Occurring Radioactive Materials

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

The estimated cost to the Department of Environmental Quality to implement the proposed rule is \$339,900 for FY 89-90.

There is no anticipated cost to other state agencies or to local governmental units to implement the proposed rule.

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

It is anticipated that revenue collections to the state (Department of Environmental Quality) will increase by approximately \$100,000, based on 1,000 licensees and a license fee of \$100 per license.

There is no anticipated effect on revenue collections for local governmental units to implement the proposed rule.

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

The estimated cost to affected individuals/companies ranges from \$1.4 million to \$4.78 million. This includes the estimated cost to conduct the required surveys (\$1.3-4.68 million) and the fee proposed to partially offset the implementation cost to the Department of Environmental Quality of the proposed rule (\$100,000).

There is an estimated economic benefit of some portion of the cost of the surveys for individuals/companies contracted to perform such surveys.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Promulgation of this rule should not significantly affect long-term employment or competition in Louisiana. However, each site identified will incur an estimated cost between \$500 and \$1800. A short-term increase in competition among individuals involved in radiation surveys may exist during the initial period the proposed rule is in effect.

Mike D. McDaniel, Ph.D.
 Assistant Secretary

John R. Rombach
 Legislative Fiscal Analyst

already subject to the federal regulations to which these rule changes are intended to conform.

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

There will be no effect on revenue collections.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor Division of Administration

Notice is hereby given that the Office of the Governor, Division of Administration, under authority of R.S. 39:241 and R.S. 44:32 intends to amend LAC 4:1.301, "Uniform Fee Schedule for Copies of Public Records," as last published April 20, 1986, in Vol. 12, No. 4, Page 229, of the *Louisiana Register*, in the following respects:

Title 4 ADMINISTRATION Part I. General Provisions

Chapter 3. Fees

§301. Uniform Fee Schedule for Copies of Public Records.

A. Copies of public records on hard copy furnished to a person so requesting shall be provided at fees according to the following schedule:

1. Charges for the first copy of any public record maintained by an agency shall be at 25 cents a page for microfiche reproductions or paper copies up to 8 1/2 × 14 inches, that can be assembled and reproduced within a period of 60 minutes.

2. For those records that exceed 8 1/2 × 14, or require the agency to expend greater than 60 minutes in accumulating and duplicating the records, the agency shall charge its actual cost for duplicating these records. Actual cost shall include the labor cost involved in accumulating and duplicating the records requested. An estimated cost for duplicating the record shall be provided to the individual requesting the documents, but the individual shall be apprised of the fact that it is an estimate and that the charge will be actual cost.

3. A two sided copy shall be considered two pages.

B. Charges for copies of public records maintained on computers or other electronic medium shall be duplicated and provided to those requesting such records at the actual cost incurred by the agency in duplicating said records. Each agency shall develop a uniform fee schedule for providing records stored

in a computer data base utilizing routing utility programs. Such uniform fee schedule for providing printouts shall be first approved by the Division of Administration. An estimated cost shall be given for reproduction of public records stored in a computer which require program modification or specialized programs. The requesting party shall be advised of the estimate, and that it is an estimate, but the actual cost for reproduction, including programming costs, shall be charged if it differs from the estimate.

C. Agencies may duplicate and distribute public records they maintain for the specific purpose of marketing such records in one of two fashions:

1. If the agency markets its own records it shall comply with this fee schedule, however, it may enter into agreements with other individuals on a nonexclusive basis to market its records. The records must be provided at cost calculated under this fee schedule, but the agency can agree that the individual may sell the documents at a different cost factor, not to exceed the cost set out herein, and the agency shall share the proceeds of the sale on a commission basis. The agency shall enter into written agreements setting out the terms and conditions of this arrangement, but the agency must provide the same arrangement to any other individual or entity so requesting such an agreement. Any such contract entered into must have prior approval of the Commissioner of Administration.

2. If an agency desires, it may enter into an agreement with a single contractor to market the records maintained by the agency. It must provide the contractor the records at the costs established by this fee schedule. Resale of the records by the contractor shall include a commission for the agency that was arrived at through competitive bidding in a manner that is approved by the Division of Administration prior to issuing such a solicitation. All resale of said records under this arrangement must be made at the contract price with the agency collecting its commission as established by the contract, except for those sales made by the agency in accordance with an individual request for the production of such records. The agency shall advise the requesting individual of the existing contract and the cost to procure off the contract, but if the individual insists, the record shall be produced in accordance with the fee schedule as set forth herein.

D. Agencies may establish a fee schedule for copying public records that is in excess of this schedule, but such a schedule must be submitted to the Division of Administration with detailed justification, and before implementation it must be approved in writing by the Commissioner of Administration.

F. Copies of public records shall be furnished without charge or at a reduced charge to indigent citizens of this state. This determination shall be the responsibility of the agency.

G. Copies of public records may be furnished without charge or at a reduced charge to another state agency, the Legislature, the Judiciary, or to persons whose use of such copies will be limited to a public purpose, including but not limited to use in a hearing before any governmental regulatory commission.

H. This schedule shall not apply to copies of public records, the fees for reproduction of which are otherwise fixed by law, or if said agency is exempt by law from utilizing this fee schedule and/or is authorized to establish its own fee schedule.

Such authority shall be provided to the Commissioner of Administration prior to the establishment of a fee schedule separate from this one.

Dennis Stine
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Uniform Fee Schedule**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no impact on cost or savings to either state or local governments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There may be some increase in revenue collections, but the amount is unknown at this time and no data available to make an estimation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There may be an impact to those people that have to pay for these documents, but at this time the impact cannot be estimated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no impact on competition or employment by enacting this rule.

Kevin P. Torres
Administrative Counsel

David W. Hood
Senior Fiscal Analyst

**NOTICE OF INTENT
Office of the Governor
Governor's Special Commission
on Education Services**

The Governor's Special Commission on Education Services is requesting for implementation of a \$5 fee for each award check processed for the following programs: State Student Incentive Grant, T. H. Harris Scholarship, Rockefeller Scholarship, Paul Douglas Scholarship, and Education Majors Scholarship. Because of this new fee schedule, the \$2.50 application processing fee was terminated December 31, 1988.

Interested persons may comment by contacting Mona H. Durham, Director, Scholarship/Grant Division, GSCES, Box 91202, Baton Rouge, LA, 70821-9202; telephone (504) 922-1038.

Sunny Terrell
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Award Processing Fee**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs nor savings to state or local governmental units as a result of this proposal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will result in fees of approximately \$44,200 annually, whereas the current rule provides only \$15,000 annually. The net effect on revenue collections will be \$29,200.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Only those students actually receiving T. H. Harris, Rockefeller, Paul Douglas, Education Majors and/or State Student Incentive Grant awards will bear the cost of the \$5 award fee. Award funds are disbursed each semester, therefore, the annual cost could range from \$5 to \$10 depending on continuation of eligibility and funding.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment as a result of this proposal.

Mona H. Durham
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners for Nursing Home Administrators**

The Louisiana State Board of Examiners for Nursing Home Administrators intends to adopt a change in Chapter 11, Section 1107.B of Title 46:XLIX as follows to amend an existing rule.

**Chapter 11. Licenses
§1107. Reciprocity**

A.

B. The basic minimum standards for endorsement of a license by reciprocity are that the applicant must meet licensing standards in effect in Louisiana at the time the applicant was licensed in the state from which he/she seeks reciprocity, but in no instance is applicant required to meet more than current Louisiana standards; or has been licensed for at least five years and has practiced as a licensed administrator for at least three years. In lieu of an approved AIT program, one year of full-time experience as a practicing administrator will be considered.

Interested persons may submit written comments on the proposed regulation until 3:30 p.m., May 15, 1989 at the following address, Winborn E. Davis, Executive Director, Louisiana

State Board of Examiners for Nursing Home Administrators,
Suite 100, 4550 N. Blvd., Baton Rouge, LA 70806.

Winborn E. Davis
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Title 46, LAC**

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

There will be no costs or savings to local government units. The board will generate approximately \$1,000 in additional fees per year.

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

There will be no effect on revenue collections of local government units. The board will generate approximately \$1,000 in additional fees per year.

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

There will be no new costs to directly affected persons, and they will benefit by having their licenses more readily endorsed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action grants qualified administrators from other states the same privilege many other states grant Louisiana Administrators who move or their employers move them to other states to work. There will be no appreciable effect on competition or employment of qualified administrators, as more than four to six people per year are likely to apply.

Winborn E. Davis
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the Administrative Procedure Act, the Department of Health and Hospitals, Office of Public Health intends to amend the Fee Adjustment Schedule as contained in the regulations for the Family Planning Program found in the *Louisiana Register*, Vol. 14, No. 8, page 534 (August 20, 1988).

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 13. Family Planning Services

Chapter 37. Fees

§3703. Fee Adjustment Schedule

A. . . .

B. Persons whose adjusted income in accordance with

family size is at or below 100 percent of poverty as is defined by the United States Community Services Administration poverty guidelines shall not be charged for Family Planning services. Persons whose gross family income is at or above 250 percent poverty as is defined by the United States Community Services Administration poverty guidelines shall be charged the full cost of services provided. Between these two levels, fees shall be adjusted in accordance with the formula included in the "Schedule of Charges." Effective June 20, 1989 the current fee schedule shall be revised as follows:

Family Size	% Poverty Income	I 100% or Less No Charge	II 101%-115% 10% of Cost	III 116%-130% 20% of Cost	IV 131%-145% 30% of Cost	V 146%-160% 40% of Cost
	1		5,980	6,040	6,937	7,834
2		8,020	8,100	9,303	10,506	11,709
3		10,060	10,161	11,670	13,179	14,688
4		12,100	12,221	14,036	15,851	17,666
5		14,140	14,281	16,402	18,523	20,644
6		16,180	16,342	18,769	21,196	23,623
7		18,220	18,402	21,135	23,868	26,601
8		20,260	20,463	23,502	26,541	29,580
9		22,300	22,523	25,868	29,213	32,558
10		24,340	24,583	28,234	31,885	35,536
11		26,380	26,664	30,601	34,558	38,515
12		28,420	28,704	32,967	37,230	41,493
13		30,460	30,765	35,334	39,903	44,472
14		32,500	32,825	37,700	42,575	47,450
15		34,540	34,885	40,066	45,247	50,428
16		36,580	36,946	42,433	47,920	53,407
17		38,620	39,006	44,799	50,592	56,385

Family Size	% Poverty Income	VI 161% - 175% 50% of Cost	VII 176% - 190% 60% of Cost	VIII 191% - 205% 70% of Cost	IX 206% - 220% 80% of Cost	X 221% - 235% 90% of Cost	XI 236% - 250% 100% of Cost
	1		9,628	10,525	11,422	12,319	13,216
2		12,912	14,115	15,318	16,521	17,724	18,927
3		16,197	17,706	19,215	20,724	22,233	23,742
4		19,481	21,296	23,111	24,926	26,741	28,556
5		22,765	24,886	27,007	29,128	31,249	33,370
6		26,050	28,477	30,904	33,331	35,758	38,185
7		29,334	32,067	34,800	37,533	40,266	42,999
8		32,619	35,658	38,697	41,736	44,775	47,814
9		35,903	39,248	42,593	45,938	49,283	52,628
10		39,187	42,838	46,489	50,140	53,791	57,442
11		42,472	46,429	50,386	54,343	58,300	62,257
12		45,756	50,019	54,282	58,545	62,808	67,071
13		49,041	53,610	58,179	62,748	67,317	71,886
14		52,325	57,200	62,075	66,950	71,825	76,700
15		55,609	60,790	65,971	71,152	76,333	81,514
16		58,894	64,381	69,868	75,355	80,842	86,329
17		62,178	67,971	73,764	79,557	85,350	91,143

AUTHORITY NOTE: Promulgated in accordance with 42 CFR 59.5A5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 15:

This action to revise the Fee Adjustment Schedule is the result of changes in the federal regulations governing this federally funded program as set forth in 42 CFR 59.5A5 dated June 30, 1980. In essence, the federal regulation requires the state agency administering the program to adopt the most recent poverty guidelines as published by the U. S. Office of Management and Budget. The most recently announced federal guidelines

were promulgated on February 16, 1989, pages 7097-7098 in the *Federal Register* Volume 54, No. 31.

Interested persons may submit written comments at the following address: Joseph D. Kimbrell, Deputy Assistant Secretary of Programs, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Family Planning Program/
Revised Fee Adjustment Schedule**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no expected increase in costs nor savings to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant change is expected in revenue collection with this revision of the fee schedule for Fiscal Year 1990.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Some patients who were previously charged will not be because of the rise in the poverty index. The charges to other paying patients will be less because they will be dropped to a lower paying group.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect is anticipated in competition and employment as the same kind and amount of services will be offered.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Department of Health and Hospitals, Office of Public Health proposes to amend Chapter II of the State Sanitary Code as follows:

Sanitary Code
State of Louisiana
Chapter II
The Control of Disease

2:003 The following diseases are hereby declared reportable:

Acquired Immune Deficiency Syndrome (AIDS)	Malaria
Amebiasis	Measles (rubeola)*
Anthrax	Meningitis, <i>Haemophilus</i>
Aseptic meningitis	Meningococcal infection (including meningitis)*
Blastomycosis	Mumps
Botulism*	Mycobacteriosis, atypical***
Brucellosis	Ophthalmia neonatorum**
Campylobacteriosis	Pertussis (whooping cough)
Chancroid**	Plague*
Cholera*	Poliomyelitis
Chlamydial infection**	Psittacosis
Diphtheria*	Rabies (animal & man)
Encephalitis (specify primary or post-infectious)	Rocky Mountain Spotted Fever
Erythema infectiosum (Fifth Disease)	Rubella (German measles)*
Foodborne illness*	Rubella (congenital syndrome)
Genital warts**	Salmonellosis
Gonorrhea**	Shigellosis
Granuloma Inguinale**	Syphilis**
Hepatitis, Viral (specify type)	Tetanus
Herpes (genitalis/neonatal)**	Trichinosis
Legionellosis	Tuberculosis***
Leprosy	Tularemia
Leptospirosis	Typhoid fever
Lyme Disease	Typhus fever, murine (fleaborne, endemic)
Lymphogranuloma Venereum**	Yellow fever*
	Vibrio infections (other than cholera)

*Report suspected cases immediately by telephone. In addition, all cases of rare or exotic communicable diseases and all outbreaks shall be reported.

**Report on STD-43 form

***Report on CDC 72.5 (f 5.2431) card

All reportable diseases and conditions other than the Venereal Diseases and Tuberculosis should be reported on an EPI-2430 card and forwarded to the local parish health unit or the Epidemiology Section, Box 60630, New Orleans, LA 70160.

OTHER REPORTABLE CONDITIONS

Cancer	Severe under nutrition (severe anemia, failure to thrive)
Complications of abortion	Sickle cell disease (newborns)
Congenital hypothyroidism	Spinal cord injury
Lead poisoning	Sudden infant death syndrome (SIDS)
Phenylketonuria	
Reye Syndrome	

This action regarding the reporting of Campylobacteriosis, Fifth Disease and Lyme Disease comes as a result of an increasing number of cases being reported and/or the need for additional epidemiological data to assist the physicians around the state with diagnosis and/or treatment by providing information on the incidence and prevalence of these diseases. In some parts of the country campylobacter causes more diarrheal illness than does salmonella or shigella and there have been reports indicating a possible increase in activity in Louisiana. Recent

studies of Parvovirus 19, the causative agent of Fifth's Disease, shows a possible connection to fetal death if contact occurs early in pregnancy. While the studies continue, the Office of Public Health needs to gather additional data in order to provide recommendations to exposed pregnant females (especially in school populations). Lyme disease generated national attention and was reported for the first time ever in Louisiana in 1988. In order to evaluate the degree of activity with its subsequent complications and to collaborate with our neighboring states on information sharing and development of control measures, Lyme Disease must be added to the reportable list.

The necessity of adding Chlamydia trachoma, Herpes genitalis and Genital warts to the reportable disease list comes as a result of the need to gather more information on the ever increasing number of illnesses and the complications associated with these entities. Genital herpes can cause severe complications to babies born of mothers with this infection and recent studies have linked herpes to cancer of the cervix. Chlamydia has been linked to pelvic inflammatory disease, neonatal conjunctivitis and pneumonia along with other complications that principally affect women and infants. Genital warts have been linked to vaginal and penile cancers. Ongoing surveillance is needed to keep medical and public health personnel aware of the problems and to implement and maintain disease intervention measures.

The reportable conditions added to the list are conditions that have been reportable by law for several years under various state statutes but were never published as a complete list which could be distributed to physicians.

In an effort to improve communication between the agency and the physicians and to increase disease reporting, it is our feeling that a composite list of reportable diseases and conditions should make it easier for physician reporting.

Interested persons may submit written comments or questions to: Dr. Louise McFarland, Chief, Epidemiology Section, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160.

David L. Ramsey
Secretary

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

**Rule Title: Chapter II Sanitary Code Reportable
Diseases and Conditions**

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

There are no estimated implementation costs to the 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 governments.

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

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

reporting of such reportable diseases and conditions as listed in this rule should protect the general public from the spread of such diseases.

In an effort to improve communication between the agency, physicians and others who are in positions to report, it is felt that a composite list of reportable diseases and conditions should make mandated reporting easier and more uniform.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-
MENT (Summary)**

There is no estimated effect on competition or employment.

Joseph D. Kimbrell
Deputy Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the laws of the state of Louisiana, R.S. 40:4, 40:5, and the provisions of Chapter XIII of the State Sanitary Code, the state health officer is proposing that the following amendment to the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes--Acceptable Units" be made:

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

MANUFACTURER	PLANT DESIGNATION	RATED CAPACITY
Joe Miller Contractors Route 13, Box 813 Lake Charles, LA 70611 (318) 855-2282	"Econo-HP" Models 500 HP 1000 HP 1500 HP	500 GPD 1000 GPD 1500 GPD

AND

Duplantis Concrete Products, Inc.
1204 West Main Street
New Iberia, LA 70560
(318) 365-2053

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

Comments regarding the proposed rule should be addressed to Joseph D. Kimbrell, Deputy Assistant Secretary-Programs, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160. A public review hearing will be held on May 8, 1989 at 10 a.m. at 325 Loyola Avenue, Room 511, New Orleans, to hear comments on the rule.

David L. Ramsey
Secretary

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

**Rule Title: "Mechanical Wastewater Treatment Plants
for Individual Homes--Acceptable Units," Amended
Listing**

tary, Department of Health and Hospitals, Office of Public
Health, Box 60630, New Orleans, LA 70160.

David L. Ramsey
Secretary

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

Rule Title: Chapter XIII State Sanitary Code

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The consumer will be afforded a wider selection of products - thus enhancing competition and possibly resulting in reduced costs for the related products and services to the consumer.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition will be stimulated by the presence of the new product. Effect on employment cannot be estimated.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs because these services are already being rendered.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. However, the revised formatting should improve the readability of Chapter XIII for those persons who must operate by policies contained therewithin.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

The Department of Health and Hospitals, Office of Public Health intends to change Chapter XIII of the State Sanitary Code to approve a new, much needed method of providing secondary treatment of sewage while eliminating an ineffective and seldom used system. It also has been rearranged to make certain sections easier to locate and read. This rulemaking rescinds the rule promulgated in the July 24, 1985 issue of the *Louisiana Register*.

Due to its length, the text of Chapter XIII will not be printed here, but can be reviewed at the Office of the State Register, 900 Riverside North, Baton Rouge, Louisiana and at the following Office of Public Health locations:

Region I Office, 3308 Tulane Avenue, Fifth Floor, New Orleans, LA.

Region II Office, 1220 Main Street, Baton Rouge, LA.

Region III Office, 206 E. Third Street, Thibodaux, LA.

Region IV Office, 302 Jefferson, Room 612, Lafayette, LA.

Region V Office, 4240 Legion Street, Lake Charles, LA.

Region VI Office, 1335 Jackson Street, Alexandria, LA.

Region VII Office, 1525 Fairfield Avenue, Room 566, Shreveport, LA.

Region VIII Office, 2913 Betin Street, Monroe, LA.

Interested persons may submit comments on the proposed changes to Joseph D. Kimbrell, Deputy Assistant Secre-

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the Administrative Procedure Act, as amended, the Vital Records Registry of the Office of Public Health, Department of Health and Hospitals intends to correct fees stated in the Louisiana Administrative Code in accordance with statutory fees set forth in R.S. 40:40 and 40:2403 and to modify records issuance procedures to require proper identification of applicants for vital records in accordance with R.S. 40:32 et seq., by supplanting Section 11707 of Chapter 117 of Title 48 of the Louisiana Administrative Code in its entirety with the following. The promulgation of rules is authorized by R.S. 40:33C.

Title 48
PUBLIC HEALTH-GENERAL
Part V. Preventive Health Services
Subpart 45. Vital Records

Chapter 117. Availability of Records
§11707. Copies of Certified Records

A. Certified Records through the Mail

Certified copies of records in the custody of the state registrar may be purchased by writing to Vital Records Registry, Box 60630, New Orleans, LA 70160. Release of these records is possible when the requirements as set forth in R.S. 40:32 et seq. are met. When writing the requestor shall:

1. indicate his/her relationship to the person named in the document;

2. provide the necessary identifying information and information to enable vital records personnel to locate the document:

a. Births - Fees as mandated by the Louisiana Revised Statutes:

- i. name of registrant
- ii. date
- iii. city or parish of birth
- iv. maiden name of mother
- v. name of father

b. Deaths - Fee as mandated by the Louisiana Revised Statutes:

- i. name of deceased
- ii. date of death
- iii. city or parish of death
- c. Marriage-Fee as mandated by the Louisiana Revised Statutes:

(Note: Only records pertaining to a license purchased in Orleans Parish are available through the registry. In all parishes, except Orleans, certified copies of marriage certificates may be obtained from the clerk of court in the parish of license purchase.)

- i. name of bride
- ii. name of groom
- iii. date of marriage

Payment must be made by check or money order. The registry cannot accept responsibility for cash sent by mail.

B. Certified Records at the Service Counter

Certified copies may be purchased by the requestor appearing in person at Room 103, 325 Loyola Avenue, New Orleans, LA between 8:15 a.m. and 4 p.m., Mondays through Fridays (excluding holidays). The requestor must complete a form supplying the pertinent information enumerated in §11707 A.2, sign the application form, supply identification in accordance with posted identification requirements and pay the collectible fee as set forth in the Louisiana Revised Statutes. Payment must be made by cash, check or money order.

Interested persons may submit written comments at the following address: William H. Barlow, Director and State Registrar, Division of Records and Statistics, DHH-OPH, Box 60630, New Orleans, LA 70160.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Certified Copies of Vital Records

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

There is no anticipated fiscal impact in terms of implementation costs.

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

There is no anticipated impact on revenue collections.

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

There is no anticipated costs and/or economic benefits affecting persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no projected effect on competition and employment.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health intends to amend the local registrar death certificate processing and issuance procedure as provided for in the Louisiana Revised Statutes under R.S. 40:32 et seq., by supplanting §§11901 and 11903 of the Louisiana Administrative Code in their entirety with the following. The promulgation of rules is authorized by R.S. 40:33C.

Title 48
PUBLIC HEALTH-GENERAL
Part V. Preventive Health Services
Subpart 45. Vital Records

Chapter 119. Vital Records Registrars
§11901. Local Registrars

A. Notice of Deaths Filed-Registrar of Voters

1. The first working day of each month the local registrar of vital records in each of the parishes of the state shall prepare on forms provided by the state registrar, in triplicate, by parish of residence of the decedents, separate lists of all the death certificates filed with the local registrar during the previous month.

2. Information included on the registrar of voter's list shall be as a minimum the name of the decedent, date of death, address of the decedent and parish of residence. The list shall be mailed on the day completed to the local registrar of voters in the respective parishes of residence of the decedents.

B. Accurate and Complete Certificate of Birth and Death
Local registrars of vital records shall not accept for filing or

transmittal to the state registrar any certificate of live birth or death certificate until said certificate has been accurately and fully completed by the person preparing said certificate, whether it be a physician, funeral director or any other individual.

C. Local Registrars-Death Certificates- Certification-Fees

1. Local registrars in accordance with law, may for 10 days following the date of acceptance of a Certificate of Death issue certified copies of the certificate over their signature and that of the state registrar. The certified copies shall be issued from the original certificate or a copy of the original in their possession. They shall collect the fee provided by law for each certified copy, shall maintain an accurate record of copies issued, to whom issued, and fees collected. Fees collected shall be promptly remitted in accordance with Office of Public Health policies and procedures. A summary of copies issued and fees collected shall be reported to the state registrar on forms provided by him.

Copies of said death certificates shall only be issued to those persons authorized by law to receive them. Copies of said certificates shall be requested in writing and the request form or letter shall bear the requestor's signature. The statutory fee shall be collected prior to the issuance of the certificates. If checks are tendered in payment of said fees, they shall bear the name, address, phone number and driver's license number or social security number of the person issuing the check; however, this provision shall be waived as to checks issued by funeral homes or directors.

3. Each working day, the local registrar shall promptly transmit to the state registrar by mail all copies of death certificates which have exceeded the 10-day holding period at the parish health unit and shall not thereafter retain or issue any copies or certified copies of said certificates. Thereafter, all copies of said death certificates shall remain in the possession of the state registrar, and he shall be the only person authorized to issue certified copies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:33C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 15:

Interested persons may submit written comments at the following address: William H. Barlow, Director and State Registrar, Division of Records and Statistics, DHH-OPH, Box 60630, New Orleans, LA 70160.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Vital Records Registrars**

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

The proposed rule corrects conflicts between an existing rule and statutory law. There is no estimated implementation costs.

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

There is no estimated impact on revenue collections of state or local governmental units.

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

There is no estimated costs and/or economic benefits to persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Joseph Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health intends to amend LAC 48:V.12501, of the Louisiana Administrative Code regarding requirements to obtain a marriage license from the Vital Records Registry to incorporate provisions contained in Acts 345 and 978 of 1988. The amendments eliminate the requirement for medical certificates for the applicants and provide for the issuance of licenses to persons when the parties are to be married in the parish. The promulgation of the rule is authorized by R.S. 40:33(C).

Title 48

PUBLIC HEALTH-GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 125. Requirements for Orleans Parish Marriage Licenses

§12501. Requirements for Obtaining a License to Marry in New Orleans, Louisiana

A. An application for a license may be made by either party (Both parties need not be present). One of the applicants must be a resident of Orleans Parish or the marriage ceremony must be performed in Orleans Parish in accordance with R.S. 9:222.

B. A 72-hour waiting period is required by R.S. 9:241 between time of issuance of license and the ceremony. Permission to waive the waiting period may be granted by a judge of the First City Court and must be attached to the returned license.

C. As required by R.S. 9:225, certified copies of birth records shall be presented for both parties. (This requirement may be waived by a judge of the First City Court for those born outside Louisiana). The certified copies of the birth certificates shall be issued by the proper vital statistics registration authorities of the cities, states or counties of birth. The raised seals or stamps of the agencies or authorities issuing the certificates must be affixed thereto.

D. Marriage between a male and female under age 18 is prohibited by R.S. 9:211, unless as specified below. Applicants over the age of 16 but less than 18 will need the signed consent of both parents or an order from a judge of juvenile court. Females under age 16 will be issued a license only upon the written order of the juvenile court judge.

E. If either party has been divorced, a certified copy of the final decree of divorce shall be presented to the issuing officer. See C.C. Art. 93.

F. A certified copy of a death certificate shall be presented when a widow or widower is applying for a license to marry. See C.C. Art. 93.

G. A marriage license expires and becomes invalid 30 days after the date issued as set forth in R.S. 9:235. An expired marriage license may be reissued upon receipt of the original expired license by the Vital Records office (See R.S. 9:236).

H. Prior to the issuance of a marriage license, the statutory fee(s) set forth in the Louisiana Revised Statutes shall be paid by the applicant(s). Such payment may be made by cash, check or money order.

Interested persons may submit written comments at the following address: William H. Barlow, Director and State Registrar, Division of Records and Statistics, DHH-OPH, Box 60630, New Orleans, LA 70160.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Requirements for Obtaining a License to Marry in New Orleans, Louisiana

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

The proposed amendment modifies an existing rule to eliminate conflicts with statutory laws. There is no anticipated implementation costs (savings) to state or local government other than costs inherent in the rulemaking process.

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

Although passage of Act 345 resulted in a small increase in revenues, promulgation of the proposed rule should have no significant impact on revenue collection of state or local governmental units.

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

There is no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health intends to adopt the following rule pursuant to LSA-R.S. 40:41(D) as amended by the 1983 Legislature to provide for the disclosure of vital records for public health research purposes in accordance with rules and procedures established by the state health officer. The rule was published in the *Louisiana Register*, Vol. 10, No. 6, June 20, 1984 and was inadvertently omitted in the April, 1987 (LR 13:246) re-adoption for codification in the Louisiana Administrative Code. The promulgation of the rule is authorized by R.S. 40:33C and 40:41D.(1).

Title 48

PUBLIC HEALTH-GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 117. Availability of Records

§11709. Use of Vital Records in Research

A. Definitions

1. *Research*: A systematic epidemiological and/or public health investigation designed to develop or contribute to medical knowledge.

2. *Limited Research*: The investigator or researcher provides the name, date and place of birth/death for all requests and assures that no contact with the subjects or subjects' families will occur.

3. *Department*: Department of Health and Hospitals.

4. *Human Subject*: A person to whom the record pertains or his next of kin as described in LSA-R.S. 40:41(C).

5. *Panel*: Refers to Vital Records Review Panel consisting of the state health officer, the state registrar of vital records and the tumor registry administrator as described in R.S. 40:41(D), along with a representative from Louisiana State University (LSU) Medical School - New Orleans and a representative from Tulane University Medical School.

B. Panel

1. *Panel Members* - The state health officer, the state registrar, and the tumor registry administrator form the nucleus of the panel and shall be called "Class A" members. One representative each from Louisiana State University, New Orleans and Tulane Medical Schools will be appointed for two-year terms by the state health officer in consultation with the deans of the two medical schools and shall be called "Class B" members. The state health officer may also appoint resource persons, who are not necessarily employed by the department to attend panel meetings and review proposals. These resource persons shall be called "Class C" members.

2. *Panel Quorum* - A quorum shall require the presence of two Class A members and one additional member from either Class A or Class B. Only Class A and Class B members may vote. A majority of the voting members present must concur via roll call vote for the panel to take action on the approval or disapproval of any application.

C. Public Health Research

1. *Panel Records* - Adequate documentation of the panel

activities shall be maintained including the following:

a. Copies of all research proposals reviewed, including attachments.

b. Minutes of all panel meetings shall be in sufficient detail to show attendance at meetings, actions taken by the panel, the vote on the actions including the number of members voting for, against or abstaining, the basis for requiring changes in or disapproving research, and a written summary of controversial issues and their resolution.

c. Copies of all correspondence.

d. The records required by these rules shall be retained for at least three years after completion of the research.

2. Application - A request for the use of vital records for research shall be in writing and shall be addressed to the state registrar of Vital Records. The data request must include:

a. a complete experimental protocol including public health objectives, rationale for the study, design detail and scientific basis for selection of subjects;

b. a summary of the protocol;

c. a copy of the informed consent form and an outline of the consent process which meets the consent requirements described in these rules, as provided in Subsection C.4;

d. provisions to protect the confidentiality of the data and the privacy of the subjects and their families;

e. resumés of all investigators, listing educational degrees and societies, certifying boards and academic institutions which have recognized their competence by granting membership, diplomate, or title, previous work in the subject area and employment;

f. approval from an institutional review board for this study or approval from an educational department chairman where the applicant is employed by or associated with an institution which requires such approval;

g. affirmation that a report of the findings resulting from the use of the records shall be provided to the state health officer;

h. a signed agreement to indemnify and hold the department and its employees harmless from any liability arising out of authorized or unauthorized access to the vital records.

3. Confidentiality - The researcher must establish reasonable administrative, technical and physical safeguards to prevent unauthorized use or disclosure of the records. Information that allows the individual to be identified must be removed or destroyed at the earliest time which is consistent with the purpose of the project.

4. Informed Consent

a. The following basic elements of informed consent must be provided to each subject when the research design calls for personal contact or other follow-up:

i. A statement that the study involves research, an explanation of the purpose of the research, the expected duration of the subject's participation, and a description of the procedure to be followed.

ii. A description of any benefits which may reasonably be expected from the research.

iii. A statement describing the extent to which confidentiality of records identifying the subject will be maintained.

iv. An explanation of whom to contact for answers to pertinent questions about the research and the rights of the subject.

v. A statement that participation is voluntary. Refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled. The subject may discontinue participation at any time without penalty.

b. An investigator shall seek the consent of the subject under circumstances that provide sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence.

c. The information that is given shall be in language understandable to the subject.

d. In obtaining informed consent, no exculpatory language through which the subject is made to waive or appear to waive any of the subject's legal rights, or releases or appears to release the investigator or the sponsor from liability for negligence shall be used.

e. A written document embodying the elements of informed consent as described above must be signed by each subject. The original shall be retained by the investigator's research.

5. Criteria for Approval of Research - The following shall be the criteria for the approval of research.

a. The study objective and design reflect that the proposal is in the best interest of the public health.

b. The selection of subjects is made on a scientific basis.

c. The investigators/researchers are deemed qualified based on their past research, employment and education.

d. Where appropriate, as provided in Subsection C.2.f, approval of an institutional review board has been obtained.

e. Provisions to protect the confidentiality of the data and the subjects comply with Subsection C.4.

f. The informed consent process and forms follow the guidelines required in these rules and will be appropriately documented as required.

6. Notification - The panel shall notify requestors in writing of the decision to approve or disapprove the proposed study or of modifications required to secure approval of the research activity. If the committee disapproves a request, it shall include in its written notification a statement of the reasons for its decision and give the investigator/researcher an opportunity to request reconsideration in writing.

7. Requests for Reconsideration - Requests for reconsideration must be filed within 30 days of the date appearing on the notification. The principal investigator/researcher may be invited to appear at the hearing. The decision of the committee after reconsideration is final.

8. Fees - Fees for copies of certificates will be the same as those set forth in R.S. 40:40. The cost per reel for computer tape with no accompanying certificates will be \$100.

9. Exception to Approval Process - Requests for vital records information may be approved by the state health officer or a duly authorized representative without being presented to the panel if the request is for limited research and the investigator/researcher provides the name, date, and place of birth/death for all requests. An affidavit stating that no family members will be contacted and that stringent confidentiality procedures will be followed to protect the data and the privacy of the subject must be submitted. A signed hold harmless agreement and a description of the research design must be submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:33C and R.S. 40:41.D.(1).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 15:

Interested persons may submit written comments at the following address: William H. Barlow, Director and State Registrar, Division of Records and Statistics, DHH-OPH, Box 60630, New Orleans, LA 70160.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Use of Vital Records in Research**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The implementation of the proposed rule would result in no additional costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no additional costs and/or economics benefits to directly effect persons or non-governmental groups. This action will repromulgate a rule that was originally promulgated in June, 1984 and inadvertently omitted during repromulgation and codification in April, 1987 (LR 13:246).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition and employment.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

In accordance with Act 13 of the First Extraordinary Session of the 1988 Louisiana Legislature, and the Declaration of Fiscal Emergency issued by Governor Roemer, the Department of Health and Hospitals, Office of the Secretary proposes to adopt the following rule, effective July 1, 1989, continuing present fees for the next fiscal year.

In the **Bureau of Health Services Financing**, the Facility Need Review will maintain the present filing fees of \$1500 for a full review and \$500 for any expedited review, for applications for approval for ICF I and II facilities, ICF M/R's, and free-standing psychiatric facilities. Approval by the Facility Need Review Program is necessary in order to enroll beds in Medicaid.

The person responsible for responding to inquiries on these fees is Carolyn Maggio, Bureau of Health Care Financing, 755 Riverside Mall, Room 321, Baton Rouge, LA 70801.

The Division of Licensing and Certification will continue the following fees for licensing services rendered. These fees will offset the cost of salaries, rent, inspections, travel, monitoring, etc.

- 1. \$300 increase in licensure of Nursing Homes, Hospitals, Residential Care Providers and home health agencies. This will increase the base fee from \$100 to \$400. The additional \$3 fee per licensed bed remains the same.
- 2. \$25 processing fee for all initial facility applications. This fee is counted toward the license fee if license is actually issued.
- 3. \$25 processing a facility replacement license when changes are requested by the facility, which may require re-survey of the facility. (No processing charge when request coincides with regular renewal of license)
- 4. \$5 processing fee for issuing a duplicate facility license with no changes.
- 5. \$150 fee for all Adult Day Care, Adult Day Health Care or Day Developmental Training Programs. **All state-owned facilities are exempt from fees.

The person responsible for responding to inquiries on these fees is Steve Phillips, Division Director, Division of Licensing and Certification, 333 Laurel Street, Suite 620, Baton Rouge, LA 70801.

The Office of Public Health will continue to collect the following regulatory and family health service fees:

1. Safe Drinking Water Program

These annual permit fees will be collected from public water supplies in communities which have six to over 25,000 service connections. The purpose is to generate revenue to support the OPH cost of inspection, monitoring, and bacteriological sampling/analysis mandated by the Sanitary Code.

1. COMMUNITY WATER SUPPLY SYSTEMS PERMITS

(Year round Public Water Systems)	FEES
Number of Service Connections	
6-25	\$ 400
26-125	\$ 500
126-250	\$ 600
251-625	\$ 700
626-825	\$ 800
826-1,250	\$ 900
1,251-2,500	\$1,000
2,501-12,900	\$1,500
12,901-18,750	\$2,000
18,751-25,000	\$2,500
25,001 up	\$3,000
2. Non-Community Water Supply (Such as Roadside Parks)	\$ 100
3. Non-Transient/Non-Community Water Supply (Serves over 25 of the same persons over six months per year)	\$ 400

To aid the public water supplies in meeting their chemical monitoring responsibilities, as required by state and federal law, the Department of Health and Hospitals, Office of Public Health and the Office of Licensing and Certification are proposing to establish a certification program to approve commercial, private,

municipal and public water supply laboratories to provide the needed chemical (organic, inorganic and radiological) analytical support for the public water supplies. Each public water supply will be responsible for paying the contract laboratory for the analytical services provided. Any laboratory interested in pursuing approval to perform chemical monitoring of public water supplies should contact Dr. Henry Bradford, Laboratory Director, DHH/OPH, Box 60630, New Orleans, LA 70160.

2. Milk and Dairy

Annual permit fees of \$90 per permit for dairy farms (producers) and \$300 per permit for milk and frozen dessert plants. The purpose is to generate revenue to partially support Office of Public Health cost of inspection, monitoring, sampling, and laboratory analysis mandated by the Sanitary Code to protect milk consumers from contamination and disease.

3. Retail Food

An annual fee will be charged for each permit issued by the Department of Health and Hospitals to all markets, itinerant markets, and food service establishments as defined in Chapters 22 and 23 of the State Sanitary Code. This will include, but is not limited to, restaurants, bars, lounges, groceries, markets, deli's, mobile food vendors, retail food manufacturers, and itinerant food vendors. All state and local government owned and operated facilities, churches, and non-profit organizations (as defined by the U.S. Internal Revenue Service) are exempt from the fee portion of this rule. All others will be charged according to the following schedule:

First annual permit -	\$100
Second, Third, Fourth and Fifth Permits -	\$75 each
Sixth Permit on Up -	\$50 each
Day Care Centers licensed for:	
7 - 15 individuals	\$ 25
16 - 50 individuals	\$ 50
51 - 100 individuals	\$ 75
101 + individuals	\$100

The purpose of these fees is to generate revenue to partially support OPH cost of inspection, monitoring, sampling and laboratory analysis of foods as mandated by the Sanitary Code to assure safety for human consumption.

4. Food and Drug Control

An annual permit fee of \$150 would be assessed from manufacturers, packers, processors, warehouses and distributors of foods, drugs and cosmetics. Existing permit fees would be increased for product registrations (\$5 increase) and soft drinks bottled out of state (\$10 increase per flavor). These fees would generate revenue to partially support the OPH cost of inspection, monitoring, sampling and laboratory analysis of foods, drugs and cosmetics as mandated by the Sanitary Code to assure their safety for human consumption.

5. Seafood

An annual permit fee of \$150 would be charged to seafood distributors and processing plants, while a \$50 fee will be assessed per shellfish transplant permit granted.

These fees would generate revenue to partially support the OPH cost of inspection, monitoring, sampling and laboratory analysis as mandated by the Sanitary Code to assure safety for human consumption.

6. Sewerage

Permit fees from \$50 to \$100 will be charged in order to generate revenues to partially support the OPH cost of providing

sewerage program services, i.e. site assessments, plans and specifications reviews, etc., in accordance with the Louisiana's Sanitary Code requirements. These permit fees will become payable and shall be collected in accordance with procedures which will be developed and implemented by OPH.

The categories of sewerage permit fees to be charged are as follows:

For individual-type sewerage treatment systems intended for residential use, i.e., specific tank, mechanical plant and other systems, a one-time fee of \$50 will be charged for each system so manufactured and made available for sale and residential use. This fee will be payable by the manufacturer (or manufacturer-authorized system distributor, franchise, sales or agent thereof; subject to OPH approval).

For sewerage treatment and interrelated systems inspections, (or related request associated with loanmaking procedures for existing residential and commercial properties, i.e., as may be required per FHA, VA, conventional or other lenders and/or underwriters), a one-time fee of \$75 for each inspection (or related request for each sewerage treatment and/or inter-related system identified). This fee will be payable by the individual requesting such inspection or related activity.

For a sewerage hauler license an annual \$50 fee will be payable by each individual so engaged in such business/practice.

For a sewerage installer license an annual fee of \$100 will be payable by each individual so engaged in such business/practice.

7. Operator Certification Program

An annual certificate fee of \$10 for the first category in water and/or wastewater and an additional \$5 for each added category would be assessed from certified water and/or wastewater facility operators. The fee would be calculated separately for water and wastewater and would be collected every two years. Existing certificate fees for renewal and duplicate certificates would be increased (\$3 increase). Examination fees would be \$5 per exam for each water and/or wastewater category.

These increased fees would generate an additional revenue in FY 89-90 of \$9,000 to partially support the OPH cost of inspection, monitoring, training, and certification of water and/or wastewater facility operators as mandated by R.S. 40:1141 et seq and the Sanitary Code to assure the protection of the public health and environmental protection.

B. FAMILY HEALTH SERVICES

1. Handicapped Children's Services

The Handicapped Children's Services Program (HCSP) proposes to collect fees from certain families found to be able to pay, based on the family's income, size, and the costliness of the services rendered to the family's physically handicapped child. The amount of the fee will be a percentage of the actual costs of the services, based on the family's ability to pay. No family would be expected to pay more than 20 percent of their income in any one calendar year. Those who will be exempt from this fee will include families at or below the poverty level, those on Medicaid, and those with private insurance coverage for the services rendered. This action will cost \$205,804 to initiate in nine HCSP locations around the state.

2. Neonatal Screening (PKU)

A \$12 fee will be collected in parish health units for the initial neonatal screening (PKU, Congenital hypothyroidism,

sickle cell anemia, as mandated by LSA-R.S. 1299.1) visit by a patient whose other pediatric services are provided outside of the DHH system.

There will be no charge on repeat testing. The party responsible for the patient shall be assessed the \$12 fee at the time of service delivery. Title XIX patients, and those documenting financial status at or below 100 percent of poverty will not be charged. This fee will generate revenue to partially support OPH costs of administering the neonatal screening in parish health units.

C. DISEASE CONTROL

1. Childhood Immunizations

A \$5 fee will be collected in parish health units for each childhood vaccination visit by a patient whose other pediatric services are provided outside the DHH system. Title XIX patients, and those documenting financial status at or below 100 percent of poverty will not be charged. This fee will generate revenue to support the OPH cost of administering the vaccine. The anticipated cost for delivering this service is \$228,000.

2. Annual Influenza Immunization

A \$5 fee will be collected in parish health units for each influenza vaccination given to a high-risk patient. Title XIX patients, and those documenting financial status at or below 100 percent of poverty will not be charged. This fee will generate revenue to support the OPH cost of administering the vaccine.

3. Treatment of Sexually Transmitted Diseases

A \$5 fee per initial visit will be collected in parish health units from patients medically evaluated and treated for a sexually transmitted disease (STD). There will be no charge for a test of cure follow-up visit. Title XIX patients, and those documenting financial status at or below 100 percent of poverty will not be charged. Sexual contacts of suspected cases of STDs will not be charged unless examination reveals that disease is present and treatment is provided. This fee will generate revenue to partially support the OPH cost of administering STD diagnosis and treatment.

4. International Immunizations

A \$10 fee will be collected in parish health units for administering international (foreign travel) immunizations. In addition there will be a charge for the parish health unit's current cost of yellow fever, cholera and typhoid vaccines.

Title XIX patients and those documenting financial status at or below 100 percent of poverty will not be charged. This fee will generate revenue to partially support the Office of Public Health cost of administering and purchasing the vaccine.

5. Injections and Blood Sugar Analyses

A \$5 fee will be collected at each visit in parish health units for costs related to the provision of allergy/vitamin injections and blood sugar analyses. When such services are performed, Title XIX patients and those documenting financial status at or below 100 percent of the poverty level will not be charged. This fee will generate revenue to partially support the OPH cost of administering these specific services.

D. Special Sector Lab Services - Genetics Screening

A \$12 fee will be charged to private hospitals, clinics and physicians for each initial specimen they send to the DHH/OPH Central Laboratory and on which screening for PKU, congenital hypothyroidism and sickle cell is performed.

The purpose is to generate revenue to partially support

the cost of laboratory testing and follow-up by OPH staff which is a service mandated by R.S. 40:1299.1,2,3.

The person responsible for responding to inquiries on these fees is Joseph D. Kimbrell, Deputy Assistant Secretary, Box 60630, New Orleans, LA 70160.

The Office of Hospitals, Emergency Medical Services will continue to charge applicants taking the practical portion of the National Registry Emergency Medical Technician Certification Examination fees based on the level and type of exam attempted. The fees will be as follows:

BASIC EMERGENCY MEDICAL TECHNICIAN

(Ambulance and Non-Ambulance)

Full Practical Exam \$30

Retest Practical Exam \$15

ADVANCED EMERGENCY MEDICAL TECHNICIAN

(Intermediate and Paramedic)

Full Practical Exam \$50

Retest Practical Exam \$25

These fees are expected to generate \$35,000 during FY 89/90 and are intended to supplement reduced federal block grant funds in order to maintain the current level of service causing any burden on the state general fund.

The person responsible for responding to inquiries on these fees is Patrick Paulsen, Assistant Secretary, Office of Hospitals, 4550 North Boulevard, Baton Rouge, LA 70806.

David L. Ramsey

Secretary

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: Administrative Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed fees would generate a total of \$30,247 for FY 89/90.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
For foreign travel immunizations a fee of \$10 per visit at the local public health unit will be charged to patients who are not Title XIX eligible for those whose income is above 100 percent of the federal poverty guidelines. For other types of injections and blood sugar analysis a \$5 fee will be charged.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no anticipated effects on competition and employment.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Record Maintenance Fees**

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

The cost for providing record maintenance fee services and nursing services for the administration of vaccines and treatment equals \$5 per visit. There will be no implementation costs. Orleans and Plaquemines Parishes will not be affected.

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

\$228,000	Childhood Immunizations
100,000	Influenza Vaccinations
<u>21,600</u>	STD Treatment
\$349,600	TOTAL REVENUE

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

For the specified types of visits, \$5 per visit will be charged to patients above 100 percent of the federal poverty guidelines who are not Title XIX eligible.

The economic benefits result from maintaining the health of children, the elderly and others at high risk for influenza, and persons with venereal diseases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Charges are for administration of vaccine or treatment of disease only, and are proposed as a revenue enhancement measure to enable public health units to remain open during the state's fiscal crisis.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Neonatal Screenings Fees**

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

There will be no additional implementation costs.

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

The collection of these proposed fees would generate \$422,160 of revenue in FY 89/90.

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

A fee of \$12 will be charged to private hospitals, clinics or physicians for each initial filter paper blood specimen form (Lab 10) used in neonatal screenings. Patients of private physicians who choose to have neonatal screenings done at the parish health units will be charged \$12 if they are not Title XIX eligible or their family income is above 100 percent of the federal poverty guidelines.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Family Copayment System (Fees)**

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

It is estimated that the implementation of the family copayment system will cost \$205,804 for staff, training, monitoring, travel, and supplies necessary to manage the system. These costs will come from the fees generated by the system.

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

This action is estimated to represent \$900,000 in annual revenue, but an estimated rate of 90 percent collectible would in effect generate \$810,000.

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

An estimated 5000 parents/guardians would be expected to pay an average of \$180 per year toward the costs of their child's medical rehabilitation expenses based on a sliding scale. No family would be expected to pay over 20 percent of their annual income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be minimal impact upon employment within the agency.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Fees/Seafood Sanitation Unit**

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

Continued implementation of these fees will cost \$55,000 in FY 89-90. The pro-rata cost for the Seafood Program's share is estimated to be \$1,100.

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

The implementation of this rule is expected to generate approximately \$80,350 in permit fees.

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

The annual cost to the seafood industry shall be \$89,350. Each wholesale seafood processor and distributor shall pay

an annual permit fee of \$150. Additionally, a fee of \$50 shall be charged for shellfish transplant permits and permits to harvest shellfish for depuration.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no significant effect on competition or employment resulting from the implementation of this rule.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

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

Rule Title: Fees/Food and Drug Control

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

Continued implementation of these fees will cost \$55,000 in FY 1989-90. The pro-rata costs for the Food and Drug Program's share is estimated to be \$2,200.

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

It is estimated that \$240,300 in revenues will be collected from permit to operate fees, \$78,715 in revenues will be collected from increased product registration fees and \$3,498 from increased fees to out-of-state soft drink bottlers. Total anticipated revenues from these fees will equal \$322,513. However, we anticipate a 95 percent collection rate of \$306,387.

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

The annual costs to in-state and out-of-state manufacturers, processors, packers and wholesalers of foods, drugs and cosmetics, including soft drinks, is expected to be approximately \$322,513.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no impact on competition or employment in both the public and private sector. Firms operated by agencies of state government will be exempt from paying fees.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

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

Rule Title: Fees/Retail Food Unit

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

Continued implementation of these fees will cost \$55,000 in FY 89-90. The pro-rata cost for the Retail Food Program's share is estimated to be \$50,050.

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

The implementation of this rule is expected to generate approximately \$2,650,000 in annual revenue, however, only 90 percent, or \$2,385,000 is expected to be collected.

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

The annual cost to the retail food industry will be \$2,650,000. However, only 90 percent of this amount, or \$2,385,000 is expected to be collected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

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

Rule Title: Fees/Milk and Dairy

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

Continued implementation of these fees will cost \$55,000 in FY 89-90. The pro-rata cost for the Milk and Dairy Program's share is estimated to be \$1,650.

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

This rule is expected to generate \$80,760 (approximately) in annual revenue, however, only 90 percent, or \$72,684 is expected to be collectible.

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

The annual cost to the milk and dairy industry will be \$80,760 if all fees are collected or \$72,684 if a 90 percent collectible rate is realized.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Reduced profits of certain milk producers may cause a similar reduction in their work forces.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

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

**Rule Title: Safe Drinking Water Program
Management Fee**

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

The requested fee income when combined with the federal grant and general fund money will pay for the cost of DHH's Safe Drinking Water Program. The requested fee will help fund Engineering Services' 16 positions for regionalizing bacteriological water sampling (these positions come

from existing staff that carry out the responsibility at the local parish health unit). Fifteen additional Engineering positions are needed to bring the staff complement up to a level of 30 which will be adequate to carry out the program's needs. These 15 positions will be reallocated from the laboratory whenever the chemical monitoring of public water supplies is terminated. Some \$13,000 is needed to cover the cost of postage and computer programming. By implementing the proposed fee package, we will save \$700,000 of general fund money.

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

Current revenue collections for FY 88/89 from the present fee package will be approximately \$700,000. The FY 89/90 fee package, if implemented, will generate approximately the same amount. There should be no effect on local governments because the cost of the fee would be passed on to the consumer.

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

The economic benefits to the public would result from OPH's ability to continue protecting the bacteriological safety of the public water supplies. This is accomplished by providing the bacteriological monitoring (collection of samples/analysis) and engineering surveillance over the public water supplies in order to minimize acute (immediate) and chronic (lifetime) health risks to the consumers of the water.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

State employment will not increase because no new positions are being requested. Competition will be created between commercial private laboratories which will be doing the chemical analyses for public water supplies. This competition has not existed before.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

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

Rule Title: Fee increases and new fees

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

There are no estimated implementation costs, as the fees are already being collected.

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

The fees being collected should increase state revenues by \$309,000 for FY 88/89, \$324,450 for FY 89/90 and \$340,000 for FY 90/91.

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

There will be the following increases in costs for affected facilities: \$300 for hospitals, nursing homes, residential care providers and home health agencies. For nursing homes and

residential homes, federal funds (through the rate system) will reimburse for part (75 percent) of the cost increase. \$150 for adult day care centers (including DDTC's and adult day health care centers).

New fees: \$25 for an application (initial only) processing and a replacement license (when facility requests changes). \$5 for a replacement license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition since these fees will apply to all such facilities that are privately owned.

Steve Phillips
Director

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Filing Fees for Facility Need Review**

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

No implementation costs or savings will result.

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

It is estimated that this action will result in an increase of \$94,000 to the state general fund. Fees are imposed to generate revenue to support the cost of reviewing the applications.

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

Filing fees of \$1,500 for a full review and \$500 for an expedited review will be imposed for applications submitted to DHH for Facility Need Review.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects are anticipated.

David L. Ramsey
Secretary

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Emergency Medical Technician Practical Exam Fees**

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

There are no estimated cost or savings to any governmental unit for the implementation of this rule.

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

It is estimated that this rule will generate approximately \$35,000 in self-generated revenue during Fiscal Year 89-90 which has already been made a part of the approved budget for Office of Hospitals - Emergency Medical Services.

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

This rule will require all individuals who are attempting to become Emergency Medical Technicians to pay a fee to help defray the cost of the practical examination which is a required and very expensive part of the certification process. For the exact amount, please refer to the schedule attached. In no case will an individual pay more than \$50 each time he attempts the practical portion of the exam.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule should have no effect on competition or employment.

A. Jack Edwards
Deputy Assistant Secretary

David W. Hood
Senior Fiscal Analyst

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

Rule Title: Sewerage (WQ) Program Permit Fees

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

The estimated implementation cost to state government is \$40,000. Included in this cost are expenses for "tags" procurement (\$20,000), fees collection personnel salaries and fringe benefits (\$17,500), and mailing expenses (\$2,500).

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

It is estimated that revenue collections by the state (to the general fund) during FY 89-90, assuming 90 percent collection, will be approximately \$1,075,185.

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

Estimated costs and/or economic benefits to affected entities are as follows (by "fee" sub-category):

1. Individual home sewerage treatment system(s) manufacturers will be assessed a fee of \$50 per plant (unit) for each system made available for sale or use and which may be installed in Louisiana. Through more equitable competition, in part a result of enforcement related to fees imposition, a greater system marketing potential and associated benefit will accrue to the manufacturers--thus effectively causing to offset, in time, the added (fee) costs to the manufacturer. Of the various types of units, approximately 15,000 systems will be affected.

2. An inspection fee of \$75 for each individual sewerage treatment and inter-related system inspection will be collected, as appropriate, from the user group, i.e., "loan" institution, person, etc. Reimbursement for this service, as (the service) is currently demanded by certain institutional lenders and/or loan underwriters (FHA, conventional, etc.) and others will assist the economic process associated with the construction, sale and financing of residential and commercial construction--in part, it may be rationalized, resulting in more timely and less expensive financing and related costs to

the builder/seller/buyer of associated properties and improvements thereupon. It is projected that approximately 5000 system(s) inspections, of the various types, will be affected.

3. A license fee of \$50 will be collected from each of the approximately 113 sewage haulers who are currently licensed by the department. Notwithstanding the cost of the license, an inestimable economic benefit attributable to marketing integrity and equity will accrue to affected haulers.

4. A license fee of \$100 will be collected from each of the approximately 640 individual sewerage system(s) installers who are currently licensed by the department. Notwithstanding the cost of the license, an inestimable economic benefit attributable to marketing integrity and equity will accrue to affected installers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will result in more equitable competition and increased employment in the affected private sector. This is anticipated as a result of improved product/service regulation and increasing market potential which will result from proper enforcement, and etc. of the industry.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

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

**Rule Title: Operator Certification Rules and Regulation
(Fee Increase)**

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

There is no implementation costs or savings to state or local governmental units since fees are already being collected.

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

The increase of \$3 per certificate may increase state revenues collected by approximately \$10,000 annually. Fees are collected on a two-year basis. (\$9,000 based on a 90 percent collection rate).

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

The operators of wastewater and/or water facilities would have to pay the increased cost of \$3 per certificate renewal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Joseph D. Kimbrell
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

The Department of Health and Hospitals, Office of the Secretary, proposes to adopt the following rule.

R.S. 46:446.1 requires insurance carriers to notify the department of any individual claims for services provided by a Title XIX vendor or State Facility pursuant to rules and regulations established by the department. Section C. of the statute requires insurance carriers to make payment to the department or Title XIX vendor upon notification and advise the claimant that payment of the claim has been assigned by the state of Louisiana for services rendered in a state facility or by a Medicaid provider.

Under this proposed rule, the department is simplifying notification requirements for insurance carriers to assure appropriate payments for services provided are made in a timely and efficient manner. The department will provide different forms of notification to insurance carriers to provide for the various types of claims which are subject to the statute. Medicaid providers and State Facilities will utilize specific identification procedures to clearly identify all billings.

In order for providers and facilities to rapidly identify claims, space is provided on the model annotation stamps for assigning optional control numbers to all billings generated. The control number sequence is left to the discretion of the facility/provider and may be a client number, or number series, or other numbering system to provide rapid identification of the billing. This will allow simplified notification/payment instructions to be followed by carriers and rapid identification by providers/facilities.

In those instances where the carrier cannot determine what action is necessary, the claim indicates services were rendered at one of the state hospitals with no annotation, or the claim involves an accident in which an insurance settlement is pending, the carrier shall notify the appropriate department contact to determine the state's interest in the claim. In situations where the claimant has retained an attorney, reimbursement may be negotiated through the claimant's attorney and the department or the provider.

PROPOSED RULE

INSURANCE NOTIFICATION AND PAYMENT PROCEDURES

I. Notification Instructions For Payment By Insurance Carriers

A. Simplified Notification For Payment

Medical bills bearing either of the following annotation stamps shall constitute notification by the department of payment due for services rendered by a Medicaid provider or State Facility. Any health insurance claim filed by an insured individual for payment of a medical bill which bears such annotation shall be paid, not to exceed the individual's policy coverage limit, to the provider or facility indicated in the annotation. This requirement shall apply to insurance companies authorized to operate in Louisiana in accordance with R.S. 46:164.1.A.(2).

For claims payable to State Facilities, payment shall be limited to the amount annotated on the State Facilities annotation stamp, with any remaining payment payable to the claimant. For claims payable to Medicaid providers, payment shall be

limited to the amount indicated on any bill bearing the provider's Title XIX stamp.

For all claims, an explanation of benefits shall accompany payment made to the Medicaid provider or State Facility. The explanation of benefits shall include the facility/provider control number(s), when annotated on a medical bill(s) submitted by an insured. A copy of the explanation of benefits shall also be sent to the claimant with notice that payment has been made as required under R.S. 46:446.1.

MEDICAID PROVIDER NO. (7 digits) (Optional Control Number) Services have been provided under Louisiana Medicaid and are payable under R.S.46:446.1 to: PROVIDER NAME ADDRESS CITY/STATE/ZIP
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STATE FACILITY NO. _____ (Optional Control Number) Payment in the amount of : \$ _____ for services rendered by the State of Louisiana are due under R.S. 46:446.1 to: FACILITY NAME ADDRESS CITY/STATE/ZIP Any additional authorization needed may be obtained from: (collection representative) at (phone number).
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B. Notification Of Claims Involving Accidents, Insurance Settlements, Or Other Factors.

Any claim submitted by an individual which is subject to settlement of an accident claim which includes stamped medical bills shall be reported as follows:

1. When the medical bill bearing an annotation stamp is for a Medicaid Provider, the carrier shall contact the Department of Health and Hospitals, Bureau of Health Services Financing, Third Party/Recovery Unit, Box 94065, Baton Rouge, LA 70804 or phone (504) 342-9495 to determine the state's interest in the case. If the claimant has filed a claim and retained an attorney, the reimbursement may be negotiated through the claimant's attorney and the department or provider, where the medical services are for hospitalization.

2. When a medical bill bearing an annotation stamp is for a State Facility, the carrier shall contact the collection representative designated by the facility on the annotation stamp to determine the state's interest in the case. If the claimant has filed a claim and retained an attorney, the reimbursement may be negotiated through the claimant's attorney and the department.

3. When multiple medical bills bear annotation stamps from both State Facilities and Medicaid Providers, the carrier shall contact the Department of Health and Hospitals, Bureau of Health Services Financing, Third Party/Recovery Unit, Box 94065, Baton Rouge, LA 70804 or phone (504) 342-9495 to determine the state's interest in the case. If the claimant has filed a claim and retained an attorney, the reimbursement may be negotiated through the claimant's attorney, the department, and the provider's attorney when a portion of the claim is for hospitalization.

C. Non-Annotated Bills From State Hospitals

When a carrier receives medical bills from the following State Facilities which do not bear an annotation stamp attached to an insured's claim, notification must be made to the collection representative at the address listed below. If the claimant has filed a claim and retained an attorney, reimbursement may be negotiated through the claimant's attorney and the facility or the department.

State Hospitals

Central Louisiana State Hospital
Box 5031
Pineville, LA 71361-5031
(318)
Charity Hospital of New Orleans
1532 Tulane Avenue
New Orleans, LA 70140
(504) 568-3211
E.A. Conway Memorial Hospital
4864 Jackson Street
Monroe, LA 71201
(318) 387-8460
Earl K. Long Memorial Hospital
5825 Airline Highway
Baton Rouge, LA 70805
(504) 358-1002
Huey P. Long Regional Medical Center
Box 5352
Pineville, LA 71361-5352
(318) 448-0811
Lallie Kemp Charity Hospital
Highway 51 South
Box 70
Independence, LA 70443
(504) 878-9421

Psychiatric Hospitals

Central La. State Hospital Over 65
W. Shamrock
Pineville, LA 71360
(318) 484-6200
East Louisiana State Hospital
Box 498
Jackson, LA 70748
(504) 634-2651
Greenwell Springs Hospital
Box 549
Greenwell Springs, LA 70739
(504) 261-2730

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau of Medical Services, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on May 3, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Insurance Carrier Notice Simplified
Procedures

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The fiscal impact resulting from this proposed rule cannot be projected. State and Title XIX vendor collections from insurance carriers are expected to increase, however there is no data available upon which to base a projection. Cost to implement this rule is projected at less than \$50 for publication in the State Register and providing copies of the rules to carriers.
II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
While insurance collections are expected to increase as a result of simplified notification, federal revenues are expected to decrease, offsetting the federal share of increased Title XIX collections.
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This rule will simplify notification procedures for insurance carriers and should improve collection activities of Title XIX vendors. Those recipients with unreported insurance coverage who attempt to file claims for payment of services covered under Title XIX or rendered at a state facility will be notified payment has been made to the provider of medical care. There is no data available from which to project a fiscal impact on these groups.
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Carolyn O. Maggio
Acting Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance (Medicaid) Program effective July 1, 1989.

The Bureau of Health Services Financing has developed program policy and payment standards which will allow federal financial participation in the funding of Optional Case Management Services for chronically mentally ill recipients under Title XIX of the Social Security Act. Such funding will become available upon implementation of these services, which are provided in accordance with Title XIX requirements.

Under this proposed rule, Case Management Services will be provided to chronically mentally ill recipients, subject to

Title XIX limitations necessary to receive federal financial participation. The recipient population served will consist of chronically mentally ill (CMI) individuals who have been determined by the Department of Health and Hospitals, Office of Mental Health to require case management services based on medical necessity subject to certain limitations.

Of the 1,000 recipients expected to be served under this provision, three hundred fifty are those nursing home residents identified by DHH staff as coming under the provisions of the Nursing Home Reform Act, which mandates provision of alternate services in order to more adequately serve the special needs of this population in a less restrictive setting. The remaining six hundred fifty recipients are identified from the chronically mentally ill adults, children, and adolescents served by the Office of Mental Health who are in need of similar services.

Certain service and cost limitations are applicable to provision of this service. The maximum number of units of service to be reimbursed by the state for each individual covered by this provision in a calendar year will be based on the average number of services times each group's population. The limit on services is projected to be 618,200 for the first year. Caseload size for a case manager serving individuals under age 18 (or under age 22 if receiving special education) will be 15 to 20 cases and for a case manager serving individuals age 18 and older (22 if in special education), 20 to 25 cases. Reimbursement will be a state-wide prospective rate based on allowable cost not to exceed \$9.37 per unit of service.

PROPOSED RULE

Case Management for chronically mentally ill is defined as:

- Development of an initial service plan which includes the evaluations necessary to determine the recipient's service needs;
- Arrangements for and compilation of ID Team or other evaluative materials;
- Coordination and participation in the development of a comprehensive service plan for each recipient which includes both formal and informal services;
- Training and support of the recipient in the use of personal and community resources identified on the care plan;
- Periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs; and
- Maintenance of documentation of each service provided to a recipient.

This service will be reimbursed when provided to chronically mentally ill individuals subject to the limitations specified below.

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

A. If a recipient is aged 18 or older on the date the service is provided:

(1) There must be a documented need for assistance with two or more of the following services: Educational, vocational, social, financial, physical health, residential, recreational or basic life skills; and

(2) Either:

(a) The individual must meet the definition of "chronically mentally ill adult" as defined by the Office of Mental Health; or

(b) The individual must require alternate disposition in accordance with the Nursing Home Reform Act as a chronically

mentally ill individual as defined by DHH, Office of Mental Health.

B. If age 17 or younger, or if age 21 or younger and attending Special Education classes on the date the service is provided the individual must meet the definition of "severely emotionally disturbed child" as defined by DHH, Division of Mental Health.

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

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

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

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

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

H. The maximum number of units of service to be reimbursed by the state for each individual covered by this provision in a calendar year shall be limited in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

2. Standards for Participation

The provider of case management services must:

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

B. be licensed by the Bureau of Health Standards of the Department of Health and Hospitals to provide case management services in the state;

C. be dually enrolled as both a Title XIX mental health center and provider of case management services;

D. be approved by the Division of Mental Health as having a comprehensive and adequate plan for the delivery of services in accordance with Standards for Case Management for the Chronically Mentally Ill.

3. Standards for Payment

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

A. insure that all case management services are provided by individuals under the supervision of a Qualified Mental Health Professional as defined by the Division of Mental Health who meet one of the following education and experience requirements:

(1) An individual with at least a bachelor's degree from an accredited institution and one year of experience in a human services field;

(2) A licensed RN with two years of experience in public health nursing or a human services field;

(3) An individual with a high school diploma who has a minimum of two years supervised experience in Community Support System work with the chronically mentally ill;

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

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

D. insure that the one case manager for each recipient under this provision visits the recipient on site at his place of residence at least once per month for the first 90 days of service and at least every 90 days thereafter.

E. insure that the individual assigned as the case manager has at least weekly contact with the recipient or his/her legal representative and that these contacts are documented in progress notes and address the efficacy of the care plan;

F. insure that the case manager assigned to serve the recipient as well as any other employee of the case management provider providing services keep sufficient records to document that services being provided;

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

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

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

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

K. abide by the provisions of the Provider Agreement entered into with the Bureau of Health Services Financing.

4. General Provisions

A. Providers of case management services will be reimbursed on a unit of service basis. A unit of service retrospective rate will be established for each provider which is based on the cost of providing case management service. Reimbursement will be based on allowable cost not to exceed limitations established by the Bureau of Health Services Financing. Rates will be set by the Bureau's Rate Setting Unit in accordance with the guidelines prescribed by HIM-15, the rate setting guide for Louisiana, and the requirements of state licensure standards for case management providers.

B. Providers of case management services shall maintain time sheets which are completed by their case managers to document the units of service they have provided. A unit of service will be defined for each provider as 15 minutes. Time sheets shall contain the dates and times of service provision and be submitted to the state as an attachment to each claim for payment for the services encompassed by said time sheet.

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

D. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in other Standards for Payment will be applicable to providers of Case Management services.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on May 3, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons

will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

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

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Case Management Services - For Chronic Mental Illness

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

Additional cost to the state for implementation of this proposed rule in FY 88/89 is projected at \$50. Savings to the state are projected at: \$2,252,063 in FY 89/90; and \$2,240,886 in FY 90/91.

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

Additional revenues under this proposed rule for implementation in FY 88/89 are projected at \$50. Decreased revenues from federal financial participation are projected at: \$1,352,629 in FY 89/90; and \$1,363,806 for FY 90/91.

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

This rule will provide case management services to those recipients who are displaced from long term care facilities as a result of mandatory federal screening requirements. There is insufficient data available to estimate the impact on recipients who are displaced by the mandatory federal screening requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Carolyn O. Maggio
Acting Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance (Medicaid) Program, effective July 1, 1989.

Currently, individuals diagnosed with HIV receive case management services from Charity Hospital in New Orleans and two private hospitals. The cost of providing these services at

Charity Hospital is funded entirely by the state as Title XIX does not currently cover these services. The Bureau of Health Services Financing is proposing adoption of Optional Case Management Services for HIV disabled individuals to maximize the health of disabled individuals and available federal funding for these services.

Under this rule, Case Management Services will be provided to HIV disabled individuals, subject to Title XIX limitations necessary to receive federal financial participation. Certain service and cost limitations are applicable to provision of this service.

Services will be available in Orleans, Jefferson, St. Bernard, Plaquemines, East Baton Rouge, West Baton Rouge, East Feliciana, West Feliciana, Tangipahoa, Pointe Coupee, Livingston, St. Helena, and Washington parishes. The maximum units of service covered by this provision per individual per calendar year is 1376. Caseloads for each case manager will be set at 10 to 20 cases. Reimbursement will be a statewide prospective rate based on allowable cost data not to exceed \$9.37 per unit of service.

PROPOSED RULE

Case Management for HIV disabled individuals is defined as:

- development of an initial service plan which identified the evaluations necessary to determine the recipient's service needs;
- arrangements for and compilation of Interdisciplinary Team or other evaluative materials;
- coordination and participation in the development of a comprehensive service plan for each recipient which includes both formal and informal services;
- training and support of the recipient in the use of personal and community resources identified on the care plan;
- advocacy on behalf of recipients so that they may receive appropriate benefits or service;
- Periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs;
- Maintenance of documentation of each service provided to a recipient;
- During such time as the state has an approved §1915(c) waiver, monitoring service delivery in order to assess progress, the quality of services and that the services are being provided as ordered by the ID Team.
- For recipients of HIS waiver services, implementation and maintenance of cost containment measures through periodic calculation of each recipient's waiver service costs.

This service will be reimbursed when provided to HIV disabled individuals subject to the limitations specified below.

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

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

- (1) The recipient must have reached, as documented by a physician, a level 70 on the Karnofsky scale at some time during the course of HIV infection;
- (2) The recipient must require services from multiple health/social/informal services providers;
- (3) The recipient must be unable to arrange the necessary services.

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

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

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

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

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

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

H. These services shall be limited to certain geographical areas in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

2. Standards for Participation

The provider of case management services must:

- A. Enter into a provider agreement with the Bureau of Health Service Financing;
- B. Be licensed to provide case management services in the state;
- C. Have two or more documented years providing case management services to HIV disabled individuals.

3. Standards for Payment

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

A. Insure that all case management services are provided by individuals who are licensed to practice in Louisiana or individuals under the supervision of licensed professional staff who meet one of the following education and experience requirements:

(1) An individual with at least a bachelor's degree from an accredited institution and one year of experience in a human services field;

(2) A licensed RN with two years of experience in public health nursing or a human services field;

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

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

D. Insure that the one case manager for each recipient under this provision visits the recipient on site at his place of residence at least once per month for the first three months of service and at least quarterly thereafter;

E. Insure that the individual assigned as the case manager has at least weekly contact with the recipient or his/her legal representative and that these contacts are documented in progress notes and address the efficacy of the care plan;

F. Insure that the case manager assigned to serve the recipient as well as any other employee of the case management provider providing services keep sufficient records to document the services being provided;

G. Insure that appropriate professional consultation is available to each case manager at all times;

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

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

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

K. Abide by the articles of the Provider Agreement entered into with the Bureau of Health Services Financing.

4. General Provisions

A. Providers of case management services will be reimbursed on a unit of service basis. A unit of service retrospective rate will be established for each provider which is based on the cost of providing case management service. Reimbursement will be based on allowable cost not to exceed limitations established by the Bureau of Health Services Financing. Rates will be set by the Bureau's Rate Setting Unit in accordance with the guidelines prescribed by HIM-15, the rate setting guide for Louisiana, and the requirements of state licensure standards for case management providers.

B. Providers of case management services shall maintain time sheets which are completed by their case managers to document the units of service they have provided. A unit of service will be defined for each provider as 15 minutes. Time sheets shall contain the dates and times of service provision and be submitted to the state as an attachment to each claim for payment for the services encompassed by said time sheet.

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

D. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in other Standards for Payment will be applicable to providers of Case Management services.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on May 3, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

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

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Case Management Services For Individuals With HIV Disability

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

Additional costs to the state in FY 88/89 of \$50.00 are projected for implementation of this proposed rule. Savings to the state are projected at: \$245,121 in FY 89/90; and \$250,342 in FY 90/91 from implementation of case management services under Title XIX.

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

Additional revenues under this proposed rule are projected at: \$50 in FY 88-89; \$631,915 in FY 89/90; and \$637,136 in FY 90/91 from matching federal funds for Title XIX (Medicaid) expenditures.

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

This rule will provide Title XIX coverage of case management services to HIV disabled individuals and expand the availability of case management services to recipients diagnosed with HIV disability.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Carolyn O. Maggio
Acting Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance (Medicaid) Program effective July 1, 1989.

The Bureau of Health Services Financing has developed program policy and payment standards which will allow federal financial participation in the funding of Optional Case Management Services for pregnant women in need of extra perinatal care under Title XIX of the Social Security Act. Such funding will become available upon implementation of these services, which are provided in accordance with Title XIX requirements.

Under this proposed rule, Case Management Services will be provided to pregnant women in need of extra perinatal care, subject to Title XIX limitations necessary to receive federal financial participation. Provision of such services will enable recipients to receive multiple health/social/informal services which the recipient is unable to arrange without assistance.

Certain service and cost limitations are applicable to provision of this service. Services will be available in Orleans Parish. The maximum units of service covered by this provision is 224,640 for the projected population of 260 recipients. Case-load range for each case manager is 25-45 cases. Reimbursement will be a statewide prospective rate based on allowable cost not to exceed \$9.37 per unit of service.

PROPOSED RULE

Case Management for pregnant women is defined as:

- Development of an initial service plan which identifies the evaluations necessary to determine the recipient's service needs;
- Arrangements for and compilation of Interdisciplinary Team or other evaluative materials;
- Coordination and participation in the development of a comprehensive service plan for each recipient which includes both formal and informal services;
- Training and support of the recipient in the use of personal and community resources identified on the care plan;
- Advocacy on behalf of recipients so that they may receive appropriate benefits or service;
- Periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs;
- Maintenance of documentation of each service provided to a recipient.

This service will be reimbursed when provided to pregnant women subject to the limitations specified below.

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

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

- (1) The recipient must have been determined medically eligible by the Medicaid Agency for extra perinatal care;
- (2) The recipient must require services from multiple health/social/informal services providers;
- (3) The recipient must be unable to arrange the necessary services.

B. The recipient may receive services on an inpatient or an outpatient basis.

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

D. A recipient will not be forced under this provision to receive case management services for which she may be eligible.

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

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

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

H. These services shall be limited to certain geographical areas in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

2. Standards for Participation

The provider of case management services must:

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

B. Be licensed to provide case management services in the state;

C. Have been certified by the Office of Public Health as having adequate programming and administration to provide the service effectively and efficiently.

3. Standards for Payment

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

A. Insure that all case management services are provided by individuals who are licensed to practice in Louisiana or individuals under the supervision of licensed professional staff who meet one of the following education and experience requirements:

(1) An individual with at least a bachelor's degree from an accredited institution and one year of experience in a human services field;

(2) A licensed RN with two years of experience in public health nursing or a human services field;

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

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

D. Insure that the one case manager for each recipient under this provision visits the recipient on site at his place of residence at least once per month for the first three months of service and at least quarterly thereafter.

E. Insure that the individual assigned as the case manager has at least weekly contact with the recipient or his/her legal representative and that these contacts are documented in progress notes and address the efficacy of the care plan;

F. Insure that the case manager assigned to serve the recipient as well as any other employee of the case management provider providing services keep sufficient records to document the services being provided;

G. Insure that appropriate professional consultation is available to each case manager at all times;

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

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

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

K. Abide by the articles of the Provider Agreement entered into with the Medicaid agency.

L. Collect data which is used by the Medicaid Agency to evaluate the effectiveness of the services provided in accordance with Bureau of Health Services Financing guidelines.

4. General Provisions

A. Providers of case management services will be reimbursed on a unit of service basis. A unit of service retrospective rate will be established for each provider which is based on the

cost of providing case management service. Reimbursement will be based on allowable cost not to exceed limitations established by the Bureau of Health Services Financing. Rates will be set by the Bureau's Rate Setting Unit in accordance with the guidelines prescribed by HIM-15, the rate setting guide for Louisiana, and the requirements of state licensure standards for case management providers.

B. Providers of case management services shall maintain time sheets which are completed by their case managers to document the units of service they have provided. A unit of service will be defined for each provider as 15 minutes. Time sheets shall contain the dates and times of service provision and be submitted to the state as an attachment to each claim for payment for the services encompassed by said time sheet.

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

D. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in other Standards for Payment will be applicable to providers of Case Management services.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on May 3, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

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

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Case Management Services For Pregnant Women

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Additional costs to the state are projected at: \$50 in FY 88/89; \$48,044 in FY 89/90; and \$46,991 in FY 90/91 from implementation of case management services under Title XIX.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Additional revenues under this proposed rule are projected at: \$50 in FY 88-89; \$127,362 in FY 89/90; and \$128,415 in FY 90/91 from matching federal funds for Title XIX (Medicaid) expenditures.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule will provide Title XIX coverage of case management services to pregnant women in need of extra perinatal services and allow expanded services under the Office of Public Health for other needy women not eligible for Title XIX benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Carolyn O. Maggio
Acting Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance (Medicaid) Program.

Prior to passage of Section 4112 of the Omnibus Reconciliation Act of 1987 (Public Law 100-203), states had an option to implement a disproportionate share payment adjustment in reimbursement methodologies for inpatient hospital services but were not mandated to do so. Section 4112 mandates that all state Medicaid reimbursement methodologies for inpatient hospital services incorporate provisions for disproportionate share adjustments similar to Medicare's provisions for such payments.

This rule was previously declared effective July 1, 1988 and published in the *Louisiana Register* (Vol. 14, No. 7) dated July 20, 1988. Redclarations were published in the *Louisiana Register* dated November 20, 1988 (Vol. 14, No. 11) and dated March 20, 1989 (Vol. 15, No. 3) as a result of clarifications from the Health Care Financing Administration which required additional review to ensure compliance with federal law and regulations. Under this proposed rule disproportionate share payment provisions are being adopted for inpatient hospital services mandated by federal law.

PROPOSED RULE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau of Health Services Financing, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on May 3, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Disproportionate Share Adjustment For
Inpatient Hospital Reimbursement**

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

This rule will result in increased expenditures to the state of: \$22,202,208 in FY 88/89; \$23,027,875 in FY 89/90; and \$22,523,431 in FY 90/91. State facilities will derive supplemental cost benefits from these additional Medicaid expenditures.

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

This proposed rule will result in increased federal funding of: \$52,703,957 in FY 88/89; \$61,046,149 in FY 89/90; and \$61,550,593 in FY 90/91.

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

This rule will provide state hospitals with additional reimbursement of \$71,437,406 on FY 88/89, and \$80,081,912 in subsequent fiscal years. Parish and Hospital Service Districts will receive an average increase in reimbursement of \$309,006. Private hospitals who qualify for disproportionate share payments will receive additional reimbursement ranging from \$10,938 to \$2,838,237. To date, eight private hospitals in the state have been identified as qualifying for disproportionate share payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known impact on competition and employment.

Carolyn O. Maggio
Acting Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule.

Act 941 of the 1988 Regular Session of the Legislature enacted R.S. 40:2181 through 2191 relative to hospices. This measure provides for the licensing and regulation of all hospices which operate in the state of Louisiana and empowers the department to adopt rules and regulations for the administration of the law consistent with Medicare hospice guidelines.

Under this rule the Bureau of Health Services Financing is adopting the Medicare standards for Hospice care. This rule became effective February 20, 1989 under Emergency Rulemaking published in the *Louisiana Register* on March 20, 1989.

PROPOSED RULE

The Bureau of Health Services Financing shall follow the criteria developed and published at 42 CFR 418.3 - .310 by the Health Care Financing Administration for the licensure and regulation of Hospice care provided to individuals in Louisiana.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau of Health Services Financing, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on May 3, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Licensing and Certification Licensing of Hospice Facilities in Louisiana

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

No fiscal impact is projected to result from adoption of this proposed rule. Implementation costs of \$50 for policy revision and provision of public notice is projected for FY 88/89.

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

Implementation costs associated with adoption of this proposed rule will result in increased revenues of \$50.

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

This rule will provide basic licensing requirements for individuals who wish to provide Hospice services in Louisiana. Any Hospice who wishes to provide services in Louisiana

will be required to meet the Medicare licensing standards regardless of their participation in Title XVIII reimbursement. The impact on Hospice providers not participating in Medicare reimbursement cannot be determined. There is no projected impact on Hospice providers who participate in Medicare reimbursement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Under this rule, individuals or organizations who do not meet the licensing standards may be prohibited from providing Hospice services in Louisiana. There is insufficient data available on Hospices operating in Louisiana who do not participate in Medicare reimbursement to project an impact.

Carolyn O. Maggio
Acting Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Title XIX (Medicaid) Program.

Public Law 100-203 established mandatory preadmission screening and annual resident review requirements for nursing care (other than ICF-MR) provided under Title XIX of the Social Security Act. Section 1919(b)(3)(E) prohibits admission of a mentally ill or mentally retarded recipient, unless the recipient requires the level of services provided by a nursing facility because of his/her physical and mental condition, as determined by the State Mental Health or State Mental Retardation Authority. Additionally, when the admission or continued residence in a nursing facility is appropriate, a determination must be made as to whether active treatment for mental illness or mental retardation is required. Under mandatory federal law, the Bureau of Health Services Financing must follow the preadmission screening and annual resident review criteria for individuals with mental illness and mental retardation established by the Health Care Financing Administration.

Under this proposed rule, the Bureau of Health Services Financing is adopting the mandatory preadmission screening and annual resident review requirements established under P.L. 100-203. This rule became effective January 1, 1989 through emergency rulemaking, published in the *Louisiana Register*, Vol. 15, No. 1, dated January 20, 1989.

PROPOSED RULE

The Bureau of Health Services Financing shall follow the criteria developed and published by the Health Care Financing Administration for making preadmission and annual review determinations for recipients who have mental illness or mental retardation who seek admission or continued residence in a nursing facility (SNF, ICF-I, or ICF-II).

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau

of Health Services Financing, Box 94065, Baton Rouge LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on May 3, 1989 in Auditorium B, Second Floor, 755 Riverside, Baton Rouge LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

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

**Rule Title: LTC - Mandatory Screening Requirements
For Participating Facilities**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Additional costs to the state under this proposed rule are projected at: \$357,166 for FY 88-89; and \$239,662 for subsequent fiscal years to implement mandatory federal pre-admission screening requirements for admission to long term care facilities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Additional revenues under this proposed rule are projected at: \$1,071,398 in FY 88-89; and \$718,985 for subsequent fiscal years from matching federal funds for Title XIX (Medicaid) expenditures.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This rule will require screenings to be performed prior to admission to Nursing Facilities based upon mandatory federal criteria. In some instances patients may be denied placement in nursing facilities and require treatment in a different setting. It is projected that the average Title XIX occupancy rate for long term care facilities will not change as a result of this rule. However, some providers may experience a decrease in Title XIX occupancy rate. There is insufficient data available to estimate the impact on recipients who are displaced by the mandatory federal requirements. The impact of mandatory federal preadmission screening requirements upon individual providers cannot be determined.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Carolyn O. Maggio
Acting Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Title XIX (Medicaid) Program.

The criteria utilized to determine the need for SNF care under Title XIX (Medicaid) has traditionally followed Title XVIII (Medicare) standards. In order to incorporate revised Medicare standards utilized to determine the need for SNF services the current Medicaid criteria are being amended.

This proposed rule will revise the criteria to approximate the criteria used by Medicare and clarify the intent of the eligibility criteria.

PROPOSED RULE

An individual shall be determined to meet the requirements for the SNF level of care in a long term care facility when the following criteria, based on current needs, are met. These criteria are meant to be objective, self-explanatory and universally applicable.

1. The individual requires nursing, psychosocial or rehabilitation services, i.e., services that must be performed by or under the supervision of professional health personnel; e.g., registered nurse, licensed practical nurse, physical therapist, occupational therapist, speech pathologist or audiologist, or a combination thereof.

2. The individual requires such services on a regular basis (7 days per week). Rehabilitation services must be at least 5 days per week.

3. The daily skilled services can be provided only on an inpatient basis in a skilled nursing facility. The following services are those which are considered to require the supervision of professional personnel (including, but not limited to):

1. Intravenous, intramuscular, or subcutaneous injections.

2. Levine tube and gastrostomy feedings.

3. Insertion, sterile irrigation and replacement of catheters as adjunct to active treatment of a urinary tract disease.

4. Application of dressings involving prescription medications and sterile techniques.

5. Nasopharyngeal or tracheostomy aspiration.

6. Treatment of decubitus ulcers, of a severity Grade 3 or worse, or a widespread skin disorder.

7. Heat treatments (moist) specifically ordered by a physician as part of active treatment done by physical therapist.

8. Initial phases of a regimen involving administration of medical gases such as bronchodilator therapy.

9. Rehabilitation nursing procedures, including the related teaching and adaptive aspects of nursing: i.e. - Bowel and bladder training.

10. Care of a colostomy during the early postoperative period in the presence of associated complications.

11. Observation, assessment and judgement of professional personnel in presence of an unstable or complex medical condition and to assure safety of the recipient and/or other residents in cases of active suicidal or assaultive behavior.

12. Therapy (at least 5 times per week):
 A. Physical therapy
 B. Speech therapy
 C. Occupational therapy (in conjunction with another therapy nursing service).

Documentation must support that skilled services were actually needed and that these services were actually provided on a daily basis.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau of Health Services Financing, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on May 3, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
 Secretary

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Title XIX (Medicaid) program.

R.S. 46:446.1 requires insurance carriers to notify the department of any individual claims for services provided by a Title XIX vendor pursuant to rules and regulations established by the department. Section C. of the statute requires insurance carriers to make payment to the Title XIX vendor upon notification and advise the claimant that payment of the claim has been assigned by the state of Louisiana for services rendered by a Medicaid provider. 42 CFR 433.139 sets forth federal requirements for cost avoidance by the state agency and requirements for providers to seek payment for medical services from insurance carriers.

Under this proposed rule, the bureau is establishing procedures for Medicaid vendors to follow to improve collection activities and simplify notification requirements under R.S. 46:446.1. Medicaid providers will be required to utilize specific identification procedures which will clearly identify all billings for simplified notification and payment instructions to be followed by carriers. Provider identification and payment instruction procedures will allow Medicaid providers to receive proper payment without the need for delays to receive specific notification on every claim. Additionally, these procedures simplify the notification process to control administrative costs to providers and insurance carriers.

PROPOSED RULE PROVIDER IDENTIFICATION INSTRUCTIONS FOR BILLINGS

A. Each Medicaid provider in the state of Louisiana, when filing a third party claim for a health care service for a Medicaid recipient shall type/stamp/write the word "MEDICAID" in the space on the claim form designated for other insurers, along with the Medicaid identification number, if known.

Notification can be sent to the insured individual of billed charges and payments made.

B. Each Medicaid provider enrolled in the Louisiana Title XIX program shall annotate every statement of medical charges, bill, or copies of bills issued to Medicaid recipients clearly identifying that services have been rendered under Medicaid unless such services have been paid for by the recipient. The provider's annotation shall be in the form of a three inch by three inch stamp in the following format:

MEDICAID PROVIDER NO. (7 digits)
 (Optional Control Number)
 Services have been provided under Louisiana Medicaid and are payable under R.S. 46:446.1 to:
 PROVIDER NAME
 ADDRESS
 CITY/STATE/ZIP
 Any additional authorization needed may be obtained from:
 Louisiana Medicaid at (504) 342-9495.

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: LTC - Medical Eligibility For SNF Level Of Care

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

No fiscal impact is projected to result from adoption of this proposed rule. Implementation costs of \$50 for manual revision and provider notification is projected for FY 88/89. Amendment of SNF level of care criteria to track Medicare will have no effect on provider rates. This rule is proposed to maintain uniformity of assessments between Medicare and Medicaid.

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

Implementation costs associated with adoption of this proposed rule will result in increased revenues of \$50 for provision of manual materials and provider notice.

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

This rule will maintain uniformity between Medicare and Medicaid admission standards and assure continued provision of high quality of care standards. There is no projected impact on recipients or providers resulting from this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Carolyn O. Maggio
 Acting Director

David W. Hood
 Senior Fiscal Analyst

An optional provider control number may be utilized to promote identification of client billings. Such control numbers may be client specific (client number, SSN, Drivers License, etc.) or billing specific as needed by the provider to allow rapid identification.

C. The Medicaid provider is required to file an adjustment/void on paid claims. When submitting a new claim, show the TPL payment and attach the explanation of benefits provided by the insurance carrier.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau of Health Services Financing, Box 94065, Baton Rouge LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on May 3, 1989 in Auditorium A, Second floor, 755 Riverside, Baton Rouge LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Provider Bill Annotation Instructions

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

The fiscal impact resulting from this proposed rule cannot be projected. Title XIX vendor collections from insurance carriers are expected to increase, however there is no data available upon which to base a projection. Cost to implement this rule is projected at less than \$50 for publication in the *State Register* and providing copies of the rules to carriers. The cost of provider manual updates is included in the Fiscal Intermediary's Contract as a fixed cost.

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

While insurance collections are expected to increase as a result of simplified notification, federal revenues are expected to decrease, offsetting the federal share of increased Title XIX collections.

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

This rule will simplify notification procedures for insurance carriers and should improve collection activities of Title XIX vendors. Those recipients with unreported insurance coverage who attempt to file claims for payment of services covered under Title XIX will be notified payment has been made to the provider of medical care. There is no data available from which to project a fiscal impact on these groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Carolyn O. Maggio
Acting Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Title XIX (Medicaid) Program.

Currently Medicaid has a service limit of fifteen hospital days per recipient per calendar year with provision for extensions when certain criteria are met. A provision of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) mandates that states not apply any limits on inpatient hospital services to infants rendered by a hospital serving a disproportionate share of low income patients. This requirement has minimal impact on Louisiana Medicaid as the service limit is automatically extended when the last day is utilized while the recipient is an inpatient.

Additionally, extensions have been granted for ill children who required subsequent admissions after they had utilized their limit of inpatient hospital days. The law also provides that states must reimburse disproportionate share hospitals for inpatient services received by a Medicaid eligible infant without respect for existing duration limits. As the state's methodology is retrospective in nature and already provides for different reimbursement for neonatal or pediatric intensive care services, no further adjustment in payments is needed.

This proposed rule clarifies existing policy to assure compliance with the federal mandate on inpatient services provided to infants. This rule shall become effective July 1, 1989.

PROPOSED RULE

The service limit of fifteen hospital days per year per recipient shall not be applicable to infants (birth to one year) receiving inpatient services in a hospital qualifying as a disproportionate share provider.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau of Health Services Financing, Box 94065, Baton Rouge LA, 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on May 3, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Service Limits for Infants in Disproportionate Share Hospitals

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

No fiscal impact is projected to result from adoption of this proposed rule. Implementation costs of \$50 for manual revision and provider notification is projected for FY 88/89. Service limits have not generally been applied to infants in

the past as limits are automatically extended or if needed, extensions are granted for subsequent admissions.

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

Implementation costs associated with adoption of this proposed rule will result in increased federal revenues of \$50 for provision of manual materials and provider notice.

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

This rule clarifies that infants receiving inpatient services in a hospital will not be subject to the service limits applicable to other recipients. There is no projected impact on recipients or providers resulting from this proposed rule, as existing extension provisions allowed these infants to receive necessary medical services in the past.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Carolyn O. Maggio
Acting Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Labor
Office of Labor**

Community Services Block Grant Division

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R. S. 37:3111 et seq., the Louisiana Department of Labor, Office of Labor, Community Services Block Grant is hereby giving notice of its intention to adopt rules and regulations.

Comments should be forwarded to C. Gino Spina, Director of Community Services Block Grant Division, Box 94094, Baton Rouge, LA 70804-9094. Written comments will be accepted through the close of business, 4:15 p.m. April 24, 1989. Oral and written comments will also be accepted at the public hearing to be conducted on Thursday, April 27, 1989 at 9 a.m. The site of this public hearing will be the State Police Training Academy, 7901 Independence Boulevard, Baton Rouge, LA. A copy of these rules may be obtained by contacting C. Gino Spina at the above address.

C. Gino Spina
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Community Services Block Grant Policy
Manual and Special Clauses**

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

Approximately \$8.5 million is received by this division annually in support of the federally enacted Community Services Block Grant, the Community Food and Nutrition Initiative and the Emergency Community Services Homeless Programs. All funds in support of these programs, including that for state level administration, is received from the federal government.

No implementation costs are necessary or required as a result of these new rules. These rules, governing subgrantee activities and expenditures, will cause the recipients or subgrantees of funding through the Community Services Block Grant Division to be more accountable for their activities, operate more efficiently and be in proper compliance with state and federal regulations.

The Louisiana Department of Labor as grantor, is responsible for the statewide administration of the Community Services Block Grant Program.

The only expected costs are those administrative costs such as printing, personnel and mailing which are not expected to exceed \$1,000.

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

There is no estimated effect on the revenue collections of state or local governmental units.

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

The overall benefit of the proposed new rules will be to the client or recipient population of Louisiana. These rules will ensure fair treatment for all recipients, the best and most economical services and more funds available for services. The subgrantees or subrecipients will have more of their grant funds to spend on direct services to the eligible population, operate more efficiently and improve the quality and quantity of services offered to the poor.

The Community Services Block Grant program is supported by approximately \$8.5 million annually. This amount is not expected to change or require a state match.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Subgrantee (organizations) receiving CSBG funds are required to procure all goods and services through competitive bid. All such goods and services are purchased on the open market. Competition among vendors should be enhanced. The net result could improve employment in some vendor organizations.

Leo C. Hamilton
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Labor
Office of Labor**

The Department of Labor, Office of Labor, intends to amend certain rules and regulations under the Administrative

Procedure Act (R.S. 49:950 et seq.), for the implementation and administration of the Job Training Partnership Act (JTPA) (Public Law 97-300).

A public hearing will be held on May 2, 1989 at 9:30 a.m. in the Office of Labor JTPA Conference Room (third floor of the annex building), 1001 North 23rd Street, Baton Rouge, LA 70804, at which time all interested parties will be given an opportunity to be heard.

The following are proposed amendments to the Job Training Partnership Act rules and regulations:

Title 40

LABOR AND EMPLOYMENT

Part XIII. Job Training Partnership Act

Chapter 1. General Provisions

§121. Carry-over Balances

Funds obligated for any program year may be expanded by each recipient, Service Delivery Area grant recipient or subrecipient during that program year and the two succeeding program years with the following exceptions:

A. Title II-A and Title II-B - Reallocation Policy

1. Section 161(b) of the Job Training Partnership Act provides that no amount of funds "shall be deobligated on account of a rate of expenditure which is consistent with the job training plan." This being the case, the Louisiana Department of Labor (LDOL) is asserting the reverse. If an SDA's rate of expenditure is inconsistent with the job training plan, its new obligational authority (NOA) may be reduced in subsequent program years in order to, in effect, reallocate funds from that program year.

2. Beginning in Program Year 1989 and applying to Program Year 1988, an amount equivalent to 20 percent of the previous year's total funds available will be classified as "allowable carry-out."

3. All other carry-out will be designated as "excess carry-out" and the NOA to the SDA will be reduced by the amount of the excess carry-out. Determination of total carry-out and excess carry-out will be made at the annual close-out of the grant and reallocation of funds will be made to those SDAs which request the funds and have expended more than 80 percent of their total funds available. The reallocation will be based on the degree that SDAs exceed the 80 percent expenditure level.

4. The reduction of the NOA will result in funds being available with cost category levels of 15 percent, 15 percent, and 70 percent respectively for administration, participant support, and training.

5. All SDAs will be subject to these policies and procedures beginning in Program Year 1989.

B. Title III - Reallotment and Reallocation Policy

1. Excess Unexpended Funds

a. The U.S. Department of Labor has established Title III reallotment procedures that have the effect of limiting the amount of unexpended funds that can be carried-over by the state at the end of each program year. Reallotment also rewards states with high expenditure rates by providing additional funds. These procedures are described in §303 of the Job Training Partnership Act, §6305(e) of the Economic Dislocation and Worker Adjustment Assistance Act, §631.12 of JTPA federal regulation, and Training and Employment Guidance Letter (TEGL) No. 4-88 issued by the U.S. Department of Labor.

b. Reallotment will occur around September 1 and will

result in an increase or decrease in the state's formula-allotted funds for the current year based on a reallotment process applied to the prior year's Title III funds and expenditures. When reallotment results in an increase in funding, such reallocation is subject to allocation procedures specified in §631.32 of the federal regulations. When reallotment results in a decrease in funding, the procedures that follow will be used to recover funds from substate grantees and, where appropriate, state subcontractors in order to make funds available to the U.S. Department of Labor for reallotment. Any remaining funds would come from the governor's 40 percent funds.

c. Louisiana will apply the same reallotment procedures to substate grantees and state subcontractors that the U.S. Department of Labor applies to the state. Our reallotment policy states that the amount available for reallotment from substate grantees and state subcontractors is equal to the sum of unexpended funds in excess of 20 percent of the prior year's allocation or subgrant amount and all unexpended previous program year funds. For PY 88 allocations and subgrants, 30 percent shall be substituted for 20 percent in the previous sentence. Unexpended reallocated funds at the end of the year will also be subject to the 20 percent limitation on allowable carry forward. Substate grantees and state subcontractors that lose funds through the reallotment process will use their allocation or subgrant amount before reallotment in order to calculate allowable carry forward.

d. In addition, Louisiana will use the reallotment process for substate grantees and, where appropriate, state subcontractors at the end of each program year whether or not the state is subject to a reduction in funding due to reallotment. This will allow the state to deal with significant underexpenditure of funds by individual substate grantees and state subcontractors even when the state maintains a high overall level of expenditures.

e. In the event that Louisiana is not subject to a reduction in funding, but one or more substate grantee(s) or state subcontractor(s) are subject to a reduction based on Louisiana's policy, funds deobligated from such substate grantees will be allocated by formula to the remaining substate grantees who were not subject to a reduction. This allocation will be in addition to any funds reallocated by the U.S. Department of Labor and subsequently allocated to substate areas. Any funds deobligated from state subcontractors as a result of these procedures are subject to regular Title III state obligation procedures.

2. Projected Excess Unexpended Funds

a. Louisiana is subject to a U.S. Department of Labor JTPA Title III reallotment process based on expenditures at the end of each program year. In order to avoid a reduction in funding from such a reallotment, a deobligation procedure has been established.

b. Title III substate grantees and state subcontractors are subject to deobligation of projected excess unexpended funds based on expenditures during the first five months of their subgrant or subcontract period. Projected excess unexpended funds are defined as any amount of projected unexpended funds in excess of 20 percent of a substate grantee's available funds (excluding carry-in funds and any additional funds reallocated during that program year as a result of the U.S. Department of Labor's reallocation process) or 20 percent of a subcontract amount. Projected unexpended funds are total available funds (excluding reallocated funds) less expenditures reported for the

first five months and less an amount equal to the higher of the last two months reported expenditure amounts times the number of months remaining in the subgrant or subcontract period. Expenditure amounts used for this process will be those amounts reported as of the official due date specified by the Louisiana Department of Labor's fiscal section. Funds remaining after deobligation will be subject to all cost category limitations.

c. Substate grantees and state subcontractors will have 15 days from the date they are notified of any amount subject to deobligation to provide documentation to the Louisiana Department of Labor why they should not be subject to such deobligation. The Louisiana Department of Labor may reduce the amount to be deobligated based on acceptance of documentation of corrected expenditure amounts, significant recent obligations not reflected in current reported expenditures, or other appropriate justification.

d. All funds deobligated from substate grantees will be allocated by formula to substate grantees whose total projected unexpended funds did not exceed allowable projected unexpended funds. Funds deobligated from state subcontractors are subject to regular Title III state obligation procedures.

e. This deobligation procedure does not limit the Louisiana Department of Labor's authority to unilaterally deobligate funds from subgrants and subcontractors when it is deemed necessary in order to carry out responsibilities under the Job Training Partnership Act.

AUTHORITY NOTE: Promulgated in accordance with Public Law 97-300.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), amended LR 10:546 (July 1984), LR 15:

Phyllis Coleman Mouton
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Title 40, Labor and Employment, Part XIII Job Training Partnership Act

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

There are no anticipated implementation costs to local governmental units associated with these proposed amendments. The estimated costs to the Louisiana Department of Labor for implementing, including printing and distributing, amended rules is \$400.

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

The estimated effect on revenue collections of state or local governmental units will be a possible decrease in JTPA funding to certain state and local governmental units who have accumulated excess unexpended funds, and thru a reallocation process, an increase in funding to other state and local governmental units who do not have excess unexpended funds. The result will maximize the utilization of JTPA funds in the state of Louisiana and reduce the possibility of funds being recouped by the U.S. Department of Labor.

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

The maximum utilization of JTPA funds will result in job training and employment opportunities for a greater number of economically disadvantaged individuals, dislocated workers, and other individuals facing serious barriers to employment, thus enabling them to become productive Louisiana citizens.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT (Summary)

The proposed action will have no impact on competition as the intent of JTPA is to provide job training in demand occupations to certain individuals. JTPA trainees will not replace persons presently employed. It is anticipated, however, that the proposed action will increase job opportunities by providing training to a greater number of individuals thru the maximum utilization of JTPA funds.

Leo C. Hamilton
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is given by the Department of Natural Resources that the balance in the Fishermen's Gear Compensation Fund is less than one hundred thousand dollars, and, as provided in R.S. 56:700.2, an additional fee will be assessed on June 20, 1989. The fee, in the amount of four hundred dollars for each state mineral lease and four hundred dollars for each state pipeline right-of-way, will apply to all state mineral leases and state pipeline rights-of-way located in the Coastal Zone of Louisiana.

The previous assessment was imposed on July 1, 1987.

Questions or comments relative to this fee may be directed to Gerald P. Theriot, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Capitol Station, Baton Rouge, LA 70804, Telephone (504) 342-0122, and must be received by May 20, 1989.

Raymond W. Stephens, Jr.
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Fishermen's Gear Compensation Fund - Fee Notice

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

There will be no additional implementation cost (savings) to state or local government units being that existing staff can handle the related workload.

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

Commercial fishermen may file claims for reimbursement (not to exceed two each fiscal year) for damages sustained while operating in coastal waters. Reimbursement is paid from the Fishermen's Gear Compensation Fund, whose revenues are generated by an assessment on each holder of a state mineral lease and each grantee of a pipeline right-of-way located within the coastal zone. Assessments are not imposed annually, only periodically (when the fund's balance is below \$100,000). No revenues will be received until July, 1989, and the approximately \$800,000 derived for the assessment of \$400 on each of 2000 leases and rights-of-way, will be used to pay claims throughout FY 89-90.

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

The assessment will be borne by the petroleum exploration, production and transmission industry. Legislation which established the Fishermen's Gear Compensation Fund authorizes assessments of fees not to exceed \$1000 per year per lease or right-of-way. The proposed rule announces and assessment of \$400 on each of 2000 leases and rights-of-way, with the resulting \$800,000 used to pay claims for reimbursement filed by eligible commercial fishermen.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment, being that this rule simply announces a fee authorized by an Act of the legislature.

Mary Mitchell
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Community Services

The Louisiana Department of Social Services (DSS) intends to apply for Low-Income Home Energy Assistance Block Grant funds in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, as amended by P. L. 98-588 of 1984, and with federal regulations as set forth in the *Federal Register*, Vol. 47, No. 129, Tuesday, July 6, 1982, pages 29472-29493.

As initiated on October 1, 1985 the Office of Community Services (OCS) (formerly Office of Human Development) will continue to have responsibility for administration of the Low-Income Home Energy Assistance Program.

Services available under this program include:

Home Energy Assistance - vendor payments on behalf of eligible households for home energy as a source of heating or cooling of dwelling units.

Weatherization - the provision of materials and labor for altering housing units of eligibles in accordance with U.S. Dept. of Energy Guidelines to conserve energy and reduce energy cost.

Energy Crisis Intervention - vendor payments on behalf of eligible households for home energy as a source of heating or cooling during weather related or supply shortage emergencies as may be declared by the governor.

Eligible categories include:

1. Households in which one or more adults are receiving one of the following, provided there is no additional income:

- a. AFDC (Aid to Families with Dependent Children);
- b. SSI (Supplemental Security Income);
- c. Food Stamps; or
- d. Veterans' or VA Survivors' Pensions.

2. Households with gross incomes which do not exceed 125 percent of the poverty level, as published by the U.S. Department of Health and Human Services in the *Federal Register*, Volume 54, Number 31, dated Thursday, February 16, 1989. The published poverty income guideline for all states except Alaska and Hawaii and the District of Columbia is an annual gross income of \$12,100 for a household of four. A household of four with a monthly gross income of not more than \$1,260 is eligible for services.

The proposed LIHEAP State Plan is available for public review at each OCS parish office Monday through Friday from 8:30 a.m. to 4 p.m.

Interested persons may submit written comments on the proposed plan from April 20, 1989 through May 23, 1989 to: Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804.

Public Hearings on the proposed plan are scheduled as follows:

Tuesday, May 9, 1989, Shreveport, 10 a.m., State Office Building, Room 205, 1525 Fairfield Avenue, Shreveport, LA.

Wednesday, May 10, 1989, Alexandria, 10 a.m., State Office Building, Second Floor Conference Room, 900 Murray Street, Alexandria, LA.

Thursday, May 11, 1989, New Orleans, 10 a.m., Orleans Parish OFS Building, Second Floor Auditorium, 2601 Tulane Avenue, New Orleans, LA.

At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed Block Grant application, orally or in writing. Written comments will be accepted through May 23, 1989.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Low Income Home Energy Assistance Program (LIHEAP)

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

No additional costs or savings will be incurred by the state or local governments over the 1988-89 SFY. Implementation cost of this plan is \$11,662,970 (\$9,671,904 from an-

anticipated FFY 1990 LIHEAP grant funds plus \$5,134,434 from set aside and unobligated FFY 1989 LIHEAP funds less \$967,190 transfer to SSBG and \$2,176,178 set aside for first quarter of SFY 1990-91). \$116,630 (1 percent) will be made available for an energy crisis program, \$1,749,445 (15 percent) will be utilized for the weatherization and \$9,796,895 (84 percent) will be expended for home energy assistance. Administrative costs for implementation will be limited to ten percent or \$1,166,297 of the total funds available. No state general funds will be utilized in the implementation of this plan.

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

For the period July 1, 1989 through June 30, 1990 a total of \$11,662,970 in federal funds will be available to the state. OCS will utilize \$1,749,445 to administer the state-wide Weatherization Assistance Program (WAP) and \$9,796,895 to administer the state-wide Home Energy Assistance Program through contractual agreements with local Community Action Agencies (CAA), or local governmental units. Administrative costs for implementation of these programs will be shared between the state, local CAAs or local governmental units and will not exceed ten percent of total funds available.

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

It is anticipated that Purchase of Services contracted funds will offset the cost of service delivery to designated local Community Action Agencies, qualifying recognized Indian tribal organizations or local governmental units. Approximately 110,215 low income households throughout Louisiana will receive an average benefit of \$80 and approximately 984 low income households will be weatherized from heat and cold. At least 30 percent of all households served will contain at least one elderly member.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Only minimum effect is anticipated on competition and employment as all but the largest Community Action Agencies and local governmental units can implement their proposed programs with existing staff. Some WAP providers will contract weatherization activities with private contractors.

Brenda L. Kelley
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

The Louisiana Department of Social Services (DSS) intends to apply for federal Social Services Block Grant funds for FY 1989-90 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register*, Vol. 47, No. 129, Tuesday,

July 6, 1982, pages 29472-29493. DSS will continue to administer programs funded under the Social Services Block Grant (SSBG) in accordance with provisions set forth in Public Law 97-35 and applicable federal regulations. The DSS/Office of Community Services (OCS) will be responsible for provision of social services, by direct delivery and purchase of services, through use of federal SSBG funds. Estimated SSBG expenditures (including LIHEAP transfer funds) for FY 1989-90 are \$50,463,923.

The proposed SSBG Intended Use Report for FY 1989-90 is available for public review at OCS parish and regional offices Monday through Friday from 8:30 a.m. to 4 p.m. Copies are available without charge by telephone request to (504) 342-2272 or by writing the Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804. Inquiries and comments on the proposed plan may be submitted until May 23, 1989 to the assistant secretary, OCS, at the above address.

Public hearings on the proposed SSBG Intended Use Report for FY 1989-90 are scheduled as follows:

Tuesday, May 9, 1989, Shreveport State Office Building, 1525 Fairfield Avenue, Shreveport, LA, 10 a.m.

Wednesday, May 10, 1989, Alexandria State Office Building, Second floor conference room, 900 Murray Street, Alexandria, LA, 10 a.m.

Thursday, May 11, 1989, New Orleans, Orleans Parish Office of Eligibility Determinations, Second floor auditorium, 2601 Tulane Avenue, New Orleans, LA, 10 a.m.

At the public hearings all interested persons will have the opportunity to provide recommendations on the proposed SSBG plan, orally or in writing. Written comments will be accepted through May 23, 1989.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Social Services Block Grant (SSBG)
(SSA - Title XX 1989-90)**

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

Implementation costs of this plan from federal sources is \$50,463,923 which includes \$49,496,733 in SSBG directly allocated funds and \$967,190 in LIHEAP federal funds transfer to the SSBG. Estimated expenditures from directly allocated SSBG funding are based on 25 percent (\$12,533,748) of the FFY 89 SSBG allotment to Louisiana plus 75 percent (\$36,962,985) of the FFY 90 allotment.

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

SSBG funds are available to the state for expenditure in the federal fiscal year appropriated and in the following federal fiscal year. Louisiana's FFY '89 allotment published in the *Federal Register* of February 3, 1988 was \$50,134,992. The FFY '90 allotment published November 29, 1988 is \$49,283,980.

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

Planned services are designed for the social benefit of families in low income and/or vulnerable circumstances. The Office of Community Services shall allow for copayments to be collected from recipients of certain Title XX services according to sliding fee scales. For 89/90, estimated costs to service recipients are: Adoption home studies \$300,000; Family Services \$23,000. Respite Care \$8,000. No other costs and/or economic benefits to directly affected persons or non governmental groups are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect is anticipated on competition or employment.

Brenda L. Kelley
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Eligibility Determinations

The Department of Social Services, Office of Eligibility Determinations, proposes to adopt the following rule in the Aid to Families with Dependent Children Program.

This was published as an emergency rule in the March 20, 1989 *Louisiana Register*. Emergency rulemaking was necessary because federal regulations as published in the *Federal Register* of Tuesday, January 24, 1989, Vol. 54, No. 14, pages 3448-3452, mandate an effective date of January 24, 1989.

Proposed Rule

Effective January 24, 1989 the individuals who may be included as essential persons are defined as follows:

- A person providing child care which enables the qualified relative to work full-time outside the home.
- A person providing full-time care for an incapacitated family member living in the home.
- A person providing child care that enables the qualified relative to receive full-time training.
- A person providing child care that enables a qualified relative to attend high school or General Education Development (GED) classes full-time.
- A person providing child care for a period not to exceed two months that enables a caretaker relative to participate in Employment Search or another AFDC work program.

As a result of this change, the following groups of persons who have been considered as essential persons will no longer be eligible for inclusion in the assistance unit:

- Children not within the degree of relationship to be AFDC eligible who live in the home and who meet all other AFDC requirements.
- The incapacitated non-legal spouse of the qualified relative who is unrelated to anyone in the assistance unit.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Eligibility Determinations, Box 94065, Baton Rouge, LA, 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA on Wednesday, May 3, 1989, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: AFDC-Essential Persons

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

The estimated implementation savings are \$13,624 in FY 88-89, \$73,112 in FY 89-90 and \$66,768 in FY 90-91.

Of the 138 persons currently included as essential persons in AFDC certifications 131 will be removed effective May, 1989 at a savings of \$52 per person per month. The \$52 is the difference between an AFDC flat grant for three and the flat grant for two persons. Although we do not have any specific data, we are assuming that 24 people will be added to certifications in FY 89/90 at two per month and remain at 24 in FY 90/91. This is based on the fact that fewer people will be eligible as the criteria for essential persons has changed and now excludes children not within the degree of relationship to be AFDC eligible.

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

There is no effect on revenue.

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

Most persons currently in AFDC certifications as "essential persons" will be removed as they no longer meet the criteria. A different group of individuals that fit the new criteria could now be included in the certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Howard L. Prejean
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Eligibility Determinations

The Department of Social Services, Office of Eligibility Determinations, proposes to adopt the following rule in the Food Stamp Program.

This was published as emergency rule in the March 20, 1989, *Louisiana Register*. Emergency rulemaking was necessary because federal regulations as published in the *Federal Register*, of Monday, January 30, 1989, Vol. 54, No. 18, pages 4249-

4253 mandate an effective date of March 1, 1989 and an implementation date of May 1, 1989.

Proposed Rule

Effective May 1, 1989 residents of public institutions who apply for SSI prior to their release from an institution under the Social Security Administration's Pre-release Program for the Institutionalized (42 U.S.C. 1383) shall be permitted to apply for food stamps at the same time they apply for SSI.

When a resident of an institution is jointly applying for SSI and food stamps prior to leaving the institution, the filing date of the application to be recorded by Office of Eligibility Determinations (OED) on the application is the date of release of the applicant from the institution.

The Office of Eligibility Determinations shall make an eligibility determination and issue food stamp benefits to a resident of a public institution who applies jointly for SSI and food stamps within 30 days (or five days if expedited processing is appropriate) following the date of the applicant's release from the institution. Expedited processing time standards for an applicant who has applied for food stamps and SSI prior to release shall also begin on the date of the applicant's release from the institution. SSA shall notify OED of the date of release of the applicant from the institution. If, for any reason, OED is not notified on a timely basis of the applicant's release date, OED shall restore benefits to such applicant back to the date of release.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Box 94065, Baton Rouge, LA, 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA on Wednesday, May 3, 1989, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

May Nelson
Secretary

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

**Rule Title: Food Stamp Program - Pre-release
Applications**

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

The cost of implementing \$50 (\$25 state and \$25 federal) in FY 88-89 is for printing manual material.

Because Food Stamp benefits are 100 percent federally funded, any increase or decrease in benefits would be on a federal level.

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

There is no effect on revenues.

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

Persons in public institutions who apply for SSI and Food

Stamps prior to their release will receive Food Stamp benefits quicker than if they wait to apply after their release.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-
MENT (Summary)**

There is no effect on competition and employment.

Howard L. Prejean
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of State
Office of the Secretary of State**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Office of the Secretary of State adopts the following schedule of penalties and collection procedure to be applied to foreign corporations transacting business in this state without a certificate of authority as required by R.S. 12:301. The schedule of penalties and collection procedure of such penalties is made pursuant to the authority of Act 513 of the 1988 Louisiana Legislature, enacted as R.S. 12:314.1.

**Title 19
CORPORATIONS AND BUSINESS
Part VII. Secretary of State**

A. The Secretary of State may investigate any foreign corporation transacting business in this state without a certificate of authority in violation of R.S. 12:301. The Secretary of State may enforce the collection of a civil penalty after due process from such foreign corporations in accordance with the following schedule:

1. A penalty of \$250 for foreign corporations having transacted business within the state without a certificate of authority for a period of time of one year or less, and having net assets of less than \$25,000 at the end of its most recent fiscal year.

2. A penalty of \$500 for foreign corporations having transacted business within the state without a certificate of authority for a period of time of greater than one year, and having net assets of less than \$25,000 at the end of its most recent fiscal year.

3. A penalty of \$500 for foreign corporations having transacted business within the state without a certificate of authority for a period of time of one year or less, and having net assets of greater than \$25,000 at the end of its most recent fiscal year.

4. A penalty of \$1,000 for foreign corporations having transacted business within the state without a certificate of authority for a period of time greater than one year, and having net assets of greater than \$25,000 at the end of its most recent fiscal year.

5. A penalty of \$1,000 for foreign corporations having transacted business within the state without a certificate of authority, and failing to furnish requested information on whether its net assets were greater or lesser than \$25,000 at the end of the foreign corporation's most recent fiscal year.

B. Any penalty imposed pursuant to Section A shall be in addition to any fees imposed under Chapter Three of Title 12 of the Louisiana Revised Statutes.

C. If the Secretary of State, upon completion of an investigation of a foreign corporation determines that there is substantive evidence that such foreign corporation has transacted business in the state without a certificate of authority in violation of R.S. 12:301, the Secretary of State shall mail a notice of non-compliance with R.S. 12301 to such foreign corporation.

1. The notice of non-compliance with R.S. 12:301 shall set forth the amount of the penalty for non-compliance, if any, as determined by the Secretary of State. Any foreign corporation being able to show that the notice of non-compliance was sent in error, or that the penalty assessed under Section A, if any, was in error, may submit a letter, accompanied by substantive supporting evidence to the Office of the Secretary of State explaining that the notice of non-compliance was in error or that the penalty assessed, if any, was in error. Such letter and substantive supporting evidence must be addressed to the Secretary of State and must be postmarked, or received by the Office of the Secretary of State, within ten working days of receipt of the notice of non-compliance.

2. Upon receipt of such letter indicating that the notice of non-compliance was in error along with supporting evidence, the Secretary of State shall reinvestigate the foreign corporation. If it is found upon reinvestigation that the foreign corporation has never transacted business within this state without a certificate of authority, the Secretary of State shall notify the foreign corporation that the penalty has been withdrawn. If it is found upon reinvestigation that the improper penalty was assessed under Section A, the Secretary of State shall notify the foreign corporation that there was an error in the original assessment and indicate the proper amount of the penalty being assessed. If upon reinvestigation it is found by the Secretary of State that the foreign corporation has transacted business without a certificate of authority in this state, or that the penalty was correctly assessed, the Secretary of State shall so notify the foreign corporation.

3. If any penalty imposed by the Secretary of State pursuant to the authority of R.S. 12:314.1 is not paid within 45 days of receipt of the notice of non-compliance, or of the result of any reinvestigation, as the case may be, the Attorney General shall institute proceedings against the foreign corporation to collect the penalty assessed under Section A.

Interested persons may submit their views in writing within ten days of publication to Stephen Hawkland, Office of the Secretary of State, Box 94125, Baton Rouge, Louisiana, 70804-9125.

W. Fox McKeithen
Secretary of State

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Penalty Schedule For Foreign Corporations
Acting Without A Certificate Of Authority**

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

Collection of penalties will require the addition of three employees, two corporate compliance investigators to be paid \$1,400 per month each and one corporate research specialist to be paid \$1,068 per month. Salaries and benefits for FY 88-89 will be \$32,491, travel expenses will be \$9,041 and other operating expenses will be \$2,100. These expenses are based upon seven months activity in FY 88-89. Other start up costs will be \$2,591 for the acquisition of one typewriter, three desks, three chairs, and one file. Total expenditures will be \$46,223 for FY 88-89. For FY 89-90 expenditures will be \$76,590 based on 12 months activity.

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

According to the Department of State, approximately 150 complaints are received annually from the public concerning foreign corporations acting without a certificate of authority. Assuming that the \$1,000 penalty is imposed upon each of these corporations, an increase of \$150,000 would accrue annually to anticipated revenue. Even if it is assumed that some of these corporations will be assessed only a \$500 penalty, the \$150,000 should still be reached as it is expected that many other such foreign corporations will be discovered through the research of the staff. Revenue collections are expected to exceed expenditures by at least \$80,000 each full fiscal year.

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

The cost to foreign corporations acting without a certificate of authority will be a penalty of either \$500 or \$1,000 as the case may be. In addition, such foreign corporations will be required to pay all past due fees and taxes before being issued a certificate of authority.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-
MENT (Summary)**

The penalty assessment on offending foreign corporations will have no effect on competition and employment.

Fox McKeithen
Secretary of State

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend its Plan Document of benefits as follows:

The following language was added

SCHEDULE OF BENEFITS

COMPREHENSIVE MEDICAL BENEFITS

. . . Deductibles:

. . . Emergency Room (Waived for immediate admission to a Hospital from the Emergency Room) Per visit (Prior to and in addition to Calendar Year Deductible \$50. . .

* Percentage payable for treatment of mental or nervous conditions and/or substance abuse while not hospital confined is limited to 50 percent of eligible expenses (subject to applicable limitations of the Fee Schedule). Outpatient mental or nervous conditions and/or substance abuse treatment is further limited to 50 visits per calendar year, with a maximum reimbursement of \$20 per visit. . . .

Benefits Payable after Satisfaction of Applicable Deductibles: . . .

. . . Professional medical services, not to exceed Fee Schedule Maximum: . . .

OTHER MEDICAL BENEFITS

Inpatient confinement for mental or nervous conditions and/or substance abuse is limited to 30 days per Calendar Year. Confinements for the treatment of substance abuse are further limited to the first confinement in a covered person's lifetime.

and delete the following language:

Inpatient Confinement for Substance Abuse limited to 30 days per calendar year and the first confinement per lifetime. . .

Under Article I, General Provisions, Section I, Definitions, delete the following language and renumber the subsequent paragraphs accordingly:

W. The term *reasonable expense* as used herein shall mean the customary and reasonable fee or charge for the services rendered or the supplies furnished in the area where such services are rendered or such supplies are furnished, provided such services or supplies are recommended and approved by a physician other than the covered person.

X. The term *customary and reasonable* as used herein shall mean the following:

1. Customary: a charge is customary when it is the most consistent charge by an individual physician for a given procedure and when it is the usual fee for a procedure charged by the majority of physicians with similar training and experience within the same localities as used by the program to develop statistics.

2. Reasonable: a charge is reasonable when it meets the above criterion or when, in the judgment of the program, it merits special consideration based upon the complexity of treatment.

. . . . Z. The term *physical therapy* as used herein shall mean the evaluation of physical status as related to functional abilities and treatment procedures as indicated by that evaluation. Such therapy is provided by a registered physical therapist who is licensed to practice in the state where the service is rendered. Services provided must meet the following criteria: prescribed by a licensed medical doctor, require the skills of and performed by a registered physical therapist, restorative potential exists, meets the standards for medical practice, reasonable and necessary for treatment of the disease, illness, accident, injury or post-operative condition. . . .

. . . HH. The term *ambulatory surgical facility* as used herein shall mean a facility or institution licensed by the state in which it operates, which is equipped to do multi-specialty surgeries under general anesthesia and which allows patients to leave the facility the same day surgery is performed. Such facility shall not engage in overnight bed patient care or be a substitute setting for care routinely and/or normally provided in a physician's office or clinic setting. . . .

Add the following language:

FF. The term *fee schedule* as used herein shall mean the schedule of maximum allowable charges for professional services adopted and promulgated by the Board of Trustees in accordance with the provision of R.S. 42:851.5, et seq. . . .

II. EMPLOYEES TO BE COVERED. . .

. . . c. Dependent deferral rule

If a dependent, other than a newborn child of the plan member or plan member's legal spouse, is confined at home, in a nursing home, hospital, or elsewhere, by reason of disease, illness, accident, or injury on the date he would otherwise become covered under this plan, the date of that dependent's coverage shall be deferred until the date confinement terminates or disability ends, whichever is later. . . .

Under Section III, Item K. Miscellaneous Provisions delete the following language and renumber the subsequent paragraphs accordingly:

. . . 3. For those covered persons who have elected to continue coverage pursuant to Section III, C through J, no new dependents may be added during the period of continued coverage. The only exception shall be eligible for coverage from date of birth, subject to the provisions of Article 1, Section IV, except that newborn children shall not be eligible as overdue applicants.

Under Article 3, Medicare Benefits add the following underlined language:

. . . D. Non-confining alcoholism and/or substance abuse

If a covered person is treated for alcoholism and/or substance abuse while not confined in a Hospital as a resident patient, benefits shall be limited to 50 percent of the reasonable eligible expense incurred subject to the applicable limitations of the Fee Schedule, including prescription drugs. . . .

. . . G. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule, under Comprehensive Medical Benefits when prescribed by a physician and medically necessary for the treatment of a covered person; . . .

. . . 8. Subject to the filing requirements of Article 4, Section IV, drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist, except for birth control medication for whatever reason used or prescribed, and dietary supplements; . . .

. . . 17. Initial prosthetic appliances (except penile implants) required as a result of conditions caused only by a non-occupational disease, illness, accident or injury. Subsequent prosthetic appliances (except penile implants) shall be eligible only when deemed medically necessary and when certification is furnished, acceptable to the program, by the attending medical doctor. . . .

. . . 24. Outpatient treatment in connection with the detection or correction by manual or mechanical means of structural imbalance, distortion or subluxation in the human body for purposes of removing nerve interference when such interference is a result of or related to distortion, misalignment, or subluxation of or in the vertebral column, with the following limitations: The program will pay 80 percent of eligible charges incurred subject to the applicable limitations of the Fee Schedule, said charges not to exceed \$100 for any covered person per calendar month.

. . . H. Treatment of mental or nervous condition and/or substance abuse as a resident patient. . .

. . . BENEFITS PROVIDED UNDER THIS SECTION H SHALL ALSO BE SUBJECT TO THE ANNUAL AND LIFE-TIME BENEFIT LIMITATIONS AS SPECIFIED IN THE SCHEDULE OF BENEFITS AND TO APPLICABLE LIMITATIONS OF THE FEE SCHEDULE. . . .

Add the following language:

II. FEE SCHEDULE

A. This section, Article 3, Section II, Fee Schedule, is effective July 1, 1989.

B. Act 1009 of the 1988 Regular Legislative Session mandated the Board of Trustees for the State Employees Group Benefits Program (SEGBP) to adopt and promulgated a schedule of maximum fees (Fee Schedule) for medical services, surgical services, and professional services provided in hospitals.

C. The Fee Schedule sets the maximum fee that the State Employees Group Benefits Program (SEGBP) will pay, notwithstanding deductibles and co-payments, for an eligible medical expense.

D. The Fee Schedule is geographically divided into five Zip Code areas for the state of Louisiana. The maximum reimbursable fee is limited to the statistical mean of the usual and customary charges for medical services in the corresponding Zip Code area.

E. Act 1009 provides that if the medical provider accepts an assignment of benefits, the plan member cannot be billed for any amount of the charge that may exceed the fee schedule.

F. If an assignment of benefits is not accepted, the plan member can be charged for the amount in excess of the Fee Schedule.

G. Plan members can find out the maximum allowable charge under the Fee Schedule for a particular service, provided the plan member knows the CURRENT PROCEDURAL TERMINOLOGY (CPT) code for the service and the Zip Code area where the service will be performed, by calling the Claims Service Department of the State Employees Group Benefits Program (SEGBP).

H. If additional information is needed, please contact our Claim Service Department at (504) 925-6625 or Toll-Free 1 (800) 272-8451 (Louisiana Only).

III. UTILIZATION REVIEW

Pre-Admission Certification, Continued Stay Review, and Second Surgical Opinion.

. . . C. PAC shall include a second surgical opinion when required by the utilization review organization. Such second surgical opinion shall be rendered by a physician approved by the utilization review organization and the cost for the second opinion will be covered at 100 percent. The utilization review firm may, at its option, require a third opinion which will be covered at 100 percent. Benefits provided for a second or third surgical opinion shall be subject to applicable limitations of the Fee Schedule. . . .

. . . IV. SUPPLEMENTAL EMERGENCY ACCIDENT BENEFITS

A. When accidental bodily injury requires the covered person to receive treatment and incur an eligible expense within 72 hours of an accident, and services or treatment as result of such accidental bodily injury are furnished by or at the direction of a physician while this coverage is in force as to such person, the program will pay the eligible expense actually incurred, ex-

cept as set forth below, and not to exceed the maximum amount payable as specified in the Schedule of Benefits for any one Accidental Bodily Injury. . . .

. . . B. Covered expenses shall include:

. . . 8. Subject to the filing requirements of Article 4, Section IV, drugs and medicines, approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist; . . .

. . . C. Exclusions - no payment shall be made under supplemental emergency accident benefits with respect to: . . .

. . . 4. Expenses in excess of the maximum allowable under the Fee Schedule

V. DENTAL SURGICAL BENEFITS

A. When disease, illness, accident or injury requires the covered person to undergo any oral surgical procedure listed in the Schedule of Dental Surgical Procedures as herein contained, and the procedure is performed by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) while this coverage is in force as to such persons, the Program will pay the eligible expense actually incurred for professional charges for such surgical procedure, including the usual pre-operative and post-operative care, not to exceed the maximum amount payable for the procedure as allowed by the Fee Schedule. No dental surgical benefits, except those procedures listed in the Schedule of Dental Surgical Procedures, will be considered eligible under this provision.

B. No deductible amount shall apply to benefits payable under this Section, and expenses in excess of the amounts shown in the Schedule of Dental Surgical Procedures shall not be considered eligible Out of Pocket Expenses as defined in Article 3, Section I(A) (3).

The following replaces the Schedule of Dental Surgical Procedures:

C. Schedule of Dental Surgical Procedures

1. Incision and drainage of intraoral or extraoral abscess;
2. Alveolectomy/alveoloplasty;
3. Removal of ankylosed tooth;
4. Apicoectomy;
5. Excision of cysts of the jaw (mandible or maxilla);
6. Excision of epulis fibroma;
7. Excisional or incisional biopsy;
8. Excision of one or more impacted teeth;
9. Mandibular tori;
10. Excision of torus palatinus;
11. Tuberosity reduction (soft or bony tissue). . . .

VI. CATASTROPHIC ILLNESS ENDORSEMENT. . .

. . . E. Benefits (subject to Utilization Review)

1. In-Patient Benefits

When a covered person received care and treatment in a hospital for any of the diseases indicated above, and such care and treatment is rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the program will pay the eligible expense actually incurred for any of the following listed services, but not to exceed the maximum amount payable per benefit period specified in the Schedule of Benefits:

. . . 2. Out-Patient Benefits and Professional Services

When a covered person receives care and treatment of any of the diseases indicated above, and such care and treat-

ment is rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the program will pay the eligible expense actually incurred for any of the following listed expenses, but not to exceed the maximum amount benefit period specified in the Schedule of Benefits: . . .

. . . VIII. EXCEPTIONS AND EXCLUSIONS FOR ALL MEDICAL BENEFITS

No benefits are provided under the contract for:

. . . O. Charges for services, supplies, or treatment which are in excess of the maximum allowable under the Fee Schedule or any other limitations set forth in the Plan; . . .

. . . S. Artificial organ implants, penile implants, transplantation of other than Homo sapiens (human) organs, in vitro fertilization, and artificial insemination; . . .

T. Air conditioners and/or filters, dehumidifiers, air purifiers, wigs or toupees, heating pads, home enema equipment, rubber gloves, swimming pools, saunas, whirlpool baths, home pregnancy tests, lift chairs, devices or kits to stimulate the penis, exercise equipment, and any other items not normally considered medical supplies; . . .

IX. COORDINATION OF BENEFITS

A. Definitions as applied to this provision

. . . 2. Allowable Expense means any medically necessary, eligible item of expense, at least a part of which is covered under one of the plans covering the person for whom claim is made. . . .

ARTICLE 4

UNIFORM PROVISIONS

. . . IV. FILING CLAIMS FOR PRESCRIPTION DRUGS

In those instances in which the program is the primary payer of benefits or the only source of medical coverage for a covered person, the program will accept as evidence of the purchase of eligible prescription drugs either the original receipt from the pharmacy or a computer printout of the prescription drugs from the pharmacy dispensing the drugs. Pharmaceutical forms or copies of receipts will not be accepted.

In those instances in which the program is the secondary payer of benefits for a covered person, the program will accept as evidence of the purchase of eligible prescription drugs a copy of the explanation of benefits from the primary payer accompanied by the original or a copy of the receipt from the pharmacy.

The program shall require a medical statement signed by a licensed physician, at least once a year, for expenses incurred on a continuing basis for prescription drugs and/or medical supplies. . .

Comments or objections will be accepted, in writing, by the Executive Director of the State Employees Group Benefits Program until 4:30 p.m. on June 9, 1989, at the following address: James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Fee Schedule**

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

The proposed rule changes, for which a fiscal impact can be calculated, will reduce the health claims payments of the State Employees Group Benefits Program by approximately \$10,777,400 in FY 89/90.

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

The revenue collections of state or local governmental units will not be affected by these rule changes.

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

The plan members of this program will experience a reduction in benefit payments of approximately \$10,777,400 in FY 89/90.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rule changes will have no effect on competition or employment.

James D. McElveen
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of the Treasury
State Employees, Retirement System
Rules for Election of Active Member Trustees**

In accordance with R.S. 42:641 and 646, notice is hereby given that the Louisiana State Employees' Retirement System proposes to adopt the following rules to govern the election of trustees who are active members of the system.

Rules for Election of Active Member Trustees

I. General Schedule

Second Monday in July Nominations closed.

Second Friday in July Drawing to determine position on ballot.

Fourth Friday in October . . Last day that information on candidates and ballots are to be mailed to agencies.

First Friday in December All ballots returned to System by close of business (4:30 p.m.)

Second Tuesday in December Ballots counted and verified.

Regular December meeting Board accepts certified ballot of Board of Trustees count and publishes results.

Regular January meeting Elected members take position on Board of Trustees Board.

II. Election Rules

(1) A candidate for a vacant position on the Board of Trustees must be a member of the System with at least 10 years of credited service (excluding any military service credit) as of second Monday in July, the date on which nominations close. The Board of Trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning members' signatures

must be accompanied by their Social Security number. All nominations for the Board of Trustees election must be in the office of the Retirement System no later than the second Monday in July, close of business (4:30 p.m.).

(2) No department may be represented by more than one trustee, except as provided below. Department, for Board election purposes, means the twenty departments of the Executive Branch of State government as defined in Title 36 of the Louisiana Revised Statutes of 1950, plus the Judicial Branch and the Legislative Branch of State government. Because approximately 30 percent of our members are employed by the Department of Health and Hospitals, that department may be represented by a maximum of two Trustees.

(3) There will be a drawing on the second Friday in July, at 11 a.m., in the Retirement System Building, 8401 United Plaza Boulevard, Baton Rouge, LA to determine the position each candidate will have on the ballot. All candidates are invited to attend or send a representative to the drawing, but it is not mandatory.

(4) Ballots will be distributed to each department (agency) by the fourth Friday in October, with a self-addressed envelope for returning the ballot. Every active (contributing) member appearing on the May Monthly Retirement Reports will receive a ballot for voting. The signature of the member must appear on the official ballot return envelope for comparison with the records of the System. Those envelopes received as postmarked or stamped-in will be placed in a ballot file for counting by the Ballot Counting Committee, thus assuring that only eligible members vote and an absolute secret ballot will be held. Ballot envelopes received without the name/Social Security number sticker provided by the Retirement System, ballot envelopes that do not bear the member's proper signature (not printed), and ballots received after the close of business on the first Friday in December will be rejected. Ballots must be returned to the Retirement System office at 8401 United Plaza Boulevard, First Floor, Box 44213, Baton Rouge, LA 70804.

(5) Each candidate for the office of Trustee may name no more than two members to the Ballot Counting Committee and the Director shall name such additional members as necessary to complete the count. All valid ballots will be counted on the second Tuesday in December and the envelopes destroyed. The Ballot Counting Committee shall submit a written report of the election results to the Board of Trustees no later than the regular December meeting of the Board of Trustees.

(6) Upon receipt of the results of the election, the Board of Trustees will promulgate the election and notify the successful candidates of their election and also notify the Secretary of State in order that the candidates may take their oath of office and file it with the Secretary of State within the time specified by law.

Interested persons may submit data, views, arguments or inquiries with respect to the proposed rules, in writing, to Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees, Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Rules for Election of Active Member
Trustees**

- 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 as a result of these proposed rules, as all expenses are paid from system interest earnings pursuant to R.S. 42:655. The estimated cost to the system will be \$9,750.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Elected trustees receive a maximum of twelve \$75 per diem payments, from system funds, for attendance at board meetings each year.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Thomas D. Burbank, Jr.
Director

John R. Rombach
Legislative Fiscal Officer

Administrative Code Update

**ADMINISTRATIVE CODE UPDATE
January, 1989 through March, 1989**

Vol.	Title:Part.Section	Effect	Location
1	LAC 35:		January, 1989
	I.1507	amended	LR 15:7
	V.6311	amended	LR 15:7
	XIII.10901	amended	LR 15:8
	XIII.11201	amended	LR 15:8
	XV.12521	adopted	LR 15:7
2	LAC 7:		January, 1989
	XXXIX.101	amended	LR 15:5
			February, 1989
	I.101	adopted	LR 15:75
	I.103	adopted	LR 15:77
	XIII.8787	amended	LR 15:78
	XV.9526	adopted	LR 15:77
	XV.9543	amended	LR 15:77

Vol. Title:Part.Section	Effect	Location
XXI.11734	adopted	LR 15:75
XXIII.13103	amended	LR 15:76
XXIII.13113	amended	LR 15:76
XXIII.13115	amended	LR 15:76
XXIII.13119	amended	LR 15:76
XXIII.13121	amended	LR 15:76
XXIII.13129	amended	LR 15:76
XXXIII.16935	adopted	LR 15:79
XXXV.17523	amended	LR 15:78
XXXIX.20901	adopted	LR 15:79
3 LAC 46:		January, 1989
1.501-509	amended	LR 15:5
1.701-705	amended	LR 15:6
1.901-905	amended	LR 15:6
XXXVII.109	amended	LR 15:10
XXXVII.901-903	amended	LR 15:10
XXXVII.909	amended	LR 15:11
LIX.103	amended	LR 15:11
LIX.203	amended	LR 15:12
LIX.301	amended	LR 15:12
LIX.401	amended	LR 15:12
LIX.501	amended	LR 15:13
LIX.703, 707, 709	amended	LR 15:14
LIX.801	amended	LR 15:14
		February, 1989
LXIII.303	amended	LR 15:86
LXIII.1901	adopted	LR 15:88
LXIII.1903	adopted	LR 15:87
LXVII.305, 313	amended	LR 15:80
LXVII.503	amended	LR 15:80
LXIX.103	amended	LR 15:86
		March, 1989
XLIX.1102	repealed	LR 15:195
XLIX.1105	adopted	LR 15:195
XLIX.1107	adopted	LR 15:195
XLIX.1601-1617	adopted	LR 15:194
4 LAC 34:		February, 1989
V.121-134	amended	LR 15:81
5 LAC 76:		February, 1989
III.303-314	adopted	LR 15:100
V.309	adopted	LR 15:105
		March, 1989
VII.501	amended	LR 15:197
6 LAC 55:		February, 1989
V.103	amended	LR 15:96
V.303	amended	LR 15:96
V.1301	amended	LR 15:95
7 LAC 37:		February, 1989
I.2701	amended	LR 15:85
I.3101-3201	amended	LR 15:85
8 LAC 48:		February, 1989
I.2101-2109	adopted	LR 15:92
9 LAC 48:		March, 1989
XI.4301-4302	amended	LR 15:196

Vol. Title:Part.Section	Effect	Location
13 LAC 33:		March, 1989
V.105	amended	LR 15:181
V.517	amended	LR 15:181
V.705	amended	LR 15:181
V.4379	amended	LR 15:181
V.4442-4444	adopted	LR 15:182
V.4901	amended	LR 15:182
V.4905	amended	LR 15:182

Potpourri

POTPOURRI

Department of Agriculture and Forestry Crop Pests and Diseases QUARANTINE

In accordance with LAC 7:XV.9507 and 9509, we are hereby publishing the annual quarantine.

1.0 Sweet Potato Weevil (*Cylas formicarius, elegantulus*, Sum)

(a) In the United States: the states of Alabama, Florida, Georgia, Mississippi, Texas, and South Carolina.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, West Feliciana.

2) That portion of Natchitoches Parish lying south and west of the Red River.

3) The following areas are non-sweet potato areas:

(a) Those portions of the parish of Franklin are as follows: The property of Eddie Ezell in the Quarter Section Corner between Sections 10 and 15, Township 15, Range 9; the properties of Clarence McDaniel and Tommy Smith in Section 14, Township 12, Range 7; and all properties within a one-mile radius thereof.

(b) Those portions of the parish of Morehouse as follows: The property of Alford Craig in Section 30, Township 21 North, Range 5 East; and all properties within a one-mile radius thereof.

2.0 Pink Bollworm (*Pectinophora gossypiella*, Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

ARIZONA

(1) Generally infested area: the entire state.

ARKANSAS

(1) Generally infested area: None.

(2) Suppressive area:

Clark County: The entire county;

Dallas County: The entire county;

Jefferson County: The entire county except that area south of U.S. Highway 65;

Lafayette County: The entire county;

Lonoke County: The entire county lying south of Interstate 40;

Miller County: The entire county;

Quachita County: The entire county;

Pulaski County: That area of the county lying east of the Arkansas River and south of Interstate 40.

CALIFORNIA

(1) Generally infested area: The entire Counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, San Diego.

(2) Suppressive area: The entire Counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, Tulare.

LOUISIANA

(1) Generally infested area: None

(2) Suppressive area: Caddo

NEVADA

(1) Generally infested area: The entire Counties of Clark and Nye.

(2) Suppressive area: None.

NEW MEXICO

(1) Generally infested area: The entire state.

OKLAHOMA

(1) Generally infested area: The entire state.

TEXAS

(1) Generally infested area: The entire state.

3.0 Brown Garden Snail (*Helix aspersa*)

The entire states of California and Arizona.

4.0 Leaf Scald (*Xanthomonas albilineans*)

All areas of the county where sugarcane is grown.

5.0 Lethal Yellowing

The states of Florida and Texas and the Commonwealth of Puerto Rico.

6.0 Sweet Potato Mosaic

The states of Alabama and Georgia and any other state which may hereafter be found to be infested with sweet potato mosaic; and all other states which do not maintain restrictions against the movement of regulated products from the quarantined area.

7.0 Tristeza, xyloporosis, psorosis, exocortis.

All citrus growing areas of the United States.

8.0 Burrowing nematode (*Radopholus similis*)

The states of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

ARKANSAS

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

ILLINOIS

Entire state is quarantined.

IOWA

Entire state is quarantined.

KANSAS

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

MARYLAND

Infected Counties: Allegany, Frederick, Garrett, and Washington.

MICHIGAN

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

MINNESOTA

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

MISSOURI

Entire state is quarantined.

NEBRASKA

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

NORTH CAROLINA

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

OKLAHOMA

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

PENNSYLVANIA

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

SOUTH CAROLINA

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

TENNESSEE

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

TEXAS

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

VIRGINIA

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

WEST VIRGINIA

Infected counties: all counties except Tucker and Webster.

WISCONSIN

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

ALABAMA

Entire state.

FLORIDA

Entire state.

GEORGIA

Entire state.

ARKANSAS

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

KENTUCKY

County of McCracken.

LOUISIANA

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

MISSISSIPPI

Entire state.

MISSOURI

County of Dunklin.

NORTH CAROLINA

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

SOUTH CAROLINA

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

TENNESSEE

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

TEXAS

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker (*Xanthomonas campestris pv citri* [Hasse] Dawson)

The entire state of Florida.

Bob Odom
Commissioner

POTPOURRI

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

The Final Rule published in the *Louisiana Register*, Vol. 14, No. 8, on August 20, 1988, concerning the rights of Title XIX (Medicaid) recipients in Long Term Care Facilities contains a technical error. This rule, which follows the requirements of P.L. 100-203 does not apply to ICF-MR facilities. The erroneous inclusion of ICF-MR facilities in the description of Long Term Care Facilities is hereby removed.

David L. Ramsey
Secretary

POTPOURRI

Department of Natural Resources
Fishermen's Gear Compensation

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1, notice is given that 18 claims amounting to \$43,179.78 were received during the month of March, 1989. During the same month, 2 claims in the amount of \$4889.70 were paid, no claims were approved, and three claims were denied.

Raymond W. Stephens, Jr.
Secretary

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CR—Committee Report

EO—Executive Order

ER—Emergency Rule

L—Legislation

N—Notice of Intent

P—Potpourri

PPM—Policy and Procedure Memorandum

R—Rule

