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Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Forestry Commission
and
Department of Revenue and Taxation
Tax Commission

The Commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to his authority under R.S. 3:3203(A), amends LAC Title 7, Part XXXIX, Chapter 201.

This emergency adoption is necessary in order that the Office of Forestry fulfill the provisions of R.S. 3:4343 to assess current market values to severed forest products and timber for use in severance tax computations for 1991.

This declaration of emergency is effective upon publication until this rule takes effect through the normal promulgation process.

RULE

Department of Agriculture and Forestry
Office of Forestry
and
Department of Revenue and Taxation
Tax Commission

The Office of Forestry and Tax Commission, as required by LRS 3:4343, adopted the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1991:

- | | |
|----------------------|------------------------|
| 1. Pine Sawtimber | \$184.29 per M bd. ft. |
| 2. All Hardwood | \$ 92.72 per M bd. ft. |
| 3. Pine Pulpwood | \$ 18.86 per Cord |
| 4. Hardwood Pulpwood | \$ 5.74 per Cord |

Mary K. Zervigon, Chairman
Louisiana Tax Commission

Paul D. Frey, State Forestry
Office of Forestry

Bob Odom, Commissioner
Dept. of Agriculture and Forestry

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Commerce and Industry

The Department of Economic Development, Office of Commerce and Industry, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, in order to publish the following rules at the direction of the governor of Louisiana.

These emergency rules will be effective December 19, 1990. The emergency rules procedure is necessary in order that these rules be effective to rate financial incentive applications which came before the board of Commerce and Industry, at its regular scheduled meeting on December 19, 1990.

Title 13

ECONOMIC DEVELOPMENT

Part I. Office of Commerce and Industry

Subpart 1. Finance

Chapter 21. Environmental Criteria for Rating Tax Exemptions

§2101. Introduction

A. The following rules will be used as the formula to evaluate the environmental compliance of applicants for tax exemptions. The information required to apply the formula will be provided by the applicant as a part of the application. All statistics regarding payroll, manhours, and percentage of capital investment on pollution control equipment are understood to be provided as confidential information and may not be released by any agency except as an aggregate part of a larger number not associated with the applicant's name. These rules, when applying to a renewal of a five-year industrial tax exemption contract, will use a data history, gathered in the six-month period just prior to the beginning date of a renewal contract. This new data will be used to compute a new score which will determine the percentage of tax exemption to be considered for the renewal contract.

B. The formula starts at 50 points and adds the number of points from the environmental compliance record (maximum 25 points) and emissions-per-job categories (maximum 25 points). Bonus points are available and may be used to offset any scores totaling less than 100 points. The total tax relief will be the same as the total score, with a maximum of 100 points. (i.e., If a company receives 100 points, it will be considered for 100 percent of the tax relief applied for. If it gets 60 points, it will be considered only for 60 percent of the tax relief applied for.) The environmental review score will be available to the applicant at any time, after compilation, by written request.

C. For the installation of a Department of Environmental Quality (DEQ) approved pollution control project, these rules do not apply.

D. The Jobs Tax Credit, in the Enterprise Zone Program, will not be affected by these rules.

E. Definition of terms used in these rules

1. *Site* means a continuous piece of land over which a company's ownership extends.

2. *Plant* means a production unit (i.e., an ethylene production unit = an ethylene plant)

3. *Facility* means all production units and support units on a site belonging to an applicant.

4. *Support unit* means equipment that is used on the site other than a plant. (i.e., instrument air unit, control house, maintenance unit)

5. *Criteria air pollutants* are NO_x, SO₂, CO, VOC's, Lead, and Particulates under 10 microns.

6. *Toxic Release Inventory* published by the United States Environmental Protection Agency lists the substances defined as TRI's.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S.

33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division; LR 17:

§2103. Compliance Records

A. The environmental compliance record considered (25 points maximum) will be facility specific federal and state final penalties, except in extenuating circumstances when the Board of Commerce and Industry and the governor consider it to be in the state's best interest to use a company's complete environmental record.

B. An environmental compliance history, starting July 1, 1988, will be used. The environmental history will increase in one-year increments on July 1 of each year until a maximum of a five-year history is implemented on July 1, 1993. After July 1, 1993 a five-year compliance history will be utilized on all applications.

C. Point deductions for first-year environmental violations which go through adjudication will be as follows:

1. five point deduction for violations with fines under \$10,000;
2. ten point deduction for violations with fines between \$10,000 to \$25,000;
3. fifteen point deduction for violations with fines in excess of \$25,000;
4. twenty point deduction for criminal felony violations;
5. the age of a violation will be calculated from the date of the final action. The older the violation the lower the deduction. Deductions will be weighted as follows:
 Year 1: 100 percent
 Year 2: 80 percent
 Year 3: 60 percent
 Year 4: 40 percent
 Year 5: 20 percent
 Year 6: 0 percent

D. Equivalent violations, voluntarily settled with the DEQ, will incur one-half of the point deductions in §2103.C.

E. Violations which are "technical" (paperwork) and are not the result of any pollution to the environment will not be counted in scoring the compliance record of a company.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17:

§2105. Emissions-per-job

A. This is a category using total emissions divided by the total jobs. (The jobs data will consist of three types of jobs: permanent full time jobs; full time construction equivalents; and full time contract equivalents.) It creates a ratio between the total number of jobs existing at a facility and a composite emissions number which combines the total TRI data, criteria air pollutants (added in at 10 percent of the total except for lead, which is added in at 100 percent), and acci-

denal toxic releases. Criteria air emissions from cogeneration facilities will not be added to the emissions total used in this calculation. The following point schedule will apply:

Pounds of emissions per job:	Points Received
0 - 500	25
501 - 1,000	20
1,001 - 2,500	15
2,501 - 5,000	10
5,001 - 10,000	5
Over 10,001	0

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17:

§2107. Bonus Point Categories

A. There are five bonus categories, which have a possible combined total of 55 points and can be applied to final scores of less than 100. Bonus points are used as an incentive to reduce emissions, develop recycling systems and/or use recycled materials, diversify the state's economic base, and locate facilities in parishes with high unemployment rates.

1. Emission reductions: (15 points maximum)—Fifteen bonus points can be given, for the entire project, if the facility has a DEQ-approved emissions reduction plan. To be eligible for emission reduction bonus points, a facility must reduce its overall emissions by an average of five percent per year, measured over the prior five-year period. One bonus point will be given for each acceptable two percent reduction in regulated emissions resulting from the project as compared to the year preceding the application.

2. Recycling: (five points maximum)—Bonus points will be available to companies which install a closed loop recycling system or use recycled materials. One bonus point will be given for every one percent of recycled hazardous waste material substituted in the input throughput by a closed loop recycling system, or one bonus point will be given for each five percent of recycled total throughput material used by a company, or any combination thereof.

3. Recycling companies or manufactured consumer products bonus: (10 points maximum)—Ten bonus points will be available to companies whose predominant activity is recycling, or using bulk materials produced in Louisiana for manufacturing "end use" products such as plastic bags. One bonus point will be given for each ten percent of gross income generated by recycled materials or "end use" products which are made of bulk materials manufactured in the state.

4. New jobs for high unemployment areas: (15 points maximum)—Fifteen bonus points will be given to projects which create at least one new job per \$30,000 in tax relief in parishes that have an unemployment rate one or more percent above the state's average.

5. Diversification: (10 points maximum)—Bonus points will be available to industries which diversify the state's economy. In this category the Department of Economic Develop-

ment may recommend bonus points based upon SIC code distribution within the state. Preference will be given to industries not heavily represented in Louisiana which are low or non-polluting and labor intensive. (i.e., clothing manufacturers, automobile manufacturers, airplane maintenance facilities, and computer manufacturers)

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17:

§2109. Restrictions

A. Tax exemptions will be reduced by 50 percent for any facility whose total product includes more than 20 percent banned materials or materials designated to be banned, by the United States Environmental Protection Agency.

B. No tax exemptions will be given to a company if it imports, from out-of-state, 15 percent more hazardous waste, bound for incineration or disposal, than it exports.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17:

§2111. Exceptions

A. The governor and the Board of Commerce and Industry shall have an unfettered discretion to grant, deny or modify any tax exemption application.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3 1987/307, 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17:

Harold Price
Acting Secretary

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

The Louisiana State Racing Commission, pursuant to the authority contained in R.S. 49:953B wishes to extend the emergency status of the following rules for an additional 120

days effective December 6, 1990 (when they would have expired):

LAC 35:I.1739 Disqualified Horse Recognized as Winner

LAC 35:I.1793 Testing for Alcohol Abuse

LAC 35:V.6311 Registration of Horse

LAC 35:XIII.10317 Closing & Opening of Pari-Mutuel Machines

LAC 35:XV.12328 Notification of Change

LAC 35:XV.12329 Simulcast Video Transmission

LAC 35:XV.12330 Fax Transmission

LAC 35:XV.12332 Tote Forms; Glossary of Terms

LAC 35:XV.12341 Pari-Mutuel Tickets

Also, the commission wishes to extend the emergency status on the following rules for an additional 120 days effective December 28, 1990 (when they would otherwise expire):

LAC 35:I.1791 Testing for Dangerous Substance Abuse

LAC 35:V.6360 Rider Named on Two Horses

LAC 35:V.8307 Subpoenas and Notices of Hearing

LAC 35:XV.12331 Simulcast Audio Transmission

The Commission found it necessary to amend/adopt these rules to protect the betting public, prevent substance abuse, provide for subpoena-issuing procedures and allow for wagering to continue at OTB's during an audio/video breakdown, and related matters.

Pursuant to R.S. 4:141 et seq. and, particularly, R.S. 4:142 stating the legislative purpose of the racing statute, it is incumbent upon the State Racing Commission to amend and adopt Rules of Racing.

Title 35 HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1739. Disqualified Horse Recognized as Winner

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

B. ...

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

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

§1791. Testing for Dangerous Substance Abuse

A. No person licensed by the commission shall use any controlled dangerous substance as defined in the "Louisiana Controlled Dangerous Substance Act," R.S. 40:961 et seq., or any prescription legend drug, unless such substance was obtained directly, or pursuant to a valid prescription or ordered from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the person licensed by the commission to give notice to the state steward that he is using a controlled dangerous substance or prescription legend drug pursuant to a valid prescription or order from a licensed physician. This notice shall

be in the form of an affidavit provided by the commission and completed by the licensed practitioner. Failure to provide the state steward with the appropriate affidavit prior to the collection of a urine sample shall result in a positive violation and shall be administered pursuant to Subsection D. Failure of a licensed person to provide this affidavit from his doctor or physician within 10 days of being notified by the stewards of a finding for a prescription drug shall be treated as a positive and having the person subject to a penalty as contained herein.

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

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

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

D. ...

1.-7. ...

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

E. - F. ...

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

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

§1793. Testing for Alcohol Abuse

Any person licensed by the commission shall, when directed by the state steward, submit to a breathalyzer test and, if the results thereof show a reading of .05 percent or more of alcohol in the blood, such person shall not be permitted to continue his duties. For the first offense, any person having a reading of .05 percent or more shall be fined \$50 and not be permitted to perform his duties for the day. For

the second offense, any person having a reading of .05 percent or more shall be fined \$100 and not be permitted to perform his duties for the day. For the third offense, any person having a reading of .05 percent or more shall be suspended for 30 days and be subjected to an evaluation as called for in LAC 35:1.1791.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 13.290 (May 1987).

Part V. Racing Procedures

Chapter 63. Entries

§6311. Registration of Horse

No horse shall be allowed to enter or start in any race conducted by an licensee unless the horse is a quarter horse, thoroughbred or Appaloosa. Registration of a thoroughbred horse by the Jockey Club of New York, a quarter horse by the American Quarter Horse Association and an Appaloosa horse by the Appaloosa Horse Club, Inc. shall be prima facie evidence that such horse is a thoroughbred, quarter horse or an Appaloosa. However such registry shall not be conclusive evidence, nor binding on the commission. At the time of entry such certificate of registration and Coggins test certificate must be on file in the office of the racing secretary before starting, except when such certificates are on file at another track which is then operating. The foal certificate must be on file with the racing secretary before a horse starts. The stewards may, at their discretion, waive this rule in the case of horses shipped in to start in stakes races in this state.

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

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, amended LR 2:91 (March 1976), LR 2:436 (December 1976), LR 3:32 (January 1977), repromulgated by the Department of Commerce, Racing Commission, LR 4:279 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 15:7 (January 1989).

§6360. Rider Named on Two Horses

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

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 13:432 (August 1987).

Chapter 83. Appeals to the Commission

§8307. Subpoenas and Notices of Hearing

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 17:

Part XIII. Wagering

Chapter 103. Pari-Mutuels

§10317. Closing and Opening of Pari-Mutuel Machines

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

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

HISTORICAL NOTE: Promulgated by the Racing Commission in 1971, amended LR 2:439 (December 1976), re-promulgated LR 3:35 (January 1977), amended by the Department of Commerce, Racing Commission, LR 4:281 (August 1978), amended LR 5:96 (May 1979).

Part XV. Off-Track Wagering

Chapter 123. General Rules

§12328. Notification of Change

Notification of any race date changes or changes in format for wagering including, but not limited to, addition of exactas, pick six, daily doubles and/or other exotic wagering must be provided by the host tract to both the host tract tote company, guest tract tote companies, guest track mutuel de-

partment and off-track wagering facility tote companies at the time such changes are approved by the commission.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 17:

§12329. Simulcast Video Transmission

A.-F. ...

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:289 (May 1988).

§12330. Fax Transmission

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 17:

§12331. Simulcast Audio Transmission

A. Each off-track wagering facility...

B. In the event of the loss of both audio and video signals from the host track to guest tracks and/or off-track wagering facilities, wagering may continue. However, either

the audio or video signals must be re-established as soon as possible, but no later than the start of the next day's wagering program or wagering shall not be allowed to begin at the guest track or off-track wagering facility that has suffered the loss of both audio and video signals.

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

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

§12332. Tote Forms; Glossary of Terms

A. All tote companies operating within the state of Louisiana shall use a standard "manual merge" form approved by the commission. This form shall be authenticated by the signature of the tote manager and mutuel manager at both host and guest track or off-track wagering facilities, or by their designees.

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 17:

§12341. Pari-Mutuel Tickets

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:290 (May 1988).

Claude P. Williams
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

**State High School Diploma -
Nonpublic Schools**

The State Board of Elementary and Secondary Education, at its meeting of December 13, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R. S. 49:953B and deleted in its entirety, the present policy on the awarding of state high school diplomas (Administrative Code: Section 901(2)) and adopted the policy stated below for placement in Bulletin 741 (Part B), Nonpublic School Standards, Page 16:

State/School Diploma

6.099.04—Any approved nonpublic school may award a school diploma to any student who meets the state minimum high school graduation requirements.

6.099.05—Any approved nonpublic school which participates in the state Graduation Exit Examination (GEE) shall

award a state and/or school diploma to a student who successfully completes the state's minimum graduation requirements and successfully passes all components of the examination.

A student who attends a school which opts to administer the test who does not successfully complete the state's minimum graduation requirements and components of the examination shall not be eligible for either a state or a school diploma.

6.099.06—Any state-approved nonpublic school which wishes to award the state diploma to its students shall contact the state department for timelines and other administrative guidelines for administering the state exit testing program.

Any nonpublic school which opts to give the Graduation Exit Examination shall follow rules and regulations set by the Board of Elementary and Secondary Education.

6.099.07—Any approved nonpublic school which does not choose to administer the state Graduation Exit Examination to its students may grant a school diploma which shall carry the same privileges as one issued by a state approved public school.

6.099.08—The awarding of high school diplomas shall in no way affect the school approval classifications of any school.

This policy is adopted as an emergency rule in order to implement the nonpublic school testing program during the 1990-91 school year and is effective December 20, 1990.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

**Amendment to Salary Schedule
for State Technical Institutes**

The State Board of Elementary and Secondary Education, at its meeting of December 13, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and approved as an emergency rule, the following amendment to the Salary Schedule for State Technical Institutes as #5 under NOTE:

If a former employee was RIF'd and has been employed in the vocational-technical system under another source of funding and reemployed in a State Table of Organization position, he or she will be given credit for pay purposes for those years worked. (Amendment to Bulletin 1868, BESE Personnel Manual, Chapter D, 145)

Effective date of emergency rule is December 20, 1990.

This amendment to the salary schedule is necessary in order to grant immediate compensation to those employees who were subject to the reduction in force and have been reemployed.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

LTIP/LaTEP "Benchmarks" and
Standards for Teacher Evaluation

The State Board of Elementary and Secondary Education, at its meeting of December 13, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B and adopted as an emergency rule, effective December 20, 1990, the "benchmarks" and standards for teacher evaluation as printed below.

Standards for Satisfactory and Superior Ratings for the Louisiana Teaching Internship Program and the Louisiana Teacher Evaluation Program

Successful performance is based on two types of scores. The scores are derived from two mathematical models, a compensatory model and a conjunctive model. In the compensatory model, data are combined to allow low scores on teaching and learning components to be compensated for by high scores on other teaching and learning components. The conjunctive model requires that all teaching and learning components be passed at an acceptable level. The combination model requires an average score, which is the arithmetic mean of the component percentage scores or a score that is greater than the average (compensatory), and a percentage of the 15 component scores reaching the "benchmarks," (conjunctive).

Recommended Standards for Satisfactory Performance
"Benchmarks" for Satisfactory

Performance Dimension I: Preparation, Planning and Evaluation

Teaching and Learning Components	Benchmark
A. Goals and Objectives	75
B. Teaching Methods and Learning Tasks	75
C. Allocated Time and Content Material	75
D. Aids and Materials	76
E. Home Learning	75
F. Formal Assessment and Evaluation	74

Performance Dimension II: Classroom and Behavior Management

Teaching and Learning Components	Benchmark
A. Time	75
B. Classroom Routines	76
C. Student Engagement	not scored
D. Managing Task-Related Behavior	70
E. Monitoring and Maintaining Student Behavior	70

Performance Dimension III: Learning Environment Teaching and Learning Components	Benchmark
A. Psychosocial Learning Environment	77
B. Physical Learning Environment	83

Learning

Teaching and Learning Components	Benchmark
A. Lesson and Activities Initiation	71
B. Teaching Methods and Learning Tasks	74
C. Aids and Materials	75
D. Content Accuracy and Emphasis	75
E. Thinking Skills	67
F. Clarification	75
G. Monitoring Learning Tasks and Informal Assessment	75
H. Feedback	74
I. Oral and Written Communication	87

Louisiana Teacher Evaluation Program (LaTEP)
Satisfactory

Teachers participating in the LaTEP will be evaluated on Dimensions II, III and IV, consisting of 15 teaching and learning components. A teacher is rated satisfactory if the teacher's average percentage score is 75 percent and the teacher scores at the "benchmarks" on 13 of 15 teaching and learning components.

Louisiana Teaching Internship Program (LTIP)
Satisfactory

Teachers participating in the LTIP will be evaluated on Dimensions I, II, III and IV, consisting of 21 teaching and learning components. A teacher is rated satisfactory if the teacher's average percentage score is 75 percent and the teacher scores at the "benchmarks" on 18 of 21 teaching and learning components.

Recommended Standards for Superior Performance
Louisiana Teacher Evaluation Program (LaTEP)
"Benchmarks" for Superior:

Performance Dimension II: Classroom and Behavior Management

Teaching and Learning Components	Benchmark
A. Time	90
B. Classroom Routines	91
C. Student Engagement	not scored
D. Managing Task-Related Behavior	88
E. Monitoring and Maintaining Student Behavior	88

Performance Dimension III: Learning Environment Teaching and Learning Components

Teaching and Learning Components	Benchmark
A. Psychosocial Learning Environment	91
B. Physical Learning Environment	93

Performance Dimension IV: Enhancement of

Learning

Teaching and Learning Components	Benchmark
A. Lesson and Activities Initiation	88
B. Teaching Methods and Learning Tasks	89
C. Aids and Materials	90
D. Content Accuracy and Emphasis	89
E. Thinking Skills	83
F. Clarification	89

G. Monitoring Learning Tasks and Informal Assessment	88
H. Feedback	88
I. Oral and Written Communication	95

Superior

Teachers participating in the LaTEP will be evaluated on Dimensions II, III and IV, consisting of 15 components. A teacher is rated superior if the teacher's average percentage score is 90 percent and the teacher scores at the "benchmarks" on 14 of 15 teaching and learning components.

The "benchmarks" and standards for teacher evaluation are mandated by the "Children First" Act, 1988. Emergency adoption is necessary because the assessment process has begun and the standards for teacher evaluation need to be established prior to January, 1991. These "benchmarks" and standards will serve to further ensure that the statewide evaluation system is reasonable, fair and equitable for all teachers involved.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

**Amendment to Regulations for Granting
Temporary Teaching Assignments**

The State Board of Elementary and Secondary Education, at its meeting of December 13, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B and adopted as an emergency rule, effective December 13, 1990, the following amendment to the regulations for granting temporary teaching assignments:

The Bureau of Teacher Certification, State Department of Education may waive the requirement for admission to teacher education programs for persons employed on Circular 665 and temporary teaching assignments for those parishes that provide satisfactory documentation of recruitment efforts, and of critical need. Furthermore, individuals approved under this waiver are not eligible for teacher tuition exemption.

Emergency adoption is necessary in order that this amendment previously advertised as an emergency rule in the September, 1990 issue of the *Louisiana Register* will not expire before the rule can be printed in the *Louisiana Register* in January, 1991.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

**Department of Employment and Training
Office of Labor
Community Services Block Grant Division**

In accordance with R.S. 49:953B, the Department of Employment and Training, Office of Labor, is exercising the

emergency provisions of the Administrative Procedure Act to adopt the attached rules for the Community Services Block Grant (CSBG) program to become effective January 1, 1991.

Emergency rules are being adopted because all rules of the Department of Employment and Training expired at midnight on December 31, 1990 (Act 103 of the 1990 Louisiana Legislative Session).

Title 40

LABOR AND EMPLOYMENT

Part XVII. Community Services Block Grant

Subpart 1. CSBG Policy Manual

Chapter 1. Allocation of Funds

§101. Method of Allocation

Not less than 90 percent of the total funds appropriated for Louisiana shall be allocated to the political subdivisions of the state, as required by R.S. 23:61 through 23:66. The formula to be used for the allocation of funds shall be determined through public hearings scheduled each fiscal year to determine the use and distribution of funds. The formula adopted and the identification of the data base used to allocate funds will be included in the Annual Statewide Community Services Block Grant Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:204 (March 1990), repromulgated LR 17:

§103. Identification of Subgrantees

A. Those organizations which were designated as a Community Action Agency or a Community Action Program under the Economic Opportunity Act of 1964 for fiscal year 1981 are qualified recipients for 90 percent of funds under the Community Services Block Grant (CSBG) Act. Not more than seven percent of these funds in each fiscal year may be used to designate other qualified community action agencies to serve areas not previously served by an existing eligible agency. After these agencies are funded for one year, they will become an eligible entity as defined by the Act.

B. Each parish governing body shall designate the eligible Community Action Agency (CAA) which shall administer the CSBG programs in the parish. This designation shall be done for each fiscal year (October 1 through September 30). A copy of the resolution designating the eligible CAA for the next year shall be mailed to the Department of Employment and Training, Community Services Block Grant Section, so that it is received no later than August 15 preceding the beginning of the fiscal year.

C. In the event no agency can be funded within the parish, an agreement may be made with an eligible agency in any parish to provide services. A copy of this agreement, along with the resolution designating the agency, shall be mailed to the Department of Employment and Training, Community Services Block Grant Section so that it is received by August 15 preceding the beginning of the fiscal year.

D. If no agreement can be reached with an eligible agency to provide services, the chief elected official shall notify the Department of Employment and Training, CSBG Section, in writing no later than August 15.

E. If the political subdivision does not reply to reasonable attempts to make services available within a parish, the grantor shall assume that the parish is not willing or does not want to participate.

F. If no written designation and/or agreement is received from a parish governing body by August 15, the funds allocated for that parish shall be redistributed to those parishes which have designated an eligible agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:204 (March 1990), repromulgated LR 17:

§105. Notification of Availability of Funds

Within 30 days of receipt by the Department of Employment and Training from the federal agency of the amount of funds available, the Department of Employment and Training will notify those eligible agencies of the allocation by parishes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:205 (March 1990), repromulgated LR 17:

Chapter 3. Annual Plan of CAA

§301. Date of Submission

Each eligible agency shall submit an Annual Plan for the use of CSBG funds to the Department of Employment and Training by August 15 or within 30 days after the receipt of notification of availability of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:205 (March 1990), repromulgated LR 17:

§303. Content of Plan

A. The Annual Plan shall be prepared in the format prescribed by the Department of Employment and Training, and shall include (but not be limited to) the following:

1. identification of the agency, to include the corporate name, street address and contact person;
2. a complete budget, including a budget summary, a line item budget for each component, and a staffing page;
3. a complete description of the programmatic activities to be funded.

B. The format and forms for submission of the Annual Plan will be provided by the Department of Employment and Training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:205 (March 1990), repromulgated LR 17:

§305. Attachments to Plan

Each plan shall contain (but not be limited to) the following attachments:

- A. a list of the current board of directors, identifying the segment they represent and dates of current and preceding terms;
- B. a copy of the resolution(s) designating the agency as the agent for the parish(es);
- C. a copy of the charter approved by the secretary of state, if the agency is a private not for profit agency;
- D. a copy of the agency's personnel policy and travel policy which has been approved by the board of directors;
- E. a copy of the resolution of the board designating the person who will negotiate and sign the contract;

F. copy of newspaper article advertising the annual public hearing for designation of the community action agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:205 (March 1990), repromulgated LR 17:

§307. Review and Approval of Plan

A. The program analyst of the CSBG Section of the Department of Employment and Training will review the plan, and make recommendation for approval or modification. The director of the CSBG Section will review the plan and recommendations. If modifications appear to be in order, the program analyst will contact the agency and provide technical assistance in modifying the plan so that it complies with the Act and state requirements.

B. The plan will be signed by the chairman of the board, and the executive director, or the person empowered to enter a subgrant on behalf of the agency.

C. A subgrant will be developed from the plan, and returned to the agency for review and signature. The signed subgrant will be returned to the CSBG Section within 15 days.

D. The subgrant will be forwarded to the Department of Employment and Training signatory, with the recommendation that the subgrant be signed.

E. The Community Services Block Grant Section will distribute copies of the signed subgrant to the subgrantee and director of Financial Management as soon as they are signed. Program activities can begin on or after the dates defined in the subgrant period of the subgrant document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:205 (March 1990), repromulgated LR 17:

Chapter 5. Application for Discretionary Funds

§501. Who may Apply

Any public or private non-profit agency who has as its primary objective the elimination of poverty in the local area may submit a proposal for operating any program which meets the requirement of the Act. Proposals must be submitted to the Community Services Block Grant Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:205 (March 1990), repromulgated LR 17:

§503. Requirement of Agency

A. Any public or private not for profit agency applying for funds must be incorporated by the state of Louisiana, and must provide a copy of the articles of incorporation with the application.

B. The agency must have a board of directors. The board membership must include members who are a part of or representative of the segment of the population to be served. These members must represent at least one-third of the board's membership. The agency must submit a list of the names and addresses of the board members and a designation of their representation on the board.

C. The agency must operate programs designed to relieve poverty, and be able to show the need for the program

and the justification for that agency's operation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:205 (March 1990), repromulgated LR 17:

§505. Proposal

A. The agency must submit a proposal to the Community Services Block Grant Section in the format developed for that purpose. The proposal must include:

1. a description of the organization and its purpose;
2. a justification of the need for the program, including the identity of the method used to survey the need;
3. a complete description of the services to be provided and the method of assuring the services are provided to the most needy in the area, the dates the program will begin and end, and the number of persons to be served;
4. an identification of the staff required to provide the services and a brief job description of each;
5. a complete line item budget for the funds required to operate the program;
6. an identification of the contact person.

B. The proposal will be reviewed by the CSBG Section, and recommendations made to the secretary of Employment and Training or designee. The decision to fund will be made by the secretary of Employment and Training or designee, and written notification will be made.

C. A subgrant will be developed from the proposal, and returned to the agency for signature. The subgrant must be signed by the authorized representative of the agency and the secretary of Employment and Training or designee prior to the beginning of any activity, unless written authorization has been received to operate programs prior to that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:206 (March 1990), repromulgated LR 17:

Chapter 7. Governing Boards

§701. Requirements

A. Applicability

Prior to receiving any funds from Community Services Block Grant, any private not for profit agency must have a governing board; and any public agency must have an advisory board, which meets the requirements of the Act. A list of board members, their mailing address, and a designation of the interest the member represents must be submitted to the Community Services Block Grant Unit along with the request for funding.

B. Size of Board

The board shall consist of not less than 15 nor more than 31 members which broadly represent the area served by the agency.

C. Structure of Board

The board shall be constituted so that:

1. one-third of the members are elected officials currently holding office, except that if the number of elected officials available and willing to serve is less than the one-third requirement, appointed public officials may be used to meet the requirement;
2. at least one-third of the members are representative of the poor in the area served; and

3. no more than one-third of the members are officials or members of business, industry, labor, religious, welfare, education or other major groups and interests in the community.

D. Selection of Members

1. The chief elected official of the parish(es) served shall designate the elected officials to serve on the board. Each parish served shall have an elected official on the board to represent that parish.

2. The representatives of the poor shall be chosen in accordance with democratic selection procedures. To assure that each area served is represented, members shall be chosen from each parish served.

a. The agency shall devise the method to be used in selecting members. This method shall be documented, and a copy kept on file, and shall be available for review by the staff of the Department of Employment and Training.

3. Members who represent officials or members of business, industry, labor, religious, welfare, education, or other major groups or interests shall be selected to provide a broad base of community involvement and support, and should be selected from each parish served. Organizations that are to have membership on the board must be selected by the board of directors.

E. Bylaws

1. The board shall adopt bylaws which include the length of service of its members the allowability of alternates, and the responsibilities of the board. These bylaws shall be available for review by the Department of Employment and Training.

2. The terms of the elected public officials shall coincide with the term of their elected office. The terms of all other board members shall be no more than five years. No board member shall serve more than two consecutive terms. There shall be one inactive year before the member can be re-elected.

F. Conflict of Interest

No officer or employee of an organization who enters into a contract funded with Community Services Block Grant funds may be a member of the board.

G. Reimbursements to Board Members

1. Board members may be reimbursed for travel required to carry out their responsibility to assure compliance with the CSBG subgrant. This travel shall be in accordance with the approved travel policy of the agency, and must be documented and approved by the president of the board.

2. Board members shall not be paid any salary or expenses other than the above referenced travel from Community Services Block Grant funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:206 (March 1990), repromulgated LR 17:

Chapter 9. Fiscal Policy

§901. Deobligation Policy (Effective October 1, 1990)

A. CSBG subgrantees are subject to deobligation of projected excess unexpended funds based on expenditures during the first five months of their subgrant period. Projected unexpended funds are total available 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 the official due date specified by the Department of Employment and Training's fiscal section.

B. Subgrantees will have 15 days from the date they are notified of any amount subject to deobligation to provide documentation to the Department of Employment and Training why they should not be subject to such deobligation. The Department of Employment and Training 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.

C. This deobligation procedure does not limit the Department of Employment and Training's authority to unilaterally deobligate funds from subgrants and subcontractors when it is deemed necessary in order to carry out responsibilities under the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:206 (March 1990), repromulgated LR 17:

§903. Fiscal System of Subgrantee

A. Each subgrantee shall maintain an accounting system which separately identifies the expenditures of Community Services Block Grant funds, and which complies with generally accepted accounting systems for governmental agencies. This system may be reviewed by the Department of Employment and Training prior to the award of the subgrant.

B. The accounting system shall be a modified accrual system, and shall be established in a manner to provide a clear audit trail for expenditures.

C. Fiscal control and accounting procedures must be sufficient to permit preparation of reports required by the CSBG Division and adequate to establish that such funds have not been used in violation of federal and state regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:207 (March 1990), repromulgated LR 17:

§905. Separate Bank Account

A. Each subgrantee who is a private not for profit agency or a public agency that maintains an independent accounting system shall maintain a separate bank account for Community Services Block Grant Funds. This account must be closed at the end for each fiscal year. Any variances from this requirement shall have prior written approval from the grant officer.

B. Public agencies or departments of a political subdivision whose receipt, recording and disbursement of all funds is by the financial department of the political subdivision may maintain CSBG funds in the same manner as all other federal funds. Receipts and disbursements of CSBG funds are to be readily identifiable and kept in a separate journal or coded. Codes are also to be changed annually so as to identify funds of each fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department

of Employment and Training, Office of Labor, LR 16:207 (March 1990), repromulgated LR 17:

§907. Payment of Funds

A. Funds will be paid to the subgrantee on a cost reimbursement basis, with a maximum of a three-day cash supply limit on the amount of funds advanced.

B. The subgrantee shall prepare and submit a request for funds (LDET 850), in duplicate, 10 days prior to the need for funds, so that the request can be processed, and funds forwarded timely. The request for funds must be approved and signed by the signator of the subgrant or a previously approved designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:207 (March 1990), repromulgated LR 17:

§909. Expenditure Reports

A. Each subgrantee shall submit an expenditure report in duplicate so that it is received by the fifteenth of the following month, using the forms provided by the Department of Employment and Training.

B. The expenditure report shall reflect the expenditures for the month, including accruals, the cumulative expenditures, and the balance remaining on the subgrant for each cost category.

C. The expenditure report must be signed by the signator of the subgrant or a previously approved designate.

D. Failure to submit correct expenditure reports on time will result in a suspension of funds until reports are correct and current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:207 (March 1990), repromulgated LR 17:

§911. Closeout of Subgrant

A. Each subgrant must be closed out within 45 days after the end of the fiscal year (September 30), or within 45 days after the termination of the subgrant, whichever occurs first.

B. All expenses encumbered prior to the end of the fiscal year must be paid prior to the closeout of the subgrant.

C. The bank account shall be closed prior to the submission of the closeout package, and the final statement reconciled. Any excess funds in the bank shall be returned to the Department of Employment and Training with the closeout package.

D. Failure to submit the closeout package on time will result in a suspension of funds for the current fiscal year until the complete package is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:207 (March 1990), repromulgated LR 17:

§913. Carryover Funds

A. No subgrant will be allowed to carry any funds forward from one fiscal year to the next.

B. Any excess funds at the end of the fiscal year will be returned to the Department of Employment and Training, with the closeout report or sooner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:207 (March 1990), repromulgated LR 17:

§915. Audits

A. Performance of Audits

1.a. Each subgrant using CSBG funds must be audited annually by an independent auditing firm at the end of the agency's fiscal year.

b. This audit must be received no later than five months after the end of the agency's fiscal year.

2. Audits of subgrants shall be included in a single audit of all the agency's activities. The audit must be in accordance with the Single Audit Act of 1984, OMB Circular A-128, R.S. 24:514 and R.S. 24:517.

3. Selection of the auditing firm must be by competitive bid. The firm selected must be approved by the Department of Employment and Training and the legislative auditor of the state of Louisiana prior to the beginning of the work on the audit.

B. Audit resolutions

1. A copy of the complete audit will be forwarded to the CSBG section promptly upon completion.

2. Within 30 days of the receipt of the audit, the program analyst will review the audit and request information from the agency to resolve any questioned and/or disallowed cost.

3. Within 30 days of notification, the agency must submit to the CSBG section documentation to resolve any questioned and/or disallowed costs.

4. The CSBG section will review the documentation, and make recommendations to the secretary of Employment and Training or designee to allow or disallow the cost.

5. The secretary of Employment and Training or designee will make the final decision to allow or disallow the cost, and will notify the agency of the disposition.

6. Any disallowed costs must be remitted to the Department of Employment and Training immediately upon demand. These costs may not be paid from any federal funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:207 (March 1990), repromulgated LR 17:

Chapter 11. Allowable Costs

§1101. Allowable Costs

A. Only those costs which directly support the activities of the CSBG subgrant and are included in the approved subgrant budget are allowable.

B. Where prior written approval is required, inclusion in the approved subgrant is for convenience and in no way implies or gives such approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:208 (March 1990), repromulgated LR 17:

§1103. Non-allowable Costs

CSBG funds shall not be used for the following costs:

A. any activity which consists of lobbying and/or political activities;

B. any activity to provide voters and prospective voters with transportation to the polls in connection with an election or any voter registration activity;

C. any fines and penalties resulting from violations of any federal, state or local law;

D. any discounts allowed for timely payment of invoices;

E. any bank charges resulting from overdrawn accounts;

F. any interest, penalty or additional costs for any reason;

G. any deficits in any other grants received by the agency;

H. any entertainment costs;

I. any costs prohibited by any federal or state laws and/or regulations;

J. any costs incurred by or reimbursement to persons not in positions listed in the subgrant except as otherwise noted in these rules;

K. the cost of employee benefits exceeding the percentage of salary paid;

L. the cost of employee benefits not available to all employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:208 (March 1990), repromulgated LR 17:

§1105. Costs Requiring Prior Approval

CSBG funds may be used for the following activities only if prior written approval has been received from the Department of Employment and Training:

A. dues for any professional association;

B. any legal fees;

C. any consultant services, or service performed by personnel other than staff of the agency;

D. any indirect cost. Indirect cost rates and amounts must have the prior written approval of the federal cognizant agency of the subgrant agency, and the Department of Employment and Training;

E. any purchase of automobiles, furniture, and/or equipment, and any item which has a unit purchase price of \$250 or more;

F. any out of state travel;

G. any third party agreement for services (legal, audit, computers, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:208 (March 1990), repromulgated LR 17:

Chapter 13. Subcontractors and/or Third Party Agreements

§1301. Subcontractors and/or Third Party Agreements

A. Prior Approval

No subcontract and/or third party agreement may be executed unless the provision for the agreement is included in the approved subgrant and prior written approval has been received from the Department of Employment and Training.

B. Contract Content

All contracts or third party agreements shall include, at a minimum, the following information:

1. name, address and federal employer identification number of the contractor or third party;

2. a description of services to be offered;

3. the maximum fee to be charged;

4. the contractor agrees to pay all taxes associated with the contract from funds received;
5. the contractor agrees to make all records available to the legislative auditor of the state of Louisiana;
6. the starting and ending date of the contract;
7. the signature of both parties.

C. Monitoring

The Department of Employment and Training reserves the right to review and monitor the activities covered by any subcontract and/or third party agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:208 (March 1990), repromulgated LR 17:

Chapter 15. Procurement Policies

§1501. Public and Private Agencies

All procurement of goods and services with Community Services Block Grant funds in whole or part shall be done in accordance with the state of Louisiana procurement regulations. The lowest responsible and responsive bidder shall be awarded the bid. If the lowest bidder is to be bypassed, good cause must exist, and prior written approval must be obtained from the Department of Employment and Training. Specific procurement regulations shall be issued from time to time and be substantially in compliance with R.S. 39, Chapter 17, the Louisiana Procurement Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:208 (March 1990), repromulgated LR 17:

§1503. Federal Requirement

In the event federal procurement regulations are more restrictive than state or local procurement regulations, all agencies will be required to follow federal regulations in those areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:209 (March 1990), repromulgated LR 17:

§1505. State Contract Bid List

Any community action agency shall be deemed a quasi public agency and will be allowed to utilize the state contract bid list for the purchase of supplies or equipment, only if all other requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:209 (March 1990), repromulgated LR 17:

§1507. Ownership of Property

Ownership of any item purchased which has a unit acquisition cost of \$250 or more remains with the Department of Employment and Training, and shall be returned to the Department of Employment and Training within 30 days after the termination of the subgrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:209 (March 1990), repromulgated LR 17:

§1509. Reporting Purchases

Each agency will be required to submit, to the Department of Employment and Training, a copy of the invoice for each item purchased which has a unit acquisition cost of \$250 or more within 30 days of acquisition. The invoice must show the serial number, model number, date of delivery, and a description of the item. An invoice is needed to obtain a tag for the equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:209 (March 1990), repromulgated LR 17:

§1511. Identification

The Department of Employment and Training will provide an identification tag to be affixed to each item, and will include the item in its inventory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:209 (March 1990), repromulgated LR 17:

§1513. Loaned Equipment

Whenever possible, the Department of Employment and Training will provide needed equipment from its surplus property to be used by the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:209 (March 1990), repromulgated LR 17:

§1515. Sole Source or Less Than Required Number of Bids

Procurements may be made with less than the required number of bids when the agency provides documentation that the number of suppliers in a reasonable distance from the agency is less than the number required, and that all suppliers in a reasonable distance were given the opportunity to bid on the item.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:209 (March 1990), repromulgated LR 17:

§1517. Leases of Space

A. Space may be leased when the cost is reasonable.

B.1. A minimum of three written bids must be obtained for space which is suitable for the requirements. If the agency is unable to obtain three written bids it must submit a written request to waive this requirement.

2. Agencies who are required by their police jury to be located in a facility owned by the police jury are exempted from this requirement.

C. Each lease must be submitted to the Department of Employment and Training for review and approval prior to the beginning of the lease.

D. Each lease must contain a 30-day cancellation clause. The Department of Employment and Training may not be held responsible for payments on any existing lease and/or contract which extends beyond the subgrant period. An availability of funds clause must be included.

E. A copy of each new lease agreement must be submitted to the Department of Employment and Training for re-

view and approval prior to the beginning of the lease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:209 (March 1990), repromulgated LR 17:

§1519. Procurement Procedures for Purchases not Exceeding \$5,000

A. When CSBG funds in whole or part are to be used for purchases not to exceed \$5,000, the following rules must be applied.

1. Purchases up to \$250. No competitive bidding is required; however, an agency may require that any such purchase be approved in advance by their agency purchasing office. No purchase order is necessary.

2. Purchases over \$250 up to \$1,000 shall be made by sending out written invitations for bids to at least three bona fide, qualified bidders and purchases must be made on the basis of the lowest quotation received. Prior written approval must be granted by the Department of Employment and Training for the selection of other than the low bidder.

3. Purchases over \$1,000 up to \$2,000 shall be made by sending out written invitations for bids to at least five bona fide, qualified bidders and purchases must be made on the basis of the lowest quotation received. Prior written approval must be granted by the Department of Employment and Training for the selection of other than the low bidder.

4. Purchases over \$2,000 up to \$5,000 shall be made by sending out written invitations for bids to at least eight bona fide, qualified bidders and purchases must be made on the basis of the lowest quotation received. Prior written approval must be granted by the Department of Employment and Training for the selection of other than the low bidder. Good cause must exist for the low bidder not to be selected.

Please note that written invitation for bids are necessary for all purchases exceeding \$250 and less than \$5,000. These bids must contain complete specifications, the quantity required as well as other pertinent information such as the delivery point and other information sufficient for a supplier to make an acceptable bid. Prior written approval is necessary for items which have a unit purchase price of \$250 or more.

B. Exceptions

No competitive bidding is required.

1. When purchases are made through the use of state contracts. It is necessary that the state contract number be placed on invoices.

2. Repairs and parts for equipment:

a. Repairs to equipment and/or parts associated with a specific repair job shall be obtained by either obtaining competitive bids or use of an "authorized dealer" up to a total of \$5,000. An authorized dealer is defined as a dealer certified by the manufacturer to sell or perform maintenance on their equipment.

b. Repairs of equipment which exceed \$5,000 where it is not feasible to secure competitive bids, shall be performed by an authorized dealer subject to prior approval of the chief procurement officer.

c. Vehicle repairs (except body repairs) shall be obtained by (1) state contract; (2) if no state contract exists - fleet management statewide maintenance and repair contract; or (3) use of an authorized dealer if not available from (1) or (2). The above is in no way intended to limit the use of agency repair shops.

3. Publications such as textbooks, newspaper, subscriptions, or foreign publications, when purchased directly from the publisher. All files must have documentation that the contractor is the publisher. (Subscription services must be bid except for the state library and libraries at colleges and universities.)

4. All public utilities.

5. All services provided by local government. Example: garbage pickup.

6. Wire, related equipment, time and material charges to accomplish adds, moves and or changes to telecommunications systems up to \$1,000.

7. Training classes and memberships.

C. Written invitation for bids should be obtained for the following from at least three bona fide, qualified bidders:

1. convention and meeting facilities;

2. gasoline and fuel purchases unless covered by a competitive state contract;

3. vehicle body repairs.

D. Sole Source Procurement

Procurement may be made with less than the required number of bids when the agency provides documentation that the number of suppliers in a reasonable distance were given the opportunity to bid on the item.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:209 (March 1990), repromulgated LR 17:

§1521. Equipment Lease

Agencies must request approval in writing prior to entering into any leases for equipment.

Chapter 17. Personnel

§1701. Personnel Policies

A. Establishment of Personnel Policy

Prior to funding a subgrant, the agency must submit a copy of its written personnel policy, which has board approval, to the Department of Employment and Training for review and approval. Agency must keep policies updated.

B. Policy Compliance

Each agency will be required to comply with the provisions of its approved personnel policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:210 (March 1990), repromulgated LR 17:

Chapter 19. Travel

§1901. Travel Policy

A. Establishment of Policy

1. Prior to funding the subgrant, each agency will be required to submit a copy of their written travel policy, which has been approved by the board, to the Department of Employment and Training for review and approval.

2. All payments or reimbursements for travel cost shall be in accordance with state of Louisiana, Division of Administration, Policy and Procedure Memorandum 49, State General Travel Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:210 (March 1990), repromulgated LR 17:

Chapter 21. Reporting

§2101. Reports

A. Fiscal Reports

Each agency will be required to report fiscal activities to the Department of Employment and Training, on a monthly basis. The report will be in the format established by the Department of Employment and Training, and will be due no later than the fifteenth day of the month following the activity.

B. Activity Reports

Each agency will be required to submit an activity report to the Department of Employment and Training at the end of each month. The report will be in the format established by the Department of Employment and Training and will be due by the fifteenth of the month following the activity.

C. Penalty for Failure to Report

Failure to submit reports by the established deadlines may result in the delay of transmitting funds to the Agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:210 (March 1990), repromulgated LR 17:

Chapter 23. Record Availability

§2301. Availability and Retention of Records

A. Right to Access Records

The Department of Employment and Training, or its agent, shall have the right to review and/or copy all the records of the agency pertaining to the operation of this subgrant. All such records shall be made available upon request.

B. Period of Retention

All records pertaining to the operation of the subgrant shall be retained for a period of five years after the end of the subgrant, or the final resolution of any audits, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:210 (March 1990), repromulgated LR 17:

Chapter 25. Civil Rights Policy

§2501. Affirmative Action Plan

A. To be eligible for funding, each CSBG grantee shall have an affirmative action plan approved by the secretary of the Department of Employment and Training or designee which shall include at least the following.

1. a written Equal Opportunity Policy;
2. an Equal Opportunity Committee;
3. an Equal Opportunity Officer;
4. a written discrimination complaint procedure;
5. a data-collection, record-keeping and reporting system to provide the information required by Department of Employment and Training;
6. a comprehensive self-analysis, which shall include a comparison of provision of benefits on the basis of race, sex and national origin population.

B. This analysis shall also include a comparison of the grantee's employment by race, sex, and national origin characteristics of the relevant workforce. Where significant disparities are found, the recipient shall determine the reasons and, if appropriate, set forth corrective actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:210 (March 1990), repromulgated LR 17:

§2503. Implementation

A. The recipient of CSBG financial assistance is required to implement its CSBG approved affirmative action plan and to ensure compliance with this part. At a minimum, the following requirements must be met:

1. Each grantee board shall formally adopt an Equal Opportunity Policy and establish an Equal Opportunity Committee which shall reflect the composition of the board in regards to the representation of the public, private and low-income sectors;

2. The Equal Opportunity Committee shall review the determinations of the Equal Opportunity Officer (EOO) regarding complaints of discrimination and shall oversee the enforcement of the grantee's civil rights program;

3. Subgrantees shall have at least one EOO, who shall report directly to the Board of Directors on EOO matters with responsibility for the civil rights program required by this part and such additional personnel as are necessary to carry out the requirements of this part. EOO shall not be the executive director, deputy director or personnel officer or their equivalents. The secretary of Employment and Training may make a recommendation that the EOO be full time or part time.

4. The EOO shall undergo training as prescribed by Department of Employment and Training. All expenses incurred by such training shall be borne by the grantor.

5. The EOO shall be granted the authority to carry out the following activities:

a. receive and attempt to resolve complaints of discrimination;

b. provide aggrieved persons with information and advise on equal opportunity procedures including local, state, and federal redress procedures, and notification of the filing deadlines for Equal Employment Opportunity Commission complaints, where applicable;

c. take other steps which may assist in the resolution of a problem, prior to the filing of a formal complaint;

d. assist, if requested by a complainant, in preparing a formal complaint to the Department of Employment and Training of alleged discrimination based on race, color, creed, sex, national origin, age, handicap, political affiliation or beliefs; and

e. provide staff leadership in developing, implementing, and evaluating the grantee's Affirmative Action Plan (AAP).

6. Grantees shall display, in conspicuous places, posters which summarize the rights of the employees, program participants and beneficiaries under Title VI, of the Civil Rights Act. Such posters shall describe the functions of the EOO and the procedures for filing complaints of discrimination, including the right to complain directly to Department of Employment and Training.

7. In addition to the posters, each grantee shall make available information regarding the provisions of this part and its applicability to the program under which the grantee receives federal financial assistance and make such information available in such manner as the secretary of the Department of Employment and Training or designee finds necessary to apprise such persons of the protections against discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:211 (March 1990), repromulgated LR 17:

Chapter 27. Clarification of Rules

§2701. Method for Clarification

Clarification of the rules contained in this CSBG Policy Manual and Special Clauses shall be made as required in program issuances. These program issuances will become effective upon written notification to the subgrantees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:211 (March 1990), repromulgated LR 17:

Chapter 29. Termination of Funding

§2901. Appeal of Termination of Funding

A. Termination Notice

The Department of Employment and Training will notify the agency in writing of the intention to terminate funding, and shall state the reasons for the termination.

B. Request for Hearing

The agency may request a hearing on the record, in writing, within five days of the notification of termination.

C. Scheduling of Hearing

1. Upon request, the Department of Employment and Training shall schedule a hearing at the earliest possible date.

2. Written notification of the hearing shall be given the agency, to include:

- a. date and time of hearing;
 - b. place of hearing; and
 - c. explicit reasons for the hearing.
- ##### **D. Results of Hearing**

The hearing officer shall render a decision within 10 days after the hearing is held. Written notification of the decision shall be mailed to the interested parties. The decision will become final within 15 days unless an appeal is filed.

E. Appeal to Secretary, U.S.D.H.H.S.

The agency may appeal the decision to the secretary of the U.S. Department of Health and Human Services within 15 days after the receipt of the decision. If no appeal is filed, the decision is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:211 (March 1990), repromulgated LR 17:

Subpart 2. Special Clauses

Chapter 41. General Provision

§4101. Compliance

A. General:

The subgrantee shall abide and comply with all federal, state and local laws; all federal, state and local regulations; and all rules of the grants in the operation of programs under this subgrant. The subgrantee shall provide assurance to the grantor that any subcontracts and/or third party agreements shall comply with all federal, state and local laws and regulations, and all rules of the grantor.

B. Laws and Regulations Incorporated by Reference

The provisions of the following acts, and any regula-

tions promulgated pursuant to these acts, are incorporated into and made a part of this subgrant.

1. Community Services Block Grant Act, Subtitle B., Omnibus Budget Reconciliation, Public Law 97-35.

2. La. R.S. 23:61 through 23.66.

3. 45 CFR, Parts 16, 74 and 96, July 6, 1981.

4. Policy Manual for operation of Community Services Block Grant (CSBG) issued by the Louisiana Department of Employment and Training (LDET).

C. Amended or Revised Laws and Regulations

The subgrantee will comply with any amendments and/or revisions to the above acts and/or regulations, and any other acts which may govern the operation of the CSBG. This compliance will be effective immediately upon notification.

D. State CSBG Plan

The subgrantee shall comply with the provisions of the CSBG State Plan as approved by the U. S. Department of Health and Human Services and the governor of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:211 (March 1990), repromulgated LR 17:

Chapter 43. Funds

§4301. Use of Funds

A. General

Funds received as a result of this subgrant may be used only for those activities which are permitted by the CSBG Act and are included in the approved CSBG State Plan.

B. Specific Uses of Funds

Any funds received as a result of this subgrant must be used only in the activities described in the approved subgrant. All activities must be specifically described in the subgrant, and signature of the authorized individual of the subgrantee and the grant officer, secretary of Employment and Training or designee, must be affixed to the subgrant prior to the expenditure of funds. In emergency situations, a letter of intent, signed by the grant officer and the subgrantee may serve as authorization to perform activities for a period not to exceed 30 days.

C. Limitations on Uses of Funds

CSBG funds shall not be expended for the following activities:

1. the purchases and/or improvement of land;
2. the purchase, construction or permanent improvement (other than low-cost residential weatherization or other energy related home repairs) of any building or other facility;
3. any activity not specifically described in the subgrant;
4. any activity specifically denied by federal or state act or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:212 (March 1990), repromulgated LR 17:

§4303. Obligation of Funds

A. General

The grantor shall be liable, subject to the receipt of funds from the federal government, for the actual costs incurred to perform the activities listed in the subgrant, but in

no case shall the grantor be liable for a total amount which exceeds the total amount shown on the signature page of the subgrant.

B. Cost Category Obligations

The grantor shall be liable for expenditures in any cost category which reflect actual costs to perform activities described in the subgrant, but in no case will the grantor be obligated for any costs which exceed the total listed in the subgrant for each cost category.

C. Subgrantee Documentation

The subgrant shall maintain such records as are required by the grantor, make such reports as are required by the grantor, and make accessible to the grantor such records as are required to reflect the expenditures of funds under this subgrant.

D. Indemnification

1. The subgrantee agrees to indemnify and hold harmless the grantor from all injury, damage, or destruction of property arising out of all acts of omissions, or caused in whole or in part by presumed negligence on the part of the subgrantee or its officers, agents, employees, subcontractors or program participants.

2. The subgrantee further agrees to indemnify, hold harmless, and defend the grantor and its officers, agents or employees from all claims and/or suits resulting from the misuse, misapplied or misappropriated funds which have been determined to result from the activities of the subgrantee.

E. Assignment of Interest

1. The subgrantee agrees not to assign nor transfer any interest in this subgrant without prior written approval of the grantor, except that monies due, or to become due, under this subgrant may be assigned to any bank, trust company, or other financial institution without such prior written approval.

2. Notice of any such assignment or transfer shall be furnished promptly to the Department of Employment and Training within 10 days.

F. Independent Contractor

1. The subgrantee shall operate under this subgrant as an independent agency and not as an officer, agency or employee of the grantor. In no event shall any person employed by the subgrantee or any subcontractor of the employee be considered to be an employee of the state of Louisiana, Department of Employment and Training.

2. The grantor shall not be liable to the subgrantee for any benefits or coverage as provided by the Workers' Compensation Law of the state of Louisiana, and no employee of the subgrantee shall be considered an employee of the state of Louisiana, Department of Employment and Training for the purpose of Workers' Compensation Coverage.

3. The subgrantee agrees to be responsible for the payment of any taxes and other costs which may be due as a result of this subgrant. The taxes could include but not be limited to state and federal income taxes and payroll taxes. All such taxes shall be paid under the federal tax identification number shown on page 1, the signature page.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:212 (March 1990), repromulgated LR 17:

Chapter 45. Contracts

§4501. Modification

A. Allowability

Any alterations, deletions, or additions to this contract shall become effective only after a modification to the subgrant document, properly signed by both the grantor and the subgrantee, has been executed, except that the grantor may give the subgrantee written permission to make certain changes immediately, and incorporate the changes into a modification within 90 days.

B. Initiation of Modification

The subgrant may be unilaterally modified by the grantor to reflect changes in the funding level from the federal office, or changes required by federal or state laws and regulations. The subgrantee may request modification to the subgrant to reflect changes in the budget and/or program operations to reflect changes in the needs of the area.

C. Method for Requesting Modification

1. By Grantor. The grantor shall notify the subgrantee in writing of any changes required in the subgrant to reflect changes in funding level or federal or state laws. The subgrantee shall prepare the required changes to the subgrant; the authorized signator for subgrant shall sign the modification; and the subgrantee shall mail the modification to the grantor for review, approval and signature of the grant officer.

2. By Subgrantee. The subgrantee shall request in writing to the grant officer, approval for modifying the subgrant. The request shall contain ample justification for making the requested change. The grant officer shall notify the subgrantee in writing that approval is given or denied. The subgrantee will prepare the approved changes; the authorized signator for subgrantee shall sign the modification; and the subgrantee shall mail the modification to the grantor for review, approval and signature by the grant officer.

3. Modifications altering salaries, fringe benefits, equipment purchase and travel shall require prior written approval.

4. No modifications shall be initiated after August 31 of the fiscal year.

D. Limitations

The terms and conditions of this subgrant shall remain in effect until any modifications have been signed by the subgrantee and the grantor, or the subgrantee has received written approval for changes from the grantor which will be incorporated into the subgrant within 90 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:212 (March 1990), repromulgated LR 17:

§4503. Contract Terminations

A. Terminations

This contract may be terminated by the grantor, in whole or in part, for cause or convenience in compliance with this clause.

B. Termination for Cause

This contract may be terminated by the grantor, in whole or in part, when it has been determined that the subgrantee has failed to comply with the provisions of federal or state laws and regulations or the terms of this contract. If the subgrantee fails to perform the terms of this contract, in whole or in part, or fails to make sufficient progress so as to endanger the performance, the grantor shall notify the sub-

grantee of such failure to perform in writing. The subgrantee shall provide the grantor a written plan to correct the deficiencies in performance within 10 days. If the subgrantee fails to provide an acceptable plan to correct the deficiencies in performance, within the time allowed, the grantor will serve a written Notice of Termination on the subgrantee, advising that the contract will be terminated at the end of 30 days. The grantor shall be liable for payment only for those services which were performed prior to the termination date of the subgrant, provided those services complied with federal and state laws and regulations and with the provisions of this subgrant.

C. Termination for Convenience

The grantor or the subgrantee may request termination of this subgrant for convenience. Either party shall give a 30-day written notice of the intent to terminate. The grantor shall be liable only for payment for those services performed prior to the termination date, provided the services comply with federal and state laws and regulations, and with the provisions of this subgrant.

D. Notice of Termination

1. When the grantor determines that termination is necessary for any reason, the grantor shall deliver to the subgrantee a Notice of Termination, specifying whether the termination is for cause or for convenience, the extent to which the activities are to be terminated, and the date the termination will be effective. The grantor shall determine the amount due the subgrantee, but such sum shall in no instance exceed the total shown on the signature page of the subgrant.

2. In the event partial termination is effected, the total obligation of the subgrant shall be adjusted by agreement between the grantor and the grantee, and the subgrant shall be modified to reflect this agreement.

E. Contingency Fees

The subgrantee shall not employ any person or firm to solicit or secure this subgrant under agreement for any commission, percentage, brokerage or contingent fee. Failure to comply with this provision shall give the grantor the right to terminate this subgrant, or to deduct the amount of such commission, percentage, brokerage or contingency fee.

F. Prevention of Fraud and Abuse

To ensure the integrity of the CSBG Programs, the subgrantee shall establish, maintain and utilize internal management procedures sufficient to prevent fraud and other program abuses.

G. Definitions

1. *Fraud* means deliberate actions which would result in deceitful practices and intentional misconduct.

2. *Abuse* means to make wrong use of or to violate the provisions of the federal and state laws and regulations, the provisions of this subgrant, and the policies of the grantor.

H. Conflict of Interest

1. The subgrantee shall ensure that no employee of the subgrantee, no member of its board, nor any person involved in the review and approval of the subgrant shall participate in any decisions regarding any activity which would result in monetary gain for that individual.

2. The subgrantee certifies that none of its employees or its officers has an interest, direct or indirect, which would conflict with the activities of this subgrant, and that no person having such interest shall be employed by the subgrantee.

3. The subgrantee shall establish safeguards to pre-

vent its employees, officers, agents, or subcontractors from using their position in a way which would appear to be motivated by a desire of private gain for themselves, their family or business with which they have ties.

4. The subgrantee shall require all subcontractors to comply with this clause as a condition of award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:213 (March 1990), repromulgated LR 17:

§4505. Political Activities

A. The subgrantee shall ensure that no funds provided under this subgrant shall be used for any political or lobbying activity.

B. The subgrantee shall prohibit any activities to provide voters and prospective voters with transportation to the polls, or provide similar assistance in connection with an election, or any voter registration activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:213 (March 1990), repromulgated LR 17:

§4507. Charging of Fees

No individual participating in any activity resulting in obtaining employment shall be required to pay a fee to the subgrantee, its agent or any other firm as a condition of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:214 (March 1990), repromulgated LR 17:

§4509. Child Labor Laws

The subgrantee shall comply with all provisions of federal and state Child Labor Laws when providing employment opportunity to an individual under the age of 17.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:214 (March 1990), repromulgated LR 17:

Chapter 47. Fiscal Documentation

§4701. Fiscal Requirements

A. The subgrantee shall have a fiscal system which will provide adequate documentation to reflect expenditures for this subgrant, provide a clear audit trail, and provide assurance that fraud or abuse of the funds are prevented.

B. Special Bank Account

1. Prior to the advance or any other payment of CSBG funds to the subgrantee, who is a private, not for profit agency, the subgrantee shall provide the grantor, upon request, a written certification that a special bank account has been established for this subgrant. The written certification shall be made a part of this subgrant. The bank account must be established with a member bank of the Federal Reserve System, or an "insured" bank within the meaning of the Federal Deposit Insurance Corporation Act of 1950 (872 USC 265).

2. Funds may be withdrawn from this bank account by the subgrantee only for the purpose of making payments for allowable costs within the terms of federal and state laws,

and this subgrant, or to reimburse the grantor in compliance with the closeout procedures of this subgrant.

3. The grantor reserves the right to attach the bank account established by the subgrantee for the purpose of recouping funds advanced under this subgrant, and the right to seal the bank account in the event of termination of the subgrant.

C. Special Bank Account: Public Agency

1. The subgrantee who is a department or unit of a political subdivision and receives records and disburses its own funds, through its own set of books shall follow the procedure described in 4701.B above.

2. The subgrantee who is a department or unit of a political subdivision and the political subdivision receives, records and disburses all funds in support of the subgrantee shall follow the procedure described in 4701.B above or the following: CSBG funds may be maintained by the same financial unit as all other departments of the political subdivision. CSBG funds shall be accounted for and recorded in a separate journal or coded so as to distinguish or separate them from all other funds. SCBG funds may be kept in the same bank account as all other federal funds.

D. Three Day Cash Supply

The subgrantee agrees that funds received under this subgrant will be expended within three days of receipt of the funds, and that no funds received under this subgrant will be held longer than three days.

E. Commingling of Funds

Commingling or mixing of funds received under this subgrant with funds received from any other subgrant from LDET or any other source is specifically prohibited. Only CSBG funds may be deposited into the CSBG bank account.

F. Accounting System

1. The subgrantee shall establish an accounting system which contains complete and accurate records that will justify and document all expenditures, reflect all accruals, and provide a clear audit trail to the point of origin. The costs shall be segregated as directed by the budget of this subgrant.

2. Financial accounting may be performed by an accounting firm other than the subgrantee provided prior written approval has been received from the grantor.

G. Indirect Cost

The subgrantee will not be reimbursed for any indirect cost unless the indirect cost rate has been approved by a federal cognizant agency and the subgrantee has received prior written approval from the grantor to charge the indirect cost to the CSBG subgrant.

H. Cost Allocation

The subgrantee will be reimbursed only for the actual costs incurred in any line item in the budget. Cost allocation may be used only if the subgrantee has documentation for the formula to be used for that purpose, and the other sources of funds and amounts are noted on the invoice or other instrument authorizing payments.

I. Transfer of Funds

1. The subgrantee may transfer funds not to exceed \$500, from one line item to another within a cost category, but in no case may funds be transferred from one cost category to another nor include salary, fringe benefits, equipment purchase or travel without written prior approval from the grantor.

2. In the event funds are moved from one line item to

another, the subgrantee shall immediately notify the grantor and the changes shall be incorporated in the next modification to the subgrant.

J. Payments

1. Payments will be made to the subgrantee on a cost reimbursement basis, as agreed to by the subgrantee and the grantor. Debts are considered paid when incurred, thus the subgrantee may request reimbursement.

2. Payments or reimbursements are conditioned on the full and satisfactory performance of its obligations by the subgrantee under this subgrant.

3. It is understood and agreed that if the subgrantee fails to timely submit any reports (including audits) required by the grantor, the grantor reserves the right to withhold any or all payments due to the subgrantee until such time as the required reports are received.

K. Bonding

1. Prior to an advance or any other payment, the subgrantee shall furnish the grantor proof that each employee and officer of the subgrantee who is responsible for the receipt, custody or disbursement of funds are covered by a fidelity bond. Such bond shall be issued by a corporate surety licensed to do business in Louisiana.

2. The fidelity bond shall agree to indemnify the subgrantee against any direct loss of money or other personal property for which the subgrantee is responsible under the terms of this subgrant. The bond shall be in the amount of \$100,000, or the maximum amount expected to be received in any month, whichever is the less. Written notice shall be given to the grantor immediately in the event of cancellation of the fidelity bond or the inability to obtain such coverage.

L. Closeout Procedures

1. The subgrantee shall submit a closeout package at the end of each grant period to the grantor as required by the established policies of the grantor. The closeout package must be received by the grantor no later than 45 days after the ending date of the subgrant.

2. The closeout package shall include, but not be limited to, an expenditure report marked "FINAL" and reflecting all costs related to the subgrant, a clear copy of the final bank statement, a check for all carryover funds, and a letter certifying that all obligations have been met.

3. Any monies advanced to the subgrantee and not spent at the time the closeout package is submitted shall be returned to the grantor with the closeout package. Failure to submit payment of unspent funds may result in failure to enter into a subgrant for later fiscal years and/or the suspension of payments due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:214 (March 1990), repromulgated LR 17:

§4703. Audits and Audit Resolution

A. Audits

The subgrantee shall provide the grantor with a single audit (Single Audit Act of 1984) of all activities of the subgrantee annually. The audit shall be performed by an independent audit firm which has been selected by competitive bids and has received the approval of the grantor and the legislative auditor of the state of Louisiana. This audit shall be done in accordance with OMB Circular A-128. Bids can

be let and accepted for multiple year audits up to three years.

B. Resolution of Audits

The subgrantee shall provide the grantor with any evidence to refute the disallowance of any questioned and/or disallowed costs within 30 days of the completion of the audit. The grantor shall review the evidence, and make a determination to allow or disallow the costs, within 30 days after receiving the evidence. The subgrantee shall be notified in writing of the determination, and of the total amount to be repaid by the subgrantee.

C. Repayment of Disallowed Costs

The subgrantee shall, within 30 days, repay to the grantor, from funds other than those received from the grantor, any costs which have been disallowed. Failure to repay disallowed costs will result in the suspension of funds under any subgrant which may be in operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:215 (March 1990), repromulgated LR 17:

§4705. Reports, Records, Policies

A. Reports

The subgrantee shall submit to the grantor such reports as are required to account for the compliance with the federal and state acts, and the provisions of this subgrant. Such reports shall be submitted in the format and by the dates established by the grantor. Failure to comply with the reporting requirements may result in the suspension and/or delay of funds being forwarded to the subgrantee.

B. Request for Funds

The subgrantee shall complete a request for funds for submission to the grantor 10 days prior to the date the funds are required. The request for funds shall reflect only the amount which will be expended in a three-day period. The original of the request for funds shall be submitted to the Fiscal Section of LDET and a copy shall be sent to the assigned Program Analyst of CSBG.

C. Monthly Report of Expenditures

The subgrantee shall submit a monthly Report of Expenditures so that it is received by the grantor no later than the fifteenth day of the following month. The expenditure report shall reflect the actual and accrued expenditures. The original of the expenditure report shall be mailed to the fiscal unit of LDET and a copy shall be submitted to the assigned program analyst of CSBG. The expenditure reports shall include such attachments as are required by the grantor to substantiate the use of the funds.

D. Activity Reports

The subgrantee shall submit to the grantor such activity reports as are required. The reports shall be in the format as established by the grantor. The activity reports shall be submitted at the end of each month of the subgrant, and shall be received by the grantor no later than 15 days after the end of the month.

E. Policies

The subgrantee shall establish personnel, travel and procurement policies which comply with the requirements of federal and state laws and regulations and the policies of the grantor. Subgrantee shall submit a copy of its personnel policy to the grantor for review for compliance prior to the fund-

ing of the subgrant. The approved policy shall become a part of this subgrant, and the grantor shall reserve the right to review compliance to the policy as a part of the review of the operation of the subgrant.

F. Accounting System

The subgrantee shall maintain such records as are required to establish fiscal accountability and participant eligibility, and to make such records available to the grantor, or its agent, for review and evaluation.

G. Fiscal Records

The subgrantee shall maintain the original source documents to substantiate the expenditure of all funds under this subgrant and any other fiscal records required by the grantor.

H. Participant Records

The subgrantee shall maintain the records required to document the eligibility of any participant who receives services under this subgrant. The records shall contain the information required by the policy of the grantor.

I. Accessibility of Records

All records, fiscal, administrative, and programmatic, shall be available for review by the grantor, or its agent, to assure compliance to the federal and state laws and regulations and the provisions of this subgrant. The grantor reserves the right to copy any records of this subgrant for the purpose of assuring compliance.

J. Maintenance of Records

The subgrantee agrees to maintain all the original fiscal, administrative and programmatic records of this subgrant for a period of five years after the ending date of the contract or the final resolution of any audits, whichever is the later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:215 (March 1990), repromulgated LR 17:

§4707. Insurance

A. Policies

The subgrantee shall provide the grantor proof that insurance policies are in effect to provide coverage for employees, automobiles and buildings as required by the state of Louisiana.

B. Motor Vehicle Insurance

The subgrantee shall furnish proof that all motor vehicles owned and/or leased by the grantee are covered by liability insurance as required by the state of Louisiana. The subgrantee shall maintain documentation that all motor vehicles used by its employees and/or agents in the performance of duties of this subgrant, and reimbursed for travel from this subgrant, are covered by liability insurance as required by Louisiana state law. All insurance policies shall be procured from vendors who are licensed to do business in the state of Louisiana.

C. Workers' Compensation

The subgrantee will furnish proof to the grantor that worker's compensation insurance coverage is maintained for all the employees of the subgrantee as required by the state of Louisiana. The subgrantee may, with prior written approval of the grantor, maintain a self-insurance program for workers' compensation. Any workers' compensation insurance plan must meet the requirements of the laws of the state of Louisiana.

D. Other Insurance

The subgrantee shall provide any other insurance for its employees, or for participants in the activities under this subgrant as required by the state of Louisiana.

E. Duration of Policies

All insurance policies shall be in effect for the entire period of the subgrant. The grantor shall not be liable for the payment of premiums for coverage which extends beyond the ending date of the subgrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:216 (March 1990), repromulgated LR 17:

§4709. Income

A. Program Income

1. Any income produced as a result of an activity funded under this subgrant shall be considered as program income. Records shall be maintained to document the amount of income earned, and the use of that income.

2. Monies generated from program income shall be used to offset the cost of the activity which produced the income. Use of program income to fund any other activity which is allowable under the CSBG Act must have the prior written approval of the grantor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:216 (March 1990), repromulgated LR 17:

Chapter 49. Performance Provisions

§4901. Performance Evaluation

A. Performance Standards

The subgrantee shall establish goals for each program activity performed. These goals shall be included in the subgrant. The subgrantee shall be required to meet the goals established with no more than a 15 percent deviation from the goals. Progress toward meeting those goals will be assessed at least quarterly.

B. Evaluation

The grantor shall conduct an evaluation of the operation of each subgrantee no later than the end of the third quarter of the grant year. This evaluation shall assess the effectiveness of the subgrant in meeting the requirements of the federal and state laws and regulations, and the provisions of the subgrant. The activities of the subgrant will be evaluated in each of four areas, administrative, fiscal, programmatic and EEO, and will be an objective evaluation of actual operations. The results of the evaluation may be used in the distribution of available funds for the next fiscal year by the grantor.

C. Nondiscrimination Provisions

The subgrantee will not discriminate against employees or applicants for employment or training because of race, color, national origin, religion, political affiliation, sex, handicap, or age (except where age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient function in the job or training). The subgrantee will take affirmative action to ensure that applicants are employed and that employees are treated during their employment without regard to their race, color, religion,

sex, age, handicap or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, apprenticeship or services.

D. Affirmative Action

1. The subgrant shall develop an Affirmative Action Plan to cover both staff and participants of this subgrant. The Affirmative Action Plan will include a comparison of the subgrantee employees and participants by race, sex, and national origin to the racial, sexual and national origin characteristics of the relevant workforce and eligible participants. The Affirmative Action plan must be approved by the subgrantor and will become a part of this subgrant. The LDET's Human Resources and Development Unit will be available for providing technical assistance to subgrantee's in drafting their Affirmative Action Plans. A copy of the subgrantee's Affirmative Action Plan must be approved by the secretary of the Department of Employment and Training, or a designee.

2. Within 30 days of the termination of this subgrant, a report describing the activities and actions taken under this subgrant, including but not limited to changes in employee makeup, agency rules, effects of layoffs, and demotions and promotions, must be submitted to the grantor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:216 (March 1990), repromulgated LR 17:

§4903. Disputes and Appeals

A. Disputes

Any disputes which may arise in the negotiation of subgrants or the operation of activities as described in the subgrant, shall be brought to the attention of the state director of the CSBG programs. All efforts will be made to resolve the disputes, and the director shall provide a decision in writing to the subgrantee.

B. Appeals

In the event the subgrantee does not agree with the determination of the director of CSBG programs, a written appeal may be filed to the secretary of Employment and Training or designee. The appeal must be in writing, and must be filed within 15 days after the receipt of a determination from the director of CSBG programs. The appeal must contain the reasons for the appeal, and a description of the relief sought. The grant officer shall, within 30 days of the receipt of the appeal, issue a written decision. This decision shall be final.

C. Changes to Special Clauses

The special clauses may be changed and/or amended by the grantor to comply with changes in federal and state laws and regulations or changes in operational policies of the grantor. Changes shall be provided to the subgrantee in writing, and shall become effective on the date of notification.

D. Legal Remedies

In the event of either party's breach or default, the other party shall be entitled to exercise all rights and pursue all remedies available under Louisiana law.

E. Access to Documentation

The subgrantee hereby agrees to the provision of granting access to any books, documents, paper, and re-

cords of the subgrantee which are directly pertinent to this particular contract to the owner, federal grantor agency, the comptroller general of the United States, or any of their duly authorized representatives. Also, the subgrantee agrees to maintain all required records for five years after the state makes final payment and all other pending matters are closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:216 (March 1990), repromulgated LR 17:

§4905. Energy Policy and Conservation Act

A. Standards

The contractor hereby recognizes the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with Energy Policy and Conservation Act (P.L. 94-163).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:217 (March 1990), repromulgated LR 17:

§4907. Legislative Auditor

A. Accounts

It is hereby agreed that the legislative auditor of the state of Louisiana shall have the option of auditing all accounts of subgrantee which relate to this contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:217 (March 1990), repromulgated LR 17:

§4909. Taxes

A. Payment of Taxes

Subgrantee hereby agrees that the responsibility for payment of taxes from the funds thus received under this agreement shall be said subgrantee's obligation. All federal taxes shall be paid under the federal tax identification number shown on page 1, the signature page of this document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:217 (March 1990), repromulgated LR 17:

§4911. Travel Expenses and Reimbursement

A. Travel and other reimbursable expenses shall constitute part of the total maximum payable under this subgrant. Travel expenses shall be reimbursed in accordance with Administration Policy and Procedure Memorandum 49, the State General Travel Regulations.

B. No more than the amount identified in the travel line items which is included in the total amount payable under this contract shall be paid or received as reimbursement for travel and other reimbursement expenses. Travel shall be reimbursed in accordance with Division of Administration Policy and Procedure Memorandum 49.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:217 (March 1990), repromulgated LR 17:

§4913. Purchase Requirements

A. All purchases of goods and services must comply with the R.S. 39, the State Procurement Code, CSBG regulations and all amendments.

B. All purchases of goods and services must be competitive. These purchases may be made directly from the state Contract Bid List or by competitive bid. When the competitive bid is used, the lowest responsive and responsible bidder shall be awarded the contract for services or be the vendor for said purchases. Competitive bid requirements shall be made known through program issuances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:61 et seq.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Labor, LR 16:217 (March 1990), repromulgated LR 17:

Phyllis Coleman Mouton
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Hospitals Emergency Medical Services

The Department of Health and Hospitals, Office of Hospitals, Emergency Medical Services has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B) to adopt the following regulations concerning automated cardiac defibrillation.

Effective January 1, 1991, providers of emergency medical services may institute a program for the delivery of automated cardiac defibrillation in the pre-hospital setting.

1. Certification shall be given only to those individuals who possess at a minimum a valid Basic EMT certificate.

2. All candidates for certification shall complete an initial training and certification program in automatic defibrillation approved by the Bureau of Emergency Medical Services. All such programs shall meet the recommendations of the American Heart Association for the training in automatic defibrillation.

3. Organizations desiring to conduct training programs shall receive bureau approval if the following criteria are met:

a) The organization is an emergency services provider with a distinct training section and/or a designated training officer, or is a recognized training body accredited by the American Heart Association, or a recognized university or a vocational technical school;

b) The course of instruction is in accordance with the recommendations of the American Heart Association for training in automatic defibrillation;

c) Provisions are made for retraining and recertification as recommended by the American Heart Association; and

d) The bureau is provided a certified list of those individuals successfully completing the initial/recertifying course.

4. Emergency providers allowing the use of the automatic defibrillators shall:

- a) have established protocols for their use approved by the medical director or the parish medical society;
- b) provide for recertification on a quarterly basis in accordance with the recommendations of the American Heart Association; and
- c) keep on file for inspection a quarterly review on a case by case basis of all uses of the device in accordance with the recommendations of the American Heart Association.

5. Certification for EMT defibrillation by an organization approved for training by the bureau shall be considered certification by the Bureau of Emergency Medical Services, provided that the training organization shall forward to the bureau the certified list(s) outlined in 3(d) above.

6. The approved training organization shall assume the responsibility for certifying its compliance with the recommendations of the American Heart Association but may be monitored by the Bureau of Emergency Medical Services at any time to ensure compliance.

7. Reciprocity from other states for EMT defibrillation shall not be allowed.

8. The Bureau of Emergency Medical Services shall review these regulations annually to determine any modifications needed.

9. Appeals for denial of certification as a training organization or for other matters may be made to the director of Emergency Medical Services, but such appeals must be in writing and must clearly state the reason for such appeal.

10. Approval as a training organization may be withdrawn by the director of the Bureau of Emergency Medical Services for failure to conform with these guidelines.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

SUMMARY

Currently, anesthesia services are provided to Title XIX Medicaid eligible recipients by anesthesiologists and certified registered nurse anesthetists (CRNAs) in accordance with federal and state regulations. These providers are reimbursed on a flat fee for service in accordance with Health Care Procedure Codes (HCPC). For each HCPC a maximum reimbursement is assigned and automated payment is made based on the dollar amount assigned to each HCPC, not to exceed billed charges. When anesthesia services are provided by a CRNA, payment for these services may not duplicate payment to the anesthesiologist. Payment to CRNAs for services provided is limited to the applicable modifier amount of the appropriate procedure code.

Section 6402 of the Omnibus Budget Reconciliation Act of 1989 requires that payments are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population. Based on a review of anesthesiology provider participation in the state's Title XIX program as well as a review of the reimbursement structure for anesthesiology services, the bureau has determined that less than 50 percent of the state's licensed anesthesiologists are actually enrolled in the Medicaid program. In order for the bureau to comply with mandatory federal statute provisions, the reimbursement level for anesthesia services is being increased effective September 1, 1990. This emergency rule was originally published in the September 20, 1990 issue of the *Louisiana Register*, Volume 16.

EMERGENCY RULE

Anesthesiology services shall be reimbursed in accordance with the guidelines set forth herein when provided to eligible Title XIX recipients. With some exceptions, anesthesia services will be reimbursed by the formula in I., which considers base units and time units and a multiplier coefficient along with modifiers which identify the involvement of the anesthesia services provider. The exceptions to the formula to determine reimbursement are certain CPT-4 procedure codes identified in IV., which will continue to be reimbursed on a flat fee basis. In addition, maternity-related anesthesia services will be reimbursed on a flat fee basis in accordance with the provisions set forth in V.

"Personal Medical Direction" as used in this rule is defined in the same manner as "personal medical direction" in the Medicare billing guidelines.

I. Formula Determining Payment for Anesthesia Services

Reimbursement to anesthesiologists and certified registered nurse anesthetists will be calculated using the following formula: Base Units + Time Units x Coefficient = Payment. A base unit is the relative value assigned to a CPT-4 procedure code. A time unit equals the length of the anesthesia service in minutes divided by either 15 or 30. The coefficient will be either \$8.49 or \$15.

If there are additional minutes remaining when time units are computed, then reimbursement will only be paid for five minute intervals. When one unit = 15 minutes and the coefficient is \$15, reimbursement will be paid at the rate of \$5 for each additional five minute interval. When one unit = 15 minutes and the coefficient is \$8.49, reimbursement will be paid at the rate of \$2.83 for each additional five minute interval. When one unit = 30 minutes and the coefficient is \$15, reimbursement will be paid at the rate of \$2.50 for each additional five minute interval.

II. Certified Registered Nurse Anesthetists (CRNAs) Payment Schedule

Reimbursement to CRNAs will be paid at two levels differentiated by whether the CRNA is personally medically directed by an anesthesiologist or works independently of an anesthesiologist. The coefficient will be \$8.49 for a medically directed CRNA (designated by modifier AH) and \$15 for a non-medically directed CRNA (designated by modifier AI). The payment will be calculated as follows:

Modifier AH Base Units + Time Units (1 = 15 minutes) x \$8.49 = Payment

Modifier AI Base Units + Time Units (1 = 15 minutes) x \$15 = Payment

No reimbursement will be paid to a surgeon for the personal medical direction of a CRNA. The anesthesia service will be considered non-medically directed and should be billed as such by the CRNA.

III. Concurrent Medical Direction by the Anesthesiologist

When an anesthesiologist and a CRNA are both involved in the performance of a single anesthesia service, the service will be considered as performed by the anesthesiologist. No separate payment will be made to the CRNA.

An anesthesiologist may bill for personal medical direction only when two or more anesthesia services are being concurrently performed. When the anesthesiologist is involved in directing two or more concurrent anesthesia procedures, the coefficient for the anesthesiologist is \$15 with a percentage reduction of the base units according to the number of CRNAs under his/her personal medical direction. Payment will be computed using the following modifiers and formula:

Modifier AA (Anesthesiologist working alone) Base Units + Time Units (1 = 15 minutes) × \$15 = Payment
 Modifier AB (Direction of two CRNAs) Base Units - 10% + Time Units (1 = 30 minutes) × \$15 = Payment
 Modifier AC (Direction of three CRNAs) Base Units - 25% + Time Units (1 = 30 minutes) × \$15 = Payment
 Modifier AD (Direction of four CRNAs) Base Units - 40% + Time Units (1 = 30 minutes) × \$15 = Payment

IV. CPT-4 Procedure Codes Reimbursed on Flat Fee Basis

The following CPT-4 procedure will continue to be reimbursed on a flat fee basis. Current billing procedures apply.

36000	*36491	62279
*36010	36500	*62282
36405	36600	*62284
*36420	36620	*62289
*36425	*36625	*62290
36430	36640	*62291
*36440	62270	*62292
*36470	62273	
*36471	62274	
*36490	62278	

Under the State Nursing Practice Act, CRNAs do not have the authority to perform the procedures listed above which are marked with an asterisk.

V. Reimbursement for Maternity Related Anesthesia

Maternity related anesthesia will be reimbursed on a flat fee basis at three levels differentiated by the provider personally administering the anesthesia i.e., the anesthesiologist, the CRNA, or the surgeon/delivery physician. The only exception is general anesthesia for vaginal delivery which will continue to be reimbursed according to base units and time units. The flat fee will be paid in accordance with the CPT-4 procedure code and appropriate modifier as follows:

A. CPT-4 Procedure Code 62279 (Epidural for Vaginal Delivery)

(1) Anesthesiologist Reimbursement

Use Modifier AA, when the anesthesiologist administers the procedure directly. Payment: \$255.

Use the appropriate Modifier AB, AC, or AD when the anesthesiologist provides personal medical direction of two

or more CRNAs. Payment: \$102 for each epidural procedure.

(2) Certified Registered Nurse Anesthetist Reimbursement

Use Modifier AI if the CRNA did not receive personal medical direction from the anesthesiologist. Payment: \$255. Use Modifier AH if the CRNA received personal medical direction from the anesthesiologist. Payment: \$153. In Modifier AH billings, the medically directed CRNA receives 60 percent of the anesthesia fee (\$255) for administration and the remaining 40 percent of the fee is paid to the anesthesiologist for personal medical direction of the procedure.

(3) Surgeon/Delivery Physician Reimbursement

This provider may bill an epidural for vaginal delivery only when performing the procedure directly from beginning to end without the assistance of an anesthesiologist or a CRNA. If the epidural is inserted by the surgeon/delivering physician, and an anesthesiologist is called to continue administration of anesthesia services, only the anesthesiologist or the CRNA may bill for the epidural. Payment: \$255.

B. CPT-4 Procedure Codes 62276 and 62278 Saddleblock for Vaginal Delivery

(1) Anesthesiologist Reimbursement

Use Modifier AA, when the anesthesiologist administers the procedure directly. Payment: \$75. Use the appropriate Modifier AB, AC, or AD, for personal medical direction of two or more concurrent procedures. Payment: \$30 for each saddleblock procedure.

(2) CRNA Reimbursement

Use Modifier AI if the CRNA is not personally medically directed by the anesthesiologist. Payment: \$75. Use Modifier AH if the CRNA is personally medically directed by the anesthesiologist. Payment: \$45.

(3) Surgeon/Delivering Physician Reimbursement

This provider may bill for this procedure only when performing the procedure directly from beginning to end without the assistance of an anesthesiologist or CRNA. Otherwise, only the anesthesiologist or CRNA may bill for the service. Payment: \$75.

C. CPT-4 Procedure Code 59515-Anesthesia for Caesarean Delivery

In situations when a vaginal delivery was anticipated, but the patient suffers complications and delivery is done by Caesarean section, reimbursement for anesthesia services shall be as follows:

(1) Surgeon/Delivery Physician Reimbursement

Use Modifier 24 when the surgeon or delivering physician inserts the epidural. Payment: \$132.

(2) The anesthesiologist or CRNA called in to continue administration of the anesthesia after the epidural was inserted shall bill in one of the following two ways. The way chosen must be substantiated by the anesthesia and operative reports.

Use Modifier 25 when the anesthesiologist or the CRNA continues the anesthesia after the epidural was inserted. Payment: \$198.

Use the applicable Modifier, either AA, AH, or AI, if the anesthesiologist or CRNA administers general anesthesia after the epidural was inserted. Payment is \$330 for Modifiers AA or AI. Payment is \$198 for Modifier AH.

Use the applicable Modifier AB, AC, or AD if the anesthesiologist provides medical direction of additional procedures. Payment is \$132 for Caesarean delivery. Under no circumstances shall billings be submitted for both continued

administration and general anesthesia. This is the only situation in which the fee for maternity related anesthesia is split.

Modifier 47 shall not be used with procedure code 59515 when billing for anesthesia services.

David Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

SUMMARY

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) (OBRA '90) was signed by the President on December 5, 1990, enacting numerous changes in the Medicaid program. The rule is promulgated in order to implement the mandatory provisions of that law and to avoid sanctions.

OBRA '90 requires numerous amendments to existing regulations as well as making available new optional and mandated coverage for both eligibility groups and services. Among the more prominent provisions are:

- A. mandatory rebate provisions for prescribed drugs and drug use review;
- B. higher income levels for recipients eligible for buy-in of Medicare premiums;
- C. new mandatory use of outreach locations;
- D. modifications of disproportionate share hospital regulations;
- E. clarifications concerning Federally Qualified Health Centers;
- F. descriptions of various alternative services;
- G. technical amendments to several income consideration regulations;
- H. provisions for new personal care attendant and alcoholism and drug dependency services;
- I. optional new spenddown eligibility option;
- J. amended calculation factors for home and community based waiver cost effectiveness formulas;
- K. modifications to physician identification requirements and qualifications;
- L. reporting requirements concerning sanctions;
- M. technical corrections to nursing facility nurse aide requirements, deficiency standards, readmission standards, reports, professional practitioners, resident assessment, nursing waivers, recipient rights and charges, and staffing requirements.

RULE

Mandatory Title XIX provisions of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) are hereby adopted and implemented as required by the provisions of said Act, utilizing the interpretations set forth by the Health Care Financing Administration (HCFA) in its State Medicaid

Manual publication and in conformity with technical assistance rendered until final regulations are adopted by HCFA, as appropriate.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

SUMMARY

The Health Care Financing Administration (HCFA) promulgated reimbursement limits on payments for drugs under Title XIX (Medicaid). These limits were published in the *Federal Register*, Vol. 52, No. 147, dated July 31, 1987, pages 28646-28658. Under the Health Care Financing Administration's interpretation of these regulations, a state may not provide for reimbursement of dispensing costs through its drug reimbursement methodology. Based upon this interpretation, the state was mandated to move away from payment of drug cost based upon average wholesale prices and begin applying a 10.5 percent reduction to the compendia price of all single source drugs. Because the state has utilized unmodified average wholesale pricing as a mechanism of maintaining reasonable and adequate reimbursement of dispensing costs, movement away from this reimbursement methodology has required continuing monitoring of the adequacy of its dispensing reimbursement to remain in compliance with §1902(a)(30) of the Social Security Act. This statutory provision mandates that reimbursement be reasonable and adequate to reimburse efficiently and economically operated providers the costs which they must incur in providing medical services in accordance with the requirements of both state and federal governments.

To assure reimbursement remains reasonable and adequate, the bureau must review dispensing cost data and assess the adequacy of reimbursement in terms of current dollar values. This is accomplished through revision of the last audit report data on dispensing costs to account for inflation and comparing reimbursement of dispensing cost with other service reimbursement methodologies covered under the approved Title XIX State Plan agreement with the federal government. The bureau has analyzed dispensing cost based on a representative grouping which includes 67 percent of participating pharmacies to assess the reasonableness and adequacy of its current reimbursement for dispensing cost. In order for the current reimbursement methodology to remain reasonable and adequate, the bureau is required to increase its maximum limitation on dispensing costs to \$4.68. Without this increase, the state cannot assure compliance with the mandatory provisions of §1902(2)(30) of the Social Security Act and will be in violation of mandatory federal requirements for establishing and main-

taining adequate reimbursement for medical vendor services. This rule is necessary to implement mandatory federal statutory and regulatory provisions. Emergency rulemaking implementing this change was declared effective August 30, 1990, and published in the *Louisiana Register*, September 20, 1990, page 755.

EMERGENCY RULE

The bureau shall pay a dispensing fee on each Title XIX prescription of no more than \$4.68. This dispensing fee paid on a prescription shall be subject to reimbursement limitations adopted by the bureau for payment of Title XIX prescription drug services.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

SUMMARY

Skilled Nursing/Technology Dependent Children (SN/TDC) services are covered under the state's Title XIX Medical Assistance Program in accordance with applicable federal and state rules and regulations. Previously, participating provider reimbursement was limited to \$85 per diem, subject to established SN payment limitations, standards for participation, and standards for payment with additional requirements applicable to the SN/TDC provider type. The rule implementing these requirements was published in the November 20, 1989 issue of the *Louisiana Register*, page 976. Previous payment levels for treatment/care for technology dependent children in skilled nursing facilities was determined to be a barrier to the receipt of covered SN level services. Some nursing facilities are unable to continue providing care to these medically stable 24-hour ventilator dependent patients, age 18 or younger who were in need of intensive nursing services because of the present level of reimbursement. Based on a review of SN/TDC reimbursement, the state is increasing the level of reimbursement to \$140 per diem. Emergency rulemaking implementing this change was declared effective August 30, 1990, and published in the *Louisiana Register* on September 20, 1990 on page 756, in order to increase the level of reimbursement immediately to assure the delivery of necessary services to technology dependent children, and thus prevent imminent peril to the health and welfare of these children who are dependent on continuous medical care. The rule was published as a Notice of Intent in the *Louisiana Register* on November 20, 1990, page 1012.

EMERGENCY RULE

Skilled Nursing/Technology Dependent Children (SN/TDC) services shall be capped at \$140 per diem, subject

to the established SN payment limitations, standards for participation, and standards for payment with the additional requirements for this Title XIX provider type. At the end of the facility's cost reporting period, the facility shall file a separate long-term care facility cost report or segregate such costs from other nursing services provided, which cost report shall be subject to audit. When audited cost is below the per diem limit, the bureau shall charge back the calculated overpayment amount. No additional payment shall be made for audited cost which exceeds the per diem cap. All participating facilities will be expected to work closely with the bureau to ensure that services are provided at the most cost-effective rate.

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 Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:317 which provides that the secretary of the department may declare a closed season when it is in the best interest of the state; the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective 12:01 a.m. December 29, 1990 the recreational fishery for king mackerel in Louisiana waters will close and remained closed until 12:01 a.m. July 1, 1991.

The secretary was notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service on December 20, 1990 that the gulfwide recreational king mackerel quota had been reached and the season closure is necessary to prevent overfishing of this species.

A. Kell McInnis, III
Acting Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(b) of the Administrative Procedure Act, and under the authority of R.S. 56:6 and 115, the Wildlife and Fisheries Commission hereby finds that an imminent peril to public welfare exists and accordingly adopts the following emergency rule:

That portion of Orleans Parish east of the Jefferson-Orleans Parish line, northward to the southern shoreline of Lake Pontchartrain, northeast along the southern shoreline

Rules

RULE

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, the Louisiana Livestock Sanitary Board has amended LAC 7:XXI.11733, to require the following:

A. 5. All bulls, 12 months of age and over, must be tested negative to the brucellosis card test, within 30 days prior to admission to all fairs, livestock shows, breeders' association sales, and rodeos. All bulls must be accompanied by a current health certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221, and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:236 (March 1985), amended LR 11:615 (June 1985), LR 12:501 (August 1986), LR 13:556 (October 1987), LR 17: (January 1991).

Bob Odum
Commissioner

RULE

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

In accordance with the provisions of LSA 49:950, et seq., the Administrative Procedure Act, and LSA 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, notice is hereby given that the Louisiana Livestock Sanitary Board has amended the regulations of the board:

Title 7

AGRICULTURE AND ANIMALS Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board §11701. Definitions

Brucellosis exposed herd means a herd of cattle that has intermingled with brucellosis infected cattle or otherwise been exposed to brucellosis infected animals which includes: (1) cattle whose premises are adjacent to that of known infected cattle even though a roadway, waterway, or any right-of-way or servitude is between the premises and if deemed necessary by the State Veterinarian and the designated epidemiologist, the premises are considered to be adjacent; (2) cattle herds where there is direct drainage from brucellosis quarantined premises; or (3) cattle herds in common range with brucellosis infected herds. All herds, other than dairies,

of Lake Pontchartrain to South Point, east-southeast along the southern shoreline of Lake Pontchartrain to Chef Pass, the southern shoreline of Chef Pass eastward to the western shoreline of the Intra-Coastal Waterway, the western shoreline of the Intra-Coastal Waterway southward to the Industrial Canal, the Industrial Canal south to the Mississippi River, and the Mississippi River to the Orleans-Jefferson Parish line shall be closed to all shooting or hunting, by any means or device until further notice, effective January 10, 1991.

The commission finds that the above closure is necessary for reasons of public safety and recreation; and further due to the fact that this portion of Orleans Parish is included in city municipal ordinances that prohibit the discharge of all firearms, and said area adjacent to Bayou Sauvage National Wildlife Refuge wherein hunting activities are prohibited. The commission further finds that this action is necessary to enhance enforcement of hunting restrictions in the general area.

James H. Jenkins
Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and under the authority of R.S. 56:6 and 115, the Wildlife and Fisheries Commission hereby finds that the public welfare and the wildlife resources are best served by adopting the following emergency rule:

The Louisiana Department of Wildlife and Fisheries assumes management responsibilities on recently purchased fee lands in the Atchafalaya Basin by the U.S. Army Corps of Engineers. Said lands encompass 8,281.70 acres in Iberville Parish north of Interstate 10. Further, that these lands are primarily located within the boundaries and are contiguous with the Atchafalaya National Wildlife Refuge lands on which the Louisiana Department of Wildlife and Fisheries is the managing agency. This emergency rule will be in effect from February 1, 1991 and extend for a period of 120 days.

The commission finds that the Louisiana Department of Wildlife and Fisheries' management authority authorized by license from U.S. Corps of Engineers would serve to provide public access and effect a more positive and practical management approach for a larger land base within the Atchafalaya Basin. Management rules and regulations, season dates, and bag limits for said lands are to be consistent with such published for Sherburne Wildlife Management Area - Atchafalaya National Wildlife Refuge in the 1990-91 hunting season rules and regulations officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Section 115 of Title 56 of the Louisiana Revised Statutes of 1950.

James H. Jenkins
Chairman

negative to the Brucellosis Ring Test (BRT), and certified brucellosis free herds, tested within the past 12 months, owned by an individual, partnership, corporation, or association, that are within 50 miles of an infected herd owned by such individual, partnership, corporation, or association.

Brucellosis infected herd means:

1. A herd will be considered infected if an official brucellosis blood test of the herd reveals one or more reactors.

2. A herd to which one or more brucellosis reactors in a consignment, tested in the market cattle testing program, (tested on the physical premises of the auction market or slaughter establishment), has been traced. The herd shall be considered infected and under quarantine until the entire herd of origin has had two official negative blood tests, the second test being not less than 180 days from the date the last reactor was removed from the herd and the premises. The second test may be dispensed with upon concurrence by the State Veterinarian, the designated epidemiologist, and the State/Federal area veterinarian, based on the history and epidemiology of the herd.

3. A dairy herd that has had a positive milk ring test. The herd shall be considered infected and handled as such until the entire herd has been officially blood tested. The status of the herd will then be determined by the results of the herd blood test.

Livestock dealer means any person engaged in the buying and selling of livestock. Any person who buys and sells the same livestock within 30 days and has engaged in five or more purchases and/or sales of the same livestock within any 12-month period, is said to be engaged in the business of buying and selling livestock.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:289 (May 1980), LR 12:498 (August 1986), LR 14:219 (April 1988), LR 15:812 (October 1989) LR 17:

Maxwell Lea, Jr. D.V.M.
State Veterinarian

RULE

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, the Louisiana Livestock Sanitary Board has amended LAC 7:XXI.11709, to require the following:

H. Livestock auction markets must maintain complete records of all transactions for a period of 12 months. The records must be kept in such a manner that all livestock can be traced from the seller to the purchaser, and include the name and complete address of the seller and purchaser. The records must also include the weight, backtag number, and price of the livestock. These records shall be made available

to representatives of the Livestock Sanitary Board upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:662, R.S. 3:665, R.S. 3:2221, and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:233 (March 1985), amended LR 11:615 (June 1985), LR 17: (January 1991).

Bob Odom
Commissioner

RULE

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, the Louisiana Livestock Sanitary Board has amended LAC 7:XXI.11735, to require the following:

A. 2. All cattle that are offered for sale through Louisiana livestock auction markets, must be identified by an official backtag; those animals two years of age and older, shall have this official backtag placed immediately behind the shoulder of the animal. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official backtag numbers applied to the consignor's livestock. The check-in slip shall be made available to the Livestock Sanitary Board's official representative, before the animals can be tested for brucellosis.

It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that is not the name and address of the owner consigning the livestock to the auction market.

A. 4. b. is herewith deleted in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695 (October 1988), LR 15:813 (October 1989), LR 17: (January 1991).

Bob Odom
Commissioner

RULE

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 3:2095, rel-

ative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, the Louisiana Livestock Sanitary Board has amended LAC 7:XXI.11711, to require the following:

A. 3. Records of all sales and purchases must be maintained for at least 12 months. The records shall contain the complete name and address of the seller, the permanent identification number of any brucellosis test eligible animals, the weight and price of the animals, and the complete name and address of the purchaser. These records shall be made available to representatives of the Livestock Sanitary Board upon request. Livestock dealers who are not approved, will be governed by LAC 7:XXI.11733 for cattle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:563, and R.S. 3:564.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:234 (March 1985), amended LR 11:615 (June 1985), LR 14:220 (April 1988), LR 17: (January 1991).

Bob Odom
Commissioner

RULE

**Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board**

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, the Louisiana Livestock Sanitary Board has amended LAC 7:XXI.11739, to require the following:

B. 1. i. and ii. are herewith deleted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:238 (March 1985), amended LR 11:615 (June 1985), LR 12:502 (August 1986), LR 13:559 (October 1987), LR 17: (January 1991).

Bob Odom
Commissioner

RULE

**Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board**

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, the Louisiana Livestock Sanitary Board has amended LAC 7:XXI.11737, to require the following:

A. 3. b. Effective January 1, 1989, all heifers and cows over 12 months of age, must be official brucellosis vaccinates, (calfood or adult), be from a producer's herd, (not a herd owned by the dealer), that has had a complete negative brucellosis herd test, conducted in the past 12 months, be negative to the brucellosis card test within 30 days prior to, or at the time of purchase by the dealer and the animals do not come in contact with animals other than those from the herd of origin. The dealer must keep a copy of the complete negative brucellosis herd test with his records, to show that the animals have met the above requirements.

A. 3. b. (2.) is herewith deleted in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:651 (June 1985), LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17: (January 1991).

Bob Odom
Commissioner

RULE

**Department of Economic Development
Board of Examiners of Certified Shorthand Reporters**

The Louisiana Board of Examiners of Certified Shorthand Reporters hereby amends Part XXI, Chapters 1, 5, 6, and 9 of the *Louisiana Administrative Code* as follows:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXI. Certified Shorthand Reporters**

Chapter 1. Certification

§103. Qualifications for Certification

A. Any person over the age of 18 years, who has not committed any acts, crimes, or omissions constituting grounds for suspension or revocation of a certificate issued by the board pursuant to R.S. 37:2557(A), who has a high school education or its equivalent as determined by the board, and who has satisfactorily passed each portion of the examination described in Chapter 3 below, in accordance with the rules of the board, shall be entitled to a shorthand reporter certificate.

B. Any person who is qualified under Subsection A, except for the satisfactory passage of each portion of the examination, and whom the board deems to be qualified under the provisions of R.S. 37:2554(G) or (H), shall be entitled to a general reporter certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2556.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Court Reporters, LR 9: 678 (October 1983), amended by the Department of Economic Development, LR 17:

Chapter 5. Certificates

§503. Temporary Certificate

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2556.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:679 (October 1983), repealed by the Department of Economic Development, LR 17:

§505. Cause for Suspension, Revocation, or Non-issuance of Certificate

The causes for suspension, revocation, or non-issuance of a certificate by the board shall consist of one or more of the following:

A. conviction of felony;

B. conviction of a misdemeanor involving moral turpitude;

C. fraud, dishonesty, corruption, willful violation of a duty, or gross incompetency in the practice of the profession;

D. failure to satisfy and complete the continuing education requirements, for two consecutive years, as set forth by the board. The failure to comply with this Subsection shall be cause for the suspension by the board of a certificate;

E. failure to satisfy and complete the continuing education requirements for three consecutive years as established by the board. The failure to comply with this Subsection shall be cause for revocation by the board of a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:679 (October 1983), amended by the Department of Economic Development, LR 17:

§506. Certification Without Examination

A. All applications for certification as a certified general reporter from any notary public, official court reporter, deputy official court reporter, or temporary certified shorthand reporter must be submitted within six months after January 1, 1991. The payment of the proper fee, as determined by the board, and due proof of the applicant's qualifications pursuant to R.S. 37:2554(G) and (H) must accompany the application.

B. The due proof of qualifications to be submitted to the board for its acceptance and approval for a certificate as a certified general reporter under the provisions of R.S. 37:2554(G) shall, on forms provided by the board, consist of all the following.

1. An affidavit signed by the applicant that the principal occupation of the applicant for four quarters subsequent to January 1, 1989, and prior to January 1, 1991, was proficiently taking and transcribing depositions, investigations, conventions, court proceedings, or hearings as a verbatim official court reporter, deputy official court reporter, general court reporter, or free-lance court reporter.

2. The affidavit by the applicant shall have attached both federal and state income tax returns for the years 1989 and 1990 or a notarized attestation by a licensed certified public accountant stating that the applicant's 1989 and 1990 federal and state income tax returns have been reviewed by that accountant and that the review indicated that the principal source of income for the applicant for years 1989 and 1990 was incurred from the activities of a court reporter domiciled in the state of Louisiana.

3. a. An applicant who is a notary public shall also submit a certified copy of his or her notarial commission and certified copies of four depositions taken by that applicant with verification from the scheduling attorneys that the depositions were taken at their requests; or

b. An applicant who is an official or deputy official court reporter of a court of record shall also submit certified copies of four transcripts of court proceedings and a certification by a judge of a court of record that the applicant is a salaried employee of the court.

4. The board may require such additional proof as it deems necessary.

C. The due proof of qualifications to be submitted to the board for its acceptance and approval for a certificate as a certified general reporter under the provisions of R.S. 37:2554(H) shall, on forms provided by the board, consist of all the following:

1. a. An affidavit signed by the applicant attesting to the fact that the applicant was enrolled in an educational course of shorthand reporting taught in a state-approved or licensed school and whose principal course of study consisted of verbatim shorthand reporting, as defined in R.S. 37:2555(A), prior to June 12, 1989; and

b. An affidavit signed by the owner or operator of the educational institution that the applicant was enrolled in an educational course of shorthand reporting conducted by the owner or operator and that the applicant's principal course of study consisted of verbatim shorthand reporting, as defined in R.S. 37:2555(A), prior to June 12, 1989; and

2. a. An affidavit signed by applicant that the applicant was enrolled in an educational course taught in a state-approved or licensed school to become a notary public prior to June 12, 1990, and that the applicant has become commissioned to be a notary public, with a certified copy of the notarial commission attached, before January 1, 1991; and

b. An affidavit signed by the operator or owner of the state-approved or licensed school that the applicant was enrolled in an educational course to become a notary public prior to June 12, 1990; and

3. An affidavit signed by the applicant, with appropriate documentation, including four deposition transcripts with verification from the scheduling attorney that the deposition was conducted at the request of the attorney, that the applicant is proficient taking and transcribing depositions, investigations, conventions, court proceedings or hearings;

4. The board may require such additional proof as it deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17

Chapter 6. Continuing Education

§601. Continuing Education Requirement

The maintenance and continued validity of any license issued by the board shall be dependent upon the satisfactory performance and completion of those continuing education requirements as established and enforced herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:

§603. Continuing Education Credits

A. Beginning January 1, 1991, and thereafter, each holder of a certificate issued by the Board of Certified Shorthand Reporters shall be required to obtain at least twelve continuing education credits during a period of two consecutive calendar years.

B. Any holder of a certificate issued by the board is exempt from the requirement of continuing education for one year succeeding the initial issuance of the certification, but shall be required to obtain at least six continuing education credits for the one-year period succeeding the first-year exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters in LR 17:

§605. Prohibited Excess Credits

A. Any continuing education credit obtained for a requirement of the board in excess of the required amount of at least 12 continuing education credits per reporting period shall not be applied to any subsequent or future continuing education requirements.

B. The board shall suspend or revoke the certification of a certified reporter in the event the reporter fails to satisfy and complete the continuing education requirements, pursuant to R.S. 37:2557.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters in LR 17:

§607. Maintenance of Record

A. Each reporter issued a certificate by the board shall maintain a record of the satisfaction and completion of the continuing education credits required by the board.

B. On or before January 31 of each calendar year, each reporter issued a certificate by the board shall submit to the board a written record of continuing education credits earned by the reporter for the preceding calendar year on a form provided by the board. The report shall contain information of the continuing education credits earned by the reporter for participation in approved seminar activities, formal courses, and special activities approved by the board and conducted on a national, regional, or state basis as contained in a standardized system of seminar registration, attendance control, and reporting as approved by the board and adhered to by the sponsoring organization or entity of the seminar activity, formal course, or special activity.

C. The form to record the attendance, satisfaction, and completion of the continuing education activity shall be forwarded to the designated reporter at each respective seminar and forwarded to the board no later than 30 days after the completion of the activities of the seminar by the sponsoring entity.

D. Any recordation of continuing education credit earned by a reporter certified by the board through participation in an academic course or classwork which does not maintain any documentation of the attendance and satisfaction of the course shall be forwarded to the board by adequate confirmation through a certified report of attendance, report card, or related record issued by the academic institution evidencing successful completion of the continuing education activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters in LR 17:

§609. Continuing Education Guidelines

A. The following general subject matter and enumerated continuing education credits may be approved by the board in the event the subject matter contributes to the professional competence of the practitioner of shorthand reporting:

1. seminars and workshops sponsored by or at National Court Reporters Association (NCRA) regional, state, or local meetings, public institutions of higher learning, and judicial organizations, including:

- a. English;
- b. medical;
- c. legal;
- d. Technical subjects presented by experts dealing with terminology and concepts encountered by the reporter during depositions and at trials;
- e. new developments and knowledge in the field directly related to making the record;
- f. general court and deposition procedures;
- g. general court and deposition transcript preparation;
- h. management;
- i. professionalism; or
- j. office procedures, record-keeping, health, and the "consummate" person.

2. Formal courses sponsored by or instituted for universities and colleges, postgraduate courses held by shorthand reporting schools, duly licensed by the state, adult education schools, duly licensed by the state, and related organizations, established and approved by the appropriate educational authority, to administer continuing education courses, subject to the approval of the Board of the Academy of Professional Reporters with formal enrollment and recordation by official transcript of the completion of the course, including:

- a. Universities and Colleges
 - i. A reporter who has formally enrolled in an accredited university or college and has successfully completed an academic or technical subject and received a passing grade of C or better shall receive the following credits:
 - (a). one semester credit - eight C.E. credits;
 - (b). one trimester credit - seven C.E. credits;
 - (c). one quarter credit - five C.E. credits.
 - ii. A reporter who has formally enrolled in an academic or technical subject at an accredited university or college shall receive the following credits:
 - (a). one semester credit - four C.E. credits;
 - (b). one trimester credit - three C.E. credits;
 - (c). one quarter credit - two C.E. credits.
- b. Postgraduate Courses in Shorthand Reporting Schools
 - i. A reporter who successfully completes a postgraduate course (excluding dictation practice) in an accredited shorthand reporting school and receives a passing grade shall receive the following credit:
 - (a). two C.E. credits for every postgraduate course completed.
 - c. Adult Education School
 - i. A reporter who successfully completes an adult education course in an academic subject at an accredited school shall receive the following credit:
 - (a). one C.E. credit for every four contact hours.
 - d. Institutions and Organizations Giving Continuing

Education Courses

i. The course shall be in subject matter that meets the needs of the reporter's professional and/or career goals in shorthand reporting.

3. Special activities including a certificate of merit test or speed contest administered by the National Court Reporters Association (NCRA) or a board-sponsored speed contest or award of excellence, with the award of excellence credit limited to no more than one continuing education credit per reporting period, as follows:

a. Certificate of Merit Test.

i. An NCRA-tested Registered Professional Reporter (RPR) passing any one section of the Certificate of Merit Test for the first time shall receive the following credit: Five C.E. credits.

ii. A state-tested Certified Shorthand Reporter (C.S.R.) holding RPR status passing all three parts of the skills section at the same time shall receive the following credit: Five C.E. credits, each part.

b. NCRA Speed Contest. A reporter qualifying on any one section of the NCRA Speed Contest shall receive the following credit: Five C.E. credits.

c. State-Sponsored Speed Contest or Award of Excellence. A reporter qualifying on any one section of a state-sponsored speed contest or an Award of Excellence shall receive the following credits, provided such section equals or exceeds the requirements of the NCRA Certificate of Merit Exam:

State-sponsored speed contest - four credits;
Award of Excellence - four credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 17:

* * *

Chapter 9. Fees

§901. Fees

The following fees shall be paid to the board:

A. The fee to be paid for the issuance of a certificate of registration without board examination, excluding those individuals issued a certificate by the board under the provisions of R.S. 37:2554(G) or (H), is \$50.

B. The fee to be paid for the issuance of a certificate of registration without board examination under the provisions of R.S. 37:2554(G) or (H) is \$100.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:679 (October 1983), amended LR 10:269 (April 1984), amended by the Department of Economic Development, LR 17:

James L. Dennis
Chairman

RULE

Department of Economic Development Office of Financial Institutions

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Office of Financial Institutions intends to adopt a rule in accordance with Act 1068 of 1990 to establish that each credit union shall be subject to examination at least annually by the commissioner or his authorized deputy. The commissioner by this rule establishes the following schedule of fees for examinations to be assessed to credit unions regulated by the commissioner. These fees shall become effective on January 20, 1991.

Title 10

BANKS AND SAVINGS AND LOANS

Part V. Credit Unions

Chapter 1. General Provisions

§101. Assessments

A. Fees and Charges

1. During 1991 and each year thereafter, all state chartered credit unions shall pay an annual operating fee, the exact amount of which shall be fixed from time to time by the commissioner. During 1990, credit unions shall continue to be charged and be liable to the Louisiana Office of Financial Institutions for the examination fees presently fixed by R.S. 6:646(B)(3) and (4).

2. Except as hereinafter provided, the annual operating fee set by the commissioner shall not exceed the fee calculated by the use of the following scale:

a. when the assets are less than \$100,000, the fee is \$100;

b. when the assets are greater than \$100,000, but less than \$1,000,000, the fee is \$250;

c. when the assets are \$1,000,000, but less than \$3,000,000, the fee is \$1,000;

d. when the assets are \$3,000,000, but less than \$4,000,000, the fee is \$2,000;

e. when the assets are \$4,000,000, but less than \$6,000,000, the fee is \$3,000;

f. when the assets are \$6,000,000, but less than \$10,000,000, the fee is \$5,000;

g. when the assets are \$10,000,000, but less than \$18,000,000, the fee is \$7,500;

h. when the assets are \$18,000,000, but less than \$30,000,000, the fee is \$10,000;

i. when the assets are \$30,000,000, but less than \$40,000,000, the fee is \$12,000;

j. when the assets are \$40,000,000, but less than \$50,000,000, the fee is \$15,000;

k. when the assets are \$50,000,000, but less than \$60,000,000, the fee is \$18,000;

l. when the assets are \$60,000,000, but less than \$70,000,000, the fee is \$21,000;

m. when the assets are \$70,000,000, but less than \$80,000,000, the fee is \$24,000;

n. when the assets are \$80,000,000, but less than \$90,000,000, the fee is \$27,000;

o. when the assets are \$90,000,000, but less than \$100,000,000, the fee is \$30,000;

p. when the assets are \$100,000,000, the fee is \$30,000 plus \$5,000 for each ten million or fraction of ten million in excess of \$100,000,000.

3.a. Provided the fees assessed in Paragraphs 2.a - p above fail to cover all rating costs of the credit union section of the Office of Financial Institutions, the commissioner shall have the authority to assess a floating rate fee based upon the total assets of each credit union as of the June 30 reporting date. This may only be done upon first notifying each credit union of the commissioner's intent to assess the additional fees and giving each credit union at least 30 days from providing notice of the proposed action to allow each credit union an opportunity to file oral or written objections to this action proposed by the commissioner.

b. Furthermore, in the event that future monetary assistance is received from the National Credit Union Share Insurance Fund (NCUSIF) for regulatory services provided by this agency in regulating state-chartered credit unions, such compensation shall be utilized to reduce the operating costs that would normally be billed to the state-chartered credit unions.

4. The annual operating fee shall be assessed on all state-chartered credit unions on a quarterly basis as provided for in Paragraphs 2.a-p and 3 above. Such fees are to be assessed no later than the last day of each quarter to be based on the total assets as reported at the end of the semi-annual reporting dates of December 31 and June 30.

5. Any credit union failing to pay such operating fee by the last day of the month following each quarterly assessment, may be charged a penalty not to exceed \$50 for each day said fee remains unpaid.

AUTHORITY NOTE: Promulgated in accordance with Act 1068 of 1990.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17: (January 1991).

A. Bridger Eglin
Commissioner

RULE

Board of Elementary and Secondary Education

**Amendment to Regulations for Granting
Temporary Teaching Assignments (Circular 665)**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1990 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:

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

§903. Teacher Certification Standards and Regulations

* * *

I. Non-Certified Personnel

* * *

5. The Bureau of Teacher Certification, State Department of Education, may waive the requirement for admission to teacher education programs for persons employed on Cir-

cular 665 and temporary teaching assignments for those parishes that provide satisfactory documentation of recruitment efforts, and of critical need. Furthermore, individuals approved under this waiver are not eligible for teacher tuition exemption.

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

HISTORICAL NOTE: Amended LR 17: (January 1991).

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Revised Technical Institutes Tuition Fee

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published September 20, 1990 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:

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 15. Vocational and Vocational-Technical Education

§1523. Students

* * *

E. Fees for Louisiana Residents

1. Registration and Fee Schedule:

a. ...

b. Residents shall pay in advance, the following tuition fees: (Effective October 1, 1990)

Full-time \$25 per month

3/4 time \$18.75 per month

1/2 time \$12.50 per month

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(5).

HISTORICAL NOTE: Amended LR 17: (January 1991).

Em Tampke
Executive Director

RULE

**Department of Employment and Training
Board of Review**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and Act 1083 of the 1990 Regular Session, the Department of Employment and Training, Board of Review, is hereby giving notice of intent to repeal all existing rules and to substitute a complete new set of rules to be set forth in LAC 40:IV, Sections 101 to 137 to be effective January 20, 1991. these rules comply with the statutory laws mentioned above which the agency administers.

The Department of Employment and Training, Board of Review, adopted rules for appealed claims of the Louisiana Board of Review as follows:

Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security
Subpart 1. Board of Review

Chapter 1. Appealed Claims for Board of Review

§101. Office and Officers of the Board of Review

A. The office of the Louisiana Board of Review, hereinafter referred to as the board, shall be domiciled in the Louisiana Office of Employment Security Administrative Office Building in Baton Rouge, Louisiana.

B. The board shall elect a chairman, vice-chairman and secretary, from its membership, all of whom shall serve at the pleasure of the majority of the board. The chairman shall not be denied any right of membership.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:485 (June 1989), repealed and repromulgated by the Department of Employment and Training, Board of Review, LR 17: (January 1991).

§103. Time and Place of Meeting of the Board

All meetings of the board shall be called by the chairman or by a majority of the board. The chairman shall notify the members of the board of any meeting in writing at least three days in advance, unless such notice is waived by the members. All meetings shall be held at the office of the board, or at any place within the state designated in the call.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:485 (June 1989), repealed and repromulgated by the Department of Employment and Training, Board of Review, LR 17: (January 1991).

§105. Quorum

Except as otherwise expressly provided in these rules, two members of the board shall constitute a quorum, until January 1, 1989, at which time three members will constitute a quorum, as per Act No. 924 of the Regular Session of Louisiana Legislature. In the absence of the chairman, the vice-chairman shall act as chairman.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:485 (June 1989), repealed and repromulgated by the Department of Employment and Training, Board of Review, LR 17: (January 1991).

§107. Computation of Time - Saturdays, Sundays and Holidays

Whenever these rules prescribe a time for the performance of any act, Saturdays, Sundays and legal holidays (half holiday is considered a legal holiday) in the state of Louisiana shall count as any other days, except that when the time prescribed for the performance of an act expired on a Saturday, Sunday or a legal holiday in Louisiana, such time shall extend to and include the next succeeding day that is not a Saturday, Sunday or such legal holiday, provided that,

when the time for performing any act is prescribed by statute, nothing in these rules shall be deemed to be a limitation or extension of the statutory time fixed.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:485 (June 1989), repealed and repromulgated by the Department of Employment and Training, Board of Review, LR 17: (January 1991).

§109. Appeals to the Administrative Law Judge (Appeals Tribunal)

A. The party appealing from the agency's initial determination shall file, at the office or itinerant point of the Louisiana Office of Employment Security, a notice of appeal (Form LBR-1), setting forth information required therein within 15 days after date notification was given or was mailed to his last known address.

B. It is hereby further provided that any letter written by claimant or employer to the Louisiana Office of Employment Security or the board disputing the determination or appeal decision may be accepted in lieu of a formal form of appeal, Form LBR-1, provided said letter is received by any office of the Louisiana Office of Employment Security or by the board within 15 days after notification, was given or was mailed to his last known address.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:485 (June 1989), repealed and repromulgated by the Department of Employment and Training, Board of Review, LR 17: (January 1991).

§111. Notice of Hearing

A notice of hearing (Form LBR-2 or Form LBR-2T) shall be mailed to all parties to the appeal at least 10 days prior to the date of the hearing, specifying the place and time of the hearing.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:486 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§113. Postponements, Continuances, Reopenings and Rehearings

A. A hearing may be postponed or continued by the administrative law judge for good cause, either upon his own motion or upon the request of a party. A party's request for postponement or continuance shall be made in writing to the administrative law judge whose name and address appear on the notice of hearing.

B. If a claimant or employer fails to appear at a scheduled hearing (of which he received timely notice), the administrative law judge, at his discretion, may continue the hearing to a later date or reopen it. Where good cause is shown by either party, the administrative law judge shall continue the hearing to a later date or reopen it. A request for such a continuance or reopening shall be made in writing, mailed or delivered to the office where the appeal was filed, or to the administrative law judge whose name and address appear on the notice of hearing, within seven days after the

decision of the administrative law judge was mailed to such party.

C. Where a party shows to the satisfaction of the administrative law judge that he did not receive timely notice of the hearing, the administrative law judge shall grant a rehearing.

D. Notice of the time and place of a postponed, continued, or reopened hearing, or of a rehearing, shall be given to the parties or their representatives.

E. Any request by a party for postponement, continuance, reopening, or rehearing, received after the decision of the administrative law judge was mailed to such party, shall not be treated as an appeal of the decision of the Board of Review. The administrative law judge shall respond to all such requests, and inform the appellant of further appeal rights to the board. A copy of that request and the administrative law judge's response shall be incorporated in the file. If the case is appealed to the Board of Review, they shall render a decision on the merits of the case or remand it to the administrative law judge for either a full hearing and decision or additional information.

F. If the appellant fails to appear at the scheduled time for the hearing, or fails to respond to a scheduled time for the telephone hearing, or within 15 minutes thereafter, the administrative law judge shall proceed with the hearing and render a decision on the basis of the record.

G. The term *party* or *parties* as used in these rules shall mean the claimant or the employer only.

§115. Conduct of Hearing Before Administrative Law Judge

A. The administrative law judge shall preside over the hearing. All testimony shall be given under oath or affirmation. The administrative law judge shall have the right to question and cross-examine all witnesses. Each party to the appeal, or their representatives, shall have the right to question their own witnesses and to cross-examine the opposing parties and witnesses.

B.1. Only testimony pertinent to the issue involved in the appeal shall be admitted by the administrative law judge.

2. Technical rules of evidence need not be complied with so long as all parties are given an opportunity to fully present their case.

C. Hearsay testimony is admissible, but may only be considered by the administrative law judge in making his decision to substantiate or corroborate other direct evidence.

D. Expunged criminal records shall not be deemed admissible evidence.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:486 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§117. Authority to Separate Witnesses (Placing Witnesses under the Rule)

Either party or the administrative law judge may require that a witness may be excluded from the hearing room. Witnesses who are excluded from the hearing shall be instructed not to discuss the case with anyone except the attorney or representative of the party on whose behalf they have been called. This shall not apply to the parties to the appeal or their attorney or representative.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:486 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§119. Additional Testimony

The administrative law judge may take such additional testimony as he deems necessary for a fair determination of the issues upon notice to all parties to the appeal as provided in §111.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:486 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§121. Stipulation of Facts

Parties to an appeal, with consent of the administrative law judge, may jointly stipulate the facts, in advance, in writing, or at the hearing. The administrative law judge may decide the appeal on the basis of the stipulation or, if he deems necessary, he may hold a hearing and take further testimony after giving notice as provided in §111.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:486 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§123. Decision of Administrative Law Judge

The administrative law judge shall render a decision as soon as reasonably possible on all issues involved. This decision will be in writing and will contain a statement of the facts found, the reasons therefor, and the conclusion reached. Copies of the administrative law judge's decision will be mailed to the parties to the proceeding, as defined in §113.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:486 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§125. Appeals to Board

A. Any party aggrieved by the decision of the administrative law judge may, within the time and the manner specified in §109, file an application for appeal to the board.

B. Upon receipt thereof, the board may, on the basis of the evidence previously submitted to the administrative law judge, affirm, modify, or reverse the findings and conclusions of the administrative law judge.

C. If the board deems it necessary to take additional evidence or decides to hear oral argument, a hearing shall be fixed and all parties shall be notified thereof as provided in §111.

D. The board may, at its discretion, remand the case to the administrative law judge for the taking of such addi-

tional evidence as the board may direct. Notice thereof shall be given as provided in §111.

E. Either party may submit written briefs to the board for its consideration at any time before the case is taken under advisement.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:487 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§127. Notification of Appeal

All applications for appeals shall be acknowledged and the opposing party shall be duly notified.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:487 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§129. Decision of the Board

A. The board shall, as soon as possible, announce its decision, including its findings of fact and conclusions in support thereof, or it may adopt the decision of the administrative law judge as its own.

B. The decision shall be in writing and shall be signed by the members of the board who considered the appeal. If the decision is not unanimous, the decision of the majority shall control. Dissenting opinions may be filed setting forth the reason for dissent. Copies of the board's decision will be mailed to the parties as defined in §113.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:487 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§131. Issuance of subpoenas

Requests for subpoenas must be submitted in writing. They shall contain the name and address of the witness and a statement of what is intended to be proven by his or her testimony. Such request must be received by the administrative law judge or board at least 72 hours prior to the time for which the hearing is scheduled. If a request is timely made but service is not perfected or cannot be perfected in time for the appearance of the witness, this shall be grounds for a postponement.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:487 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§133. Representation before the Administrative Law Judge and Board

Any individual may appear for himself, and/or may be represented by counsel or other duly authorized agent, in any proceeding before the administrative law judge or board. Any partnership may be represented by any of its members

or a duly authorized representative. Any corporation or association may be represented by an officer or a duly authorized representative.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:487 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§135. Disqualification of Representative

The administrative law judge or the board may refuse to allow any person to represent others in any proceeding before them whom they find guilty of contumacy or unethical conduct, or who intentionally and repeatedly fails to observe the pertinent provisions of the Louisiana Employment Security Law, LSA-R.S. 23:1471, et seq.

AUTHORITY NOTE: Promulgated in accordance with Act 97 of 1936 as amended.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:487 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§137. Availability of Rules

Copies of these rules shall be made available at all area offices of the Louisiana Office of Employment Security and may be inspected by any interested party. Copies of these rules may be requested from the board by parties having need thereof.

Phyllis Mouton
Secretary

RULE

Department of Employment and Training Office of Employment Security

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Employment Security Law R.S. 23:1471 et seq. and Act 1083 of the 1990 Regular Session, the Department of Employment and Training, Office of Employment Security, is hereby giving notice of intent to repeal all existing rules and to substitute a complete new set of rules to be set forth in LAC 40:IV, Sections 301 to 372 to be effective January 1, 1991. These rules comply with the statutory laws mentioned above which the agency enforces.

Rules for the administration of the Employment Security Law are as follows:

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Chapter 3. Employment Security Law

§301. Authority

By virtue of the authority vested in the Administrator of the Office of Employment Security of the State of Louisiana by the Louisiana Employment Security Law, R.S. 23:1471-1713 (Act 97 of 1936), as amended, and in order to establish

uniform procedure under said law, the following regulations have been and are adopted and prescribed and all other regulations now in effect are hereby rescinded, but remain in full force and effect relative to all matters arising prior to the effective date of the hereinafter prescribed and adopted regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:487 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§303. Effective Date of Regulation or Amendment, No Vested Rights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:488 (June 1989), repealed by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§305. Posting of Cards, Statements and Material Relating to the Louisiana Employment Security Law, R.S. 23:1471-1713 as amended.

All employers shall follow the instructions issued them by the administrator relative to the posting and maintaining in prominent locations in their places of business where they may be read by the public and all workers, such cards, statements and materials relating to unemployment compensation as are prescribed by the administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:488 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§307. Contributions, Interest, Mailing Date of Contributions and Contribution Reports

A. Accrual and Due Date of Contributions

1. Period-October 1, 1940, and Thereafter. On and after October 1, 1940, contributions shall accrue quarterly with respect to wages paid within each calendar quarter for employment occurring on and after July 1, 1940.

2. Contributions due on wages paid during the period beginning July 1, 1940, and ending March 31, 1964, shall become due and shall be paid on or before the twenty-fifth day of the month following the calendar quarter in which such contributions accrue.

3. Contributions due on wages paid on or after April 1, 1964, shall become due and shall be paid on or before the last day of the month following the calendar quarter in which such contributions accrue.

B. Interest

Interest prescribed by law on all over-due contributions shall accrue on or after the day following the due date on any contribution payments up to and including the date of payment.

C. Payment of Contributions by Mail

Payment of contributions received through the mail shall be deemed to have been made and received as of the date shown by the postmark thereon.

D. Accrual and Due Date of Contributions by Employers who become Subject within the Calendar Year

1. With respect to contributions due on wages paid up to and including March 31, 1964, the first contribution payment of an employing unit which becomes an employer under the Louisiana Employment Security Law at any time during the calendar year, shall become due on, and shall be paid on or before the twenty-fifth day of the month following the calendar quarter in which such employing unit becomes an employer.

2. With respect to contributions due on wages paid on and after April 1, 1964, the first contribution payment of an employing unit which becomes an employer under the Louisiana Employment Security Law at any time during the calendar year, shall become due on, and shall be paid on or before the last day of the month following the calendar quarter in which such employing unit becomes an employer.

3. The first contribution payment of an employer becoming liable during a calendar year shall include all contributions with respect to wages paid for employment occurring on and after January 1 of the calendar year up to and including the end of the calendar quarter in which the employing unit becomes an employer. The first contribution payment of an employing unit which (voluntarily) elects with the written approval of the administrator to become an employer shall accrue at the end of the calendar quarter with respect to wages for employment occurring on and after the date on which such election was approved, and shall be due and paid on or before the last day of the calendar month following the calendar quarter during which the conditions of becoming an employer are satisfied.

E. Whereas, due to circumstances beyond the control of the Office of Employment Security of the state of Louisiana it has been impossible to furnish employers with forms for the preparation of contributions and payroll reports for completion and filing with respect to wages paid during the second calendar quarter of 1971 prior to July 20, 1971; and, whereas such delay will not afford employers sufficient time to prepare and file said contribution and payroll reports by July 31, 1971, as prescribed elsewhere in this regulation; notwithstanding any of the other provisions of this regulation, the time for filing contribution and payroll reports with respect to wages paid by employers during the second calendar quarter of 1971 is hereby extended to the twenty-third day of August, 1971. All contribution and payroll reports and remittances due on said reports which are received or post-marked on or before said August 23, 1971, shall be deemed to have been filed timely for all of the purposes of this regulation and for all purposes of the Louisiana Employment Security Law. This Section shall be applicable only with respect to the second calendar quarter of 1971 and no further.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:488 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§309. Reserved

§311. Instructions on Reports

Each employing unit shall comply with instructions pertaining to the contents and due date of any report issued or required by the administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:488 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§313. Records

Each employing unit shall establish records with respect to employment performed for it as hereinafter indicated and shall preserve such records, including those now existing for a period of not less than five years after the calendar year in which the remuneration with respect to such services was paid.

A. For each worker:

1. name;
2. Social Security Number;
3. place in which his services are performed, or if there is no one such place, then his base of operations;
4. date on which he was hired, rehired, or returned to work after temporary lay-off and date separated from work;
5. his remuneration paid for employment occurring on or after July 1, 1940, and period from which payable, showing separately:

- a. cash remuneration, including special payments;
- b. reasonable cash value or remuneration in any medium other than cash, including special payments;
- c. special payments, included in Subparagraphs a and b above (any payments such as bonuses, gifts, etc) and the year in which the services for which the payments were made were rendered;

6. amounts paid him as allowance or reimbursement for traveling or other business expenses, and period for which payable;

7. if he is paid:

- a. on a salary basis, his wage rate, and period covered by such rate;
- b. on fixed hourly basis, his hourly rate and customary scheduled hours per week;
- c. on fixed daily basis, his daily rate and customary scheduled days per week;
- d. on piece rate or other variable pay basis, method by which his wages are computed.

B. General

1. beginning and ending dates of each pay period;
2. total amount of remuneration paid in any pay period for employment occurring on or after July 1, 1940;

C. Records shall be maintained in such form that it would be possible from an inspection thereof to determine:

1. earnings by weeks of partial unemployment as defined in §327.B.
2. whether any week of partial unemployment claimed by an individual is in fact a week of less than full-time work;
3. time lost, due to unavailability for work by each worker who may be eligible for partial benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:489 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§315. Reserved

§317. Reserved

§319. Identification of Workers

A. Each worker engaged in employment for an employer shall procure a Federal Social Security account number and report it to every employer by whom he is employed.

B. Each employer shall ascertain the Federal Social Security account number of each worker employed by him in employment subject to the Louisiana Employment Security Law. Each employer shall report the Federal Social Security account number card in any report required by the administrator with respect to a worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:489 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§321. Reserved

§323. Separation Notices

A. Individual Separation Notices

1. Under Conditions which may Disqualify

Whenever a worker is separated from his employment permanently or for an indefinite period or for an expected duration of seven or more days, under conditions which may disqualify him for benefits pursuant to the provision of R.S. 23:1601, his employer shall within 72 hours after such separation give him, or if such delivery is impossible or impracticable, mail to his last known address a "Separation Notice Alleging Disqualification," Form LDET-ES 77, on which the employer has entered the required information. Within the same period of time, the employer shall send a copy of such separation notice, certified to by himself or his duly authorized agent, to the administrator.

2. Upon request of Administrator

Upon request of the administrator for separation information covering any worker separated by an employing unit from its employ, such employing unit shall within 10 days following the mailing of such request, completely fill out such notice and return it to the address specified thereon.

B. Mass separation notices

In the event of a separation of 50 or more individuals by an employer for the same reason and about the same time, the employer shall notify the administrator of such separation. Upon receipt of such notice, the administrator shall make full investigation.

C. Labor dispute notices

1. In case of a separation due to a labor dispute, the employer shall within 48 hours after such separation file with the local employment office nearest his place of business a notice setting forth the existence of such dispute and the approximate number of workers affected.

2. Upon request by the administrator, such employer shall furnish the names and Social Security account numbers of workers ordinarily attached to the department or the establishment where unemployment is alleged to be caused by a labor dispute.

D. It is not the intent of this regulation to deprive any party of the right to protest or to appeal which is statutorily granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department

of Labor, Office of Employment Security, LR 15:489 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§325. Definitions of Week

The term *week* means a calendar week. The term *calendar week* means the seven consecutive days commencing at 12:01 a.m. on Sunday and ending at midnight on Saturday.

A. Week of Total or Part-total Unemployment

1. A week of total or part-total unemployment means the seven-consecutive-day period commencing with the first day of the calendar week in which occurs the day, subsequent to his separating from work, on which an individual registers and files a claim in person at an office of the Louisiana Office of Employment Security, except as otherwise provided in Paragraphs 2, 3, 4 and 5 of this Section.

2. Except as provided in Paragraphs 4 and 5 of this Section, a week of total or part-total unemployment of an individual located in an area served only by the itinerant service of the Louisiana Office of Employment Security shall consist of the calendar week in which the individual became unemployed, provided that such individual registers and files a claim in person with such itinerant service the first day such service is available following the commencement of his total or part-total unemployment; and thereafter each calendar week immediately following such week; provided the individual claims benefits each week in accordance with regulations.

3. Except as provided in Paragraphs 4 and 5 of this Section, a week of total or part-total unemployment of an individual located in an area not served by a local office or by the itinerant service of the Louisiana Office of Employment Security shall consist of the calendar week in which the individual becomes unemployed, provided that such individual registers and files a claim for benefits by mail in accordance with regulations within seven days after the commencement of such unemployment, and thereafter each calendar week immediately following such week, provided the individual claims benefits for each such week in accordance with regulations.

4. A week of total or part-total unemployment for an individual who fails for good cause to register and file a claim for benefits as specified in Paragraphs 1, 2 and 3 of this Section, shall consist of the calendar week in which the individual becomes unemployed, provided that such individual registers with the Louisiana Office of Employment Security within a period of seven days after such first day of total or part-total unemployment, or on the next day thereafter on which the itinerant service is available, or by mail within 14 days after the commencement of such unemployment; and thereafter each calendar week immediately following such week, provided the individual claims benefits for each such week in accordance with regulations.

5. A week of total or part-total unemployment of any individual affected by a mass separation or labor dispute shall consist of the calendar week in which the individual becomes unemployed, provided that notice thereof is filed by the individual in person within 14 days next following such first day of unemployment; and thereafter each calendar week immediately following such week, provided the individual claims benefits for any such week in accordance with regulations.

B. Week of Partial Unemployment

1. With respect to a partially unemployed individual whose wages are paid on a weekly basis, a week of partial unemployment shall consist of a calendar week, provided that the administrator may, upon his own initiative or upon application, prescribe as to any individual or group of individuals such other seven-consecutive-day period as he may find appropriate under the circumstances.

2. For the purpose of this regulation, an individual shall be deemed to be partially unemployed during not more than four consecutive weeks of total unemployment if such weeks immediately follow a week of partial unemployment and if in such weeks there is a reasonable expectation of his return to employment with such employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:489 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§327. Types of Unemployment

A. Total Unemployment

A totally unemployed individual is one who, during any week performs no services and in which no wages are payable to him.

B. Partial Unemployment

1. A partially unemployed individual is one who during a particular week, earned less than his weekly benefit amount, was employed by a regular employer, and worked less than his normal customary full-time hours for such regular employer because of lack of full-time work.

2. A regular employer is an employer by whom the individual is employed on a regular basis with a reasonable expectation of continuance in that employment and from whom the individual derives the predominant or substantial part of his earnings.

C. Part-Total Unemployment

A part-total unemployed individual is one who, during any week, earned less than his weekly benefit amount and worked less than his full-time hours under any circumstances other than those prescribed under Subsection B above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:490 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§329. Registration for Work and Claims for Benefits for Total and Part-Total Unemployment

A. Claims for benefits for total or part-total unemployment shall be made on forms prescribed by the administrator for that purpose. In order to claim benefits or waiting period credits for unemployment, an individual shall (1) file a claim for benefits and (2) register for work at the office of employment security.

B. The continued claim for benefits for total or part-total unemployment shall be made on forms prescribed by the administrator. Except as otherwise provided in this Section and §333, to establish eligibility for benefits or waiting credits for weeks of total or part-total unemployment during any continuous period of unemployment, the claimant shall

continue to report in person or by mail, weekly or biweekly, or at more frequent intervals, if directed by the administrator or his representative, to the Office of Employment Security office where he registered for work and filed his claim, provided the reporting at more frequent intervals places no unreasonable burden on him or does not unreasonably limit his opportunity to establish his rights to benefits. The claimant may for good cause when unable to report to such office file his continued claim at any other Office of Employment Security office. For reasons found to be cause for any individual's failure to appear at the time specified for reporting at an Office of Employment Security office, a continued claim may be accepted from such individual, effective as of the first day of his week of total or part-total unemployment, if such continued claim is filed within seven days following the date specified for his reporting. If the failure of an individual to file such a claim at the time specified is found to be without good cause or if the continued claim is not filed within the above mentioned seven days, the continued claim will be disallowed.

C. An individual who returns to employment under conditions which no longer render him eligible for benefits or waiting period credits may claim benefits in person or by mail for the week or portion of a week immediately preceding his employment, provided the week or portion of a week follows without interruption an initial claim or a week for which benefits or waiting period credits were claimed.

D. The administrator may waive or alter either or both of the requirements of this Section to an individual who:

1. is a paid up union member of a recognized craft union;
2. is partially employed and files a claim for part-total benefits;
3. files a claim for shared-work benefits under a shared-work plan, or
4. is on temporary layoff from his regular work with a definite date of return and holds himself available for reemployment at his last place of work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:490 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§331. Registration for Work and Claims for Benefits for Partial Unemployment

A. Employer Responsibility in the Initiation of a First Claim for Partial Benefits in a Benefit Year.

1. Immediately after the termination of any calendar week in which a worker earned less than 60 percent of his customary full-time weekly wage due to lack of work, his employer shall give such worker a low earnings report form, "Application for Partial Benefits," setting forth therein the information required of the employer. If such worker completes and returns the low earnings report form to his employer, such employer shall promptly mail or otherwise transmit such form to the local office of the Department of Employment and Training, Office of Employment Security through which the employer has a partial claims agreement.

2. Upon receipt of the low earning report form, the Department of Employment and Training, Office of Employment Security shall promptly notify such worker named

therein of his potential rights to partial benefits and shall notify his employer of such worker's weekly benefit amount and benefit year ending date. Upon receipt thereof, such employer shall record such weekly benefit amount and benefit year ending date upon his payroll records.

B. Employer to Furnish Evidence of Subsequent Weeks of Partial Unemployment

After an employer has been notified of the weekly benefit amount and current benefit year ending date of any worker in his employ, such employer, until otherwise notified, shall immediately after the termination of each calendar week which begins within such benefit year and for which such worker's earnings fall below such weekly benefit amount because of lack of work in such week, furnish each such worker with a copy of the low earnings report form, "Application for Partial Benefits," setting forth the information required therein, including the worker's name and Social Security account number, the ending date of such week, the wages earned therein, and a proper certification as to his having worked less than his normal customary full-time hours because of lack of work in such week. If such worker completes and returns such form to his employer, such employer shall promptly mail or otherwise transmit such form to the local office of the Department of Employment and Training, Office of Employment Security through which the employer has a partial claims agreement.

C. Registration and Filing of Claims for Partial Unemployment

A claim for benefits for any individual on the low earnings report form, "Application For Partial Benefits," or other form designated by the Department of Employment and Training, mailed by him or his employer in his behalf, or delivered to a local office of the Department of Employment and Training, Office of Employment Security shall constitute such individual's notice of unemployment, registration for work, and claim for benefits or waiting period credit, with respect to each such week of partial unemployment covered by the claim provided that such form is executed by such individual and received by the local office of the Department of Employment and Training, Office of Employment Security through which the employer has a partial claims agreement within seven days following the week to which the form pertains.

D. Extended Period for Registration and Filing of Claims for Good Cause

Notwithstanding the provisions of Subsection C of this regulation, if the administrator finds that the failure of any individual to register and file a claim for partial unemployment benefits within the time set forth in Subsection C was due to failure on the part of the employer to comply with any of the provisions of Subsections A, B and C of this regulation, or to coercion or intimidation exercised by the employer to prevent the prompt filing of such claim, or to failure by the Department of Employment and Training, Office of Employment Security to discharge its responsibilities promptly in connection with such partial unemployment, the administrator shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of his potential rights to benefits and his earnings during the period of such partial unemployment, provided that the period during which such claim may be filed shall not be extended beyond the 13-week period subsequent to the end of the actual or potential benefit year during which such week of partial unemployment occurred.

E. Employer Records in Connection with Partial Unemployment

In addition to the requirements set forth in §313, each employer shall keep his payroll records in such form that it would be possible for an inspection to determine with respect to each worker in his employ who may be eligible for partial benefits:

1. wages earned, by weeks, described in §327.B.
2. whether any week was in fact a week of less than full-time work;
3. time lost, if any, for each such worker, due to his unavailability for work;
4. This regulation applies only to employers with a Partial Employer Agreement with one or more of the Louisiana Employment Security Area Offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:491 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§333. Registration for Work and Claims for Benefits for Individuals Located in Isolated Areas, Areas Served on Itinerant Basis, and other Areas

A. Itinerant Service

1. In order to claim benefits or waiting period credits for unemployment, an individual located in an area served only by itinerant service of the Office of Employment Security shall report in person to such itinerant service office at the first available opportunity therefor, and shall:

- a. register for work and
- b. file a claim for benefits with such service.

2. In order to establish eligibility for benefits or for waiting period credits for weeks of total or part-total unemployment, during a continuous period of unemployment the claimant shall continue to report on the dates specified for reporting to such itinerant point and file continued claims for benefits.

B. Mailed Claims

Claims for benefits for total or part-total unemployment may be filed by mail or forms prescribed by the administrator when the administrator finds such filing to be in the interest of practicability and not inconsistent with the purposes of the Louisiana Employment Security Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:491 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§335. Witness Fees in Appeal Hearing

A witness attending an appeal hearing in obedience to §1631 shall be reimbursed his necessary traveling expenses in conformity with agency travel regulations. The regulation shall not be construed as allowing witness fees or mileage to any party interested in the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:492 (June 1989), repealed and repromulgated by the Department of

Employment and Training, Office of Employment Security, LR 17: (January 1991).

§337. Payment of Benefits and Change of Address

Benefit payments shall be made by check and delivered to the claimant or mailed to the individual's last known address after determination of the individual's eligibility for payment. Each claimant, upon changing his address, shall immediately notify the Office of Employment Security of such change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:492 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§339. Interstate Claims

Interstate claims will be administered under arrangements entered into by the administrator with the appropriate agencies of other states or of the United States in accordance with R.S. 23:1666 of the Louisiana Employment Security Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:492 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§341. Regulations for Interstate Charging

A. Louisiana employers shall be charged or non-charged in cases where Louisiana transfers wages earned with Louisiana employers to another state in order that that state pay U.I. benefits.

B. The Louisiana employer will be notified of their potential liability and be given 10 days to protest chargeability. Louisiana will determine if the employer should or should not be charged in accordance with §1553 of the Louisiana Employment Security Law based on information supplied by both claimant and employer. Louisiana will not determine claimant eligibility as this is done by the paying state under their U.I. Law. If either claimant or employer disagree with the determination, appeal rights will be given in accordance with Employment Security Law.

C. If the employer fails to respond within the first 10 days or fails to follow through timely with any subsequent appeal, the last decision of the agency will stand, and the employer will have lost all subsequent appeal rights.

D. If it is determined that the employer is to be "non-charged," the benefits paid to claimant will be recouped in accordance with §1553 of the Louisiana Employment Security Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:492 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§343. Employer Elections to Cover Multi-State Workers

A. The following regulations, adopted under R.S. 23:1665 of the Louisiana Employment Security Law, shall govern the Louisiana Office of Employment Security in its

administrative cooperation with other states subscribing to the Interstate Reciprocal Coverage Arrangement, herein referred to as "the arrangement."

B. Definitions: As used in this regulation, unless the context clearly indicates otherwise:

1. *Jurisdiction* means any state of the United States, the District of Columbia, Canada, or with respect to the federal government, the coverage of any federal unemployment compensation law.

2. *Participating jurisdiction* means a jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence thereto has not terminated.

3. *Agency* means any officer, board, commission or other authority charged with the administration of the unemployment compensation law of the participating jurisdiction.

4. *Interested jurisdiction* means any participating jurisdiction to which an election submitted under this regulation is sent for its approval; and *interested agency* means the agency of such jurisdiction.

5. *Service customarily performed by an individual in more than one jurisdiction* means services performed in more than one jurisdiction during a reasonable period, if the nature of the services gives reasonable assurance that they will continue to be performed in more than one jurisdiction or if such services are required or expected to be performed in more than one jurisdiction under the election.

C. Submission and Approval of Coverage Elections Under the Interstate Reciprocal Coverage Arrangement

1. a. Any employing unit may file an election, on Form RC-1, to cover under the law of a single participating jurisdiction all of the services performed for him by any individual who customarily works for him in more than one participating jurisdiction.

b. Such an election may be filed, with respect to an individual, with any participating jurisdiction in which

i. any part of the individual's services are performed;

ii. the individual has his residence or

iii. the employing unit maintains a place of business to which individual's services bear a reasonable election.

2. a. The agency of the elected jurisdiction (thus selected and determined) shall initially approve or disapprove the election.

b. If such agency approves the election, it shall forward a copy thereof to the agency of each participating jurisdiction specified thereon, under whose unemployment compensation law the individual or individuals in question might, in the absence of such election, be covered. Each such interested agency shall approve or disapprove the election as promptly as practicable; and shall notify the agency of the elected jurisdiction accordingly.

c. In case its law so requires, any such interested agency may, before taking such action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of, and have acquiesced in, the election.

3. If the agency of the elected jurisdiction, or the agency of any interested jurisdiction, disapproves the election, the disapproving agency shall notify the elected jurisdiction and the elected employing unit of its action and of its reasons therefor.

4. a. Such an election shall take effect as to the elected jurisdiction only if approved by its agency and by one or more interested agencies.

b. An election thus approved shall take effect, as to the interested agency, only if it is approved by such agency.

5. In case any such election is approved only in part, or is disapproved by some of such agencies, the electing employing unit may withdraw its election within 10 days after being notified of such action.

D. Effective Period of Elections

1. Commencement

a. An election duly approved under this regulation shall become effective at the beginning of the calendar quarter in which the election was submitted, unless the election, as approved, specifies the beginning of a different calendar quarter.

b. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, such earlier date may be approved solely as to those interested jurisdictions in which the employer has no liability to pay contributions for the earlier period in question.

2. Termination

a. The application of an election to any individual under this regulation shall terminate, if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed, so that they are no longer customarily performed in more than one participating jurisdiction. Such termination shall be effective as of the close of the calendar quarter in which notice of such finding is mailed to all parties affected.

b. Except as provided in Subparagraph a, each election approved hereunder shall remain in effect through the close of the calendar year in which it is submitted, and thereafter until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.

c. Whenever an election under this regulation ceases to apply to any individual under Subparagraph a or b, the electing unit shall notify the affected individual accordingly.

E. Reports and Notices by the Electing Unit

1. The electing unit shall promptly notify each individual affected by its approved election, on the form RC-2 supplied by the elected jurisdiction, and shall furnish the elected agency a copy of such notice.

2. Whenever an individual covered by an election under this regulation is separated from his employment, the electing unit shall again notify him, forthwith, as to the jurisdiction under whose unemployment compensation law his services have been covered. If at the time of termination the individual is not located in the election jurisdiction, the electing unit shall notify him as to the procedure for filing interstate benefit claims.

3. The electing unit shall immediately report to the elected jurisdiction any change which occurs in the conditions of employment pertinent to its election, such as cases where an individual's services for the employer cease to be customarily performed in more than one participating jurisdiction or where a change in the work assigned to an individual requires him to perform services in a new participating jurisdiction.

F. Approval of Reciprocal Coverage Elections

The Louisiana Office of Employment Security hereby delegates to its administrator authority to approve or disapprove reciprocal coverage election in accordance with this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:492 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§345. Recognition of Heirs of Deceased Benefit Claimants

The heirs of a deceased benefit claimant may make application by submitting a formal affidavit of heirship, to have paid to them all moneys due the deceased at the time of his death. Affidavits must be submitted by all heirs of full age and majority, or if there be minor heirs, the affidavit must be submitted by their authorized representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:493 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§347. Transfer of Experience-Rating Record to Successor Where Segregable and Identifiable Part or Portion of the Business is Acquired

The transfer of experience-rating records to employers who acquired a segregable and identifiable portion of a predecessor's business within the meaning of R.S. 23:1539 shall be affected on the following basis:

A. Where the business or unit acquired can be completely segregated and identified during the entire period of its existence, the total payroll and experience-rating record attributable thereto shall be transferred to the successor. In this event the only payroll and experience rating records subject to transfer to the successor are those which are actually segregated and identified.

B. 1. If the business or unit acquired cannot be segregated and identified during the entire period of its existence, the predecessor and/or the partial successor will provide to the administrator the percentage of the operation that was transferred to the partial successor. The percentage must be agreed upon by both the predecessor and the partial successor. This percentage may be determined by dividing the taxable payroll attributed to the portion acquired for three complete fiscal years prior to the acquisition or the number of years the predecessor was in operation prior to acquisition up to three years, by the total payroll attributed to the predecessor operation for the same period of time.

2. The percentage will be applied to the predecessor's total taxable payroll and reserve to determine the taxable payroll and reserve that will be transferred to the partial successor.

3. The names and Social Security Numbers of the individuals transferred to the successor, including any employees terminated at the time of the acquisition, must be provided to the administrator and agreed upon by both the predecessor and partial successor.

4. If any of the above agreements are not received in writing within 90 days from the date of the partial acquisition, the requirements for partial transfer of payroll records to the partial successor have not been met, and none will be transferred.

C. Determining the tax rates for partial successors

when the information is received on a timely basis, within 90 days from the date of acquisition.

If the successor was not an employer at the time of acquisition, his rate for the balance of the then current contribution year shall be the same as that assigned to his predecessor for said year. If the successor was an employer prior to the date of acquisition, his rate of contribution for the period from such date to the end of the then current contribution year shall be the same as his rate with respect to the period immediately preceding the date of acquisition.

D. Determining the tax rates for partial successors when the information has not been provided on a timely basis within 90 days from date of acquisition.

1. If the partial successor was not a subject employer at the time of acquisition, his rate for the balance of the then current contribution year shall be the new employer rate or the predecessor rate, whichever is higher.

2. If the partial successor was an employer prior to date of acquisition, his rate of contribution for the period from such date to the end of the then current contribution year shall be the same as his rate with respect to the period immediately preceding the date of acquisition.

E. If an employer has more than one partial succession in a calendar year, the aforementioned procedure will be applied in each case.

F. Partial successors who have not been assigned a tax rate prior to acquisition will be assigned the new employer tax rate or the predecessor's tax rate, whichever is higher, during the 90-day period subsequent to the partial acquisition. Once the proper tax rate is determined, however, it will be applied retroactively.

G. The agency may perform an audit to determine the percentage of taxable payroll and reserve that will be transferred to the partial successor if the administrator finds it necessary to do so.

H. In determining whether or not the unit, or portion of the business acquired by the successor, is segregable and identifiable, each case should be separately considered and analyzed. If the payroll and experience-rating records of the unit, or portion of the business acquired, can be broken down and segregated to permit the proper crediting of wages, contribution of payments and the charging of benefits, as provided in this regulation, the requirements of the law shall be considered as having been fully met. The employer will be required to furnish such additional analysis of his payroll records as may be required in order that proper segregation may be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:493 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§349. Contribution and Wage Reports Covering Seamen and Seamen's Wages Paid Under Shipping Articles

A. Pay Period

For the purpose of this regulation the term "pay period" established by "Shipping Articles" means the period of the voyage or engagement of the crew under "Articles of Agreement" pursuant to Title 46 of the United States Code.

B. Current Reports

Notwithstanding any other provision of other regula-

tions, contribution reports and wage reports with respect to wages earned in any pay period established by Shipping Articles shall be submitted as follows:

1. The total amount of such wages shall be included in the wage report and contribution report for the calendar quarter in which such period terminates together with all other wages paid during such quarter.

2. If the pay period established under Shipping Articles includes more than one calendar quarter, the beginning dates of such pay period shall be shown opposite the amount of wages reported.

3. For the purpose of obtaining eligibility for and the amount of benefits, the wages so reported shall be prorated among the calendar quarters in which the wages were earned according to the length of employment in each of such quarters.

C. Special Reports

The employer shall, upon request of the administrator, promptly furnish a statement of the wages of a seaman, whenever such statement is necessary in order to determine such seaman's eligibility for and rate of benefits. If such a statement includes wages which have not previously been included in a wage report and have been earned in a pay period extending over more than one calendar quarter, such wages shall be reported and prorated as set forth in Paragraphs 2 and 3 of Subsection B of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:494 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§351. Benefit Determination Notice

Each notice of benefit determination which the administrator is required to furnish the claimant shall, in addition to stating the decision and its reason, include a notice specifying the claimant's appeal rights. The notice of appeal rights shall state clearly the place and manner for taking an appeal from the determination and the period within which an appeal may be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:494 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§353. Disclosure of Information

A. No disclosure of information obtained at any time from workers, employers, or other persons or groups in the course of administering the Louisiana Employment Security Law shall be made directly or indirectly, except as authorized by this regulation.

B. Disclosure of any such information is authorized in the following cases for the following purposes:

1. to any properly identified claimant for benefits or payments under a state, territorial, or federal law, or to his duly authorized representative, information which directly concerns the claimant and which is reasonably necessary for the proper presentation of his claim;

2. to an employer or his duly authorized representative to the extent necessary to enable him to discharge his obli-

gation and safeguard his rights under the law;

3. to the Federal Internal Revenue Service to the extent necessary for the administration of the Federal Unemployment Tax Act;

4. to agencies administering public works and public assistance through public employment;

5. to any agency of the state government or of the federal government lawfully charged with the administration of a law providing for old-age assistance, or other public assistance, work relief, pension, retirement, or other benefit payments, but only for purposes reasonably necessary for the proper administration of such law;

6. to state and federal agencies administering laws, whether or not directly related to the employment security program, provided that the information so related is held confidential by the state or federal agency to which it is supplied, its release does not interfere with or delay administration, and the state agency is reimbursed at the discretion of the administrator, for the cost of supplying such information;

7. to applicants, employers, and the public, general information concerning employment opportunities, employment levels and trends, and labor supply and demand, provided such release or publication does not include information identifying individual applicants, employers, or employing establishments;

8. to all governmental authorities whose functions will aid the employment service in carrying out an amplified and more effective placement service.

C. Duly authorized representative as used in this regulation is defined as a representative authorized as such in writing by the party or parties concerned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:494 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§355. Services to Claimants

Claims personnel will give each claimant such assistance as is appropriate and practicable in finding suitable work and at their discretion determine when more complete placement and employment services by employment service personnel are necessary and appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:495 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§357. Terms and Conditions Not Applicable to Claims for or Payment of Extended Compensation

A. Section 1600(4) of the Louisiana Employment Security Law, pertaining to a waiting period of one week, is not applicable to claims for extended compensation.

B. All disqualifications for regular benefits apply to extended benefits in the same manner and to the same extent as to regular claims.

C. The forwarding of an Extended Compensation claim notice to a former employer of an individual does not serve to reopen a previously resolved issue or open to adjudication any issue concerning which an employer failed to

furnish information within the time provided by §323.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:495 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§359. Approved Training Definition

Approved training is training to which an individual has been referred by the administrator of the Department of Employment and Training or his duly authorized representative. Referral to training will be made to vocational training, basic education or other short term vocationally directed academic courses designed to develop a particular skill. Approval of training in such types of courses may also be given, upon application, if the individual has been accepted as a student at a school or course approved by the Louisiana Department of Education, which is designed to make the individual employable or more employable in an occupation that is in demand and there is reasonable expectation that the individual will be employed upon completion, except no approval will be given to any training course taken primarily for credit toward the degree requirements of Baccalaureate or Advanced degree, and no approval will be given to a training course which will take longer than 104 weeks to complete. No training will be approved for an individual unless it is found that the demands for his present skills are minimal and not likely to improve under present circumstances. The individual in training will be required to furnish reports from the training facility concerning his attendance. Unsatisfactory attendance attested to by the training facility shall constitute grounds for terminating application of the provisions of R.S. 23:1602(1) to the individual unless good cause is shown for the unsatisfactory attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:495 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§361. Types of Employment

For purposes of R.S. 23:1601(1):

A. *Regular Employment* is employment of an individual on a regular basis with a reasonable expectation of continuance in that employment.

B. *Full-Time Employment* is employment which requires the individual's presence for the major portion of the normal work-day, week, or month. Full-time employment is that employment which normally provides an individual with the major portion of his earnings.

C. *Interim Employment* is employment performed by individuals who are on temporary lay-off or are otherwise separated from their full-time regular employment and expect to return to their full-time regular employment within a reasonable time.

D. *Part-Time Employment* is employment which requires an individual's presence less than the normal work-day, week, or month and is normally used to supplement income from full-time work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:495 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§363. Proof of unemployment by a Principal Officer or Controlling Stockholder, or relative thereof, of a Corporation, Partnership or Proprietorship

A. For the purpose of R.S. 23:1472(19) an individual who was the principal officer or controlling stockholder of a corporation, partnership or proprietorship or related to him in any degree as set forth in Paragraph (a) thereof, shall be deemed to be "unemployed" if:

1. the corporation, partnership or proprietorship does not appear as an employer in the individual's base period and,

2. he otherwise meets the definition of "unemployed."

B. If the corporation, partnership or proprietorship does not appear in the individual's base period as an employer, he shall be deemed to be unemployed if:

1. the employing unit is no longer in business or acts beyond the control of the controlling stockholder or principal officer occurred to such an extent to fully justify the individual's inability to perform services judged on the same basis as any employer under similar conditions and,

2. the individual otherwise meets the definition of "unemployed."

C. *Principal officer* means the president, vice president, secretary or treasurer so designated by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:495 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§365. Liability Determination Appeal Rights

A. An employer shall have 90 days from the mailing date of the Liability Determination (original or corrected) to appeal the agency's determination of his employer status.

B. Examples of liability determination include, but are not limited to: new employer, succession, partial succession, business buying business, liability date correction, reinstated accounts, subsidiary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:495 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§367. Assignment of Rates for Corporate Groups

A. If the administrator grants an employer the right to be recognized as a corporate group, the rate will be assigned as follows:

B. A new number will be assigned to the parent corporation. The rate for the then current year will be based on the combined experience rating records of all employers that form the corporate group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department

of Labor, Office of Employment Security, LR 15:496 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§369. Waiver of Overpayment Recovery

A. A waiver of the overpayment may be granted only if:

1. the claimant was without fault in causing the overpayment, and
2. repayment would be against equity and good conscience.

B. To determine if fault existed on the part of the claimant, it must be established whether the claimant:

1. gave inaccurate information; or
2. failed to disclose a material fact; or
3. knew or should have known that he/she is not entitled to the benefits, or

4. caused the overpayment by an act of omission of information known to the claimant; or

5. had a determination of ineligibility due to fraud.

An affirmative finding on any one of the above precludes waiver of the overpayment.

C. Regardless of fault for the overpayment, the following factors must also be considered to determine if repayment would be contrary to equity and good conscience.

1. whether recovery of the overpayment would cause extraordinary financial hardship to the claimant for at least three months.

a. Extraordinary financial hardship shall be considered inability to obtain minimal necessities of living.

b. All cash resources and income of the claimant, as well as of the family of the claimant, shall be considered.

c. Whether the overpayment was the result of a decision on appeal.

d. Whether claimant was given notice that a reversal on appeal would result in overpayment.

D. Determinations granting or denying waivers of overpayment shall be made only on a signed request from the claimant for a waiver determination. Upon filing by claimant of request for waiver, a written questionnaire shall be provided to claimant for answer to be returned to the administrator within 15 days of the date of such questionnaire.

E. All notices of determination of overpayment shall include information regarding rights of appeal and waiver provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§371. Overpayment Recovery

The amount of overpayment is immediately due and payable on demand upon exhaustion and/or expiration of appeal rights against (a) assessment of overpayment and/or (b) denial of waiver of repayment.

A. If the individual is unable to immediately repay the overpayment in full upon demand, a repayment agreement in writing will be negotiated in compliance with the Repayment Table for Overpayment listed below.

REPAYMENT TABLES FOR OVERPAYMENT

Total overpayment Amount is:		Number of Months To Repay	Minimum Acceptable Payment Per Month
At Least	But Less Than		
\$ 001	\$ 250	In Full or 90 Days	\$ 80
\$ 251	\$ 500	12 Months	\$ 45
\$ 501	\$1000	12 Months	\$ 85
\$1001	\$1500	24 Months	\$ 65
\$1501	\$2000	24 Months	\$ 85
\$2001	\$2500	24 Months	\$105
\$2501	\$3000	24 Months	\$125
\$3001	\$3500	36 Months	\$100
\$3501	\$4000	36 Months	\$115
\$4001	\$4500	36 Months	\$125
\$4501	\$5000	36 Months	\$140
\$5001	\$5500	48 Months	\$115
#5501	\$6000	48 Months	\$125
\$6001	\$6500	48 Months	\$135
\$6501	\$7000	48 Months	\$145
\$7001	\$7500	60 Months	\$125
\$7501	\$8000	60 Months	\$135
\$8001	\$8500	60 Months	\$145
\$8501	\$9000	60 Months	\$150

B. Initial payment must be received within 45 days of the date upon which the repayment agreement is signed. Subsequent payments are due to be paid in monthly increments which must be received no later than 30 days thereafter.

C. An adjustment of the repayment schedule may be granted at the written request of the claimant only if there has been a material change in his or her financial condition.

D. Requests to adjust the repayment schedule will only be granted if in compliance with criteria set forth in §369, Part A.2, Waiver of Overpayment Recovery.

E. No administrative appeal is provided from adjustment or refusal to adjust repayment schedule.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

§373. Medical services Performed by Physician or Professional Corporation

For the purpose of exclusion of medical services rendered by a physician or professional corporation on behalf of a hospital or other medical facility or institution under LSA-R.S. 23:1472(12)(H)(XIX):

Written certification from the Internal Revenue Service of exemption as an independent contractor or a non-profit organization shall be submitted to the administrator by such physician or professional corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Employment Security, LR 17: (January 1991).

Phyllis Coleman Mouton
Secretary

RULE

Department of Employment and Training State Plumbing Board

In accordance with applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and the State Plumbing Law, 37:1361 et seq., the State Plumbing Board has adopted and is restating its rules and regulations.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LV. Plumbers

Chapter 1. Introductory Information

§101. Definitions

A. *Master plumber*: A master plumber is a natural person who possesses the necessary qualifications and knowledge to plan and lay out plumbing systems; who supervises journeyman plumbers in the installation, alteration, and/or repair of plumbing systems; and who is licensed as such by the board.

B. *Journeyman plumber*: A journeyman plumber is a natural person who possesses the necessary qualifications and knowledge to install, alter, and/or repair plumbing systems; is licensed as such by the board; is supervised by a master plumber; and is in the employ of an employing entity.

C. *Apprentice plumber*: An apprentice plumber is a natural person engaged in learning the plumbing trade by working under the direct on-the-job supervision of a journeyman plumber and in the employ of an employing entity. Apprentice plumbers shall be indentured in an apprenticeship program approved by the Louisiana Department of Employment and Training.

D. 1. *Plumbing* is the work or business of installing in buildings and on premises the pipes, fixtures, and other apparatus for supplying water, or removing liquid waste and/or water-borne waste, and fixtures, vessels and process piping that is in direct contact with products for human consumption. The term is also used to designate the installed fixtures, drainage fixtures and water distribution systems of buildings or premises. For purposes of this Part the definition of plumbing given above will not include:

- a. water used in manufacturing establishments for processing products that are not for human consumption;
- b. drilling of water wells;
- c. community water supply distribution system or systems;
- d. community sewage collection or treating system or systems;
- e. fixtures, vessels or piping used by manufacturing establishments for removal of any waste other than human, vegetable or animal waste;
- f. all piping used for heating or cooling where it is not directly connected with a potable water system;
- g. all piping used for conveying oil, gas, or other hydrocarbons;
- h. work done by an individual on his own personal residence;
- i. work done by an owner, management company, its agents, employees, or assigns for maintenance work to be carried out upon the owner's property, as such maintenance work is defined by rules of the State Plumbing Board. Such maintenance work shall specifically not include construction or installation.

2. Provided, however, anything herein to the contrary notwithstanding, the term plumbing shall not include pipes, fixtures, and other apparatus of any nature whatsoever used in manufacturing plants, or used in the exploration for, production of, or transportation of oil, gas or other minerals, whether before, during, or after installation.

3. Provided, further, that anything herein to the contrary notwithstanding, the term "plumbing" shall not include the work or business of installing, repairing or maintaining individual sewage systems approved by the Office of Public Health of the Department of Health and Hospitals (DHH) by persons licensed to perform such work or business by DHH. For purposes of this Subsection, the individual sewage system shall include the individual mechanical plant, septic tank system, or other DHH-approved individual sewage treatment device up to the inlet connection of the primary treatment device, but shall not include the building sewer or building plumbing.

E. *Repair*, as that term is used in R.S. 37:1367(A), shall mean and be limited to the performance of repairs to existing plumbing, the clearing of stoppages, or repairing leaks. Such repair work shall be performed only by a journeyman plumber as defined in §101 (B) of these rules.

F. *Maintenance work*, as that term is used in R.S. 37:1377(D)(9) and §101 D.i of these rules shall mean and be limited to the changing of the working parts of faucets or valves of plumbing fixtures equipped with exposed fixture supply stops; the repair or replacement of fixture trim; or the clearing of stoppages but only through cleanout fittings approved by applicable health codes adopted by the Louisiana Department of Health and Hospitals or through vent terminal openings. Such maintenance work shall specifically not include construction, installation, or "repairs" as defined in §101 (E).

G. *Employing entity*, as that term is used in R.S. 37:1367(B) and (C) and in these regulations, shall mean a corporation, partnership or sole proprietorship that holds itself out as engaging in the business or art of plumbing as defined in §101 (D) and who employs at least one master plumber on a regular paid basis for actual services performed by that master plumber or master plumbers supervising journeyman plumbers.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

Chapter 3. Licenses

§301. Licenses Required

A. No natural person shall engage in doing the work of a journeyman plumber unless he possesses a license or renewal thereof issued by the board. A journeyman plumber may engage in the art of plumbing only when he is under the supervision of a master plumber licensed by this board. Notwithstanding any other provision to the contrary, a journeyman plumber may repair existing plumbing independently and without the supervision of a master plumber.

B. Apprentices may engage in the art of plumbing only when they are under the direct, constant on-the-job supervision of a licensed journeyman plumber. Direct, constant on-the-job supervision means that a licensed journeyman plumber will supervise no more than one apprentice on only one job at a time.

C. The board shall issue a license to any person who qualifies under the board's regulations and who desires to engage in doing the work of a journeyman plumber if he passes a written and manual journeyman plumber's examination given by the board and pays the fees established by the board.

D. No natural person shall engage in the work of a master plumber unless he possesses a master plumber's license or renewal thereof issued by the board. The board shall issue a master plumber license to any person who qualifies under the board's regulations and who desires to engage in doing the work of a master plumber if he passes a written examination given by the board and pays the fees established by the board. A written examination shall not be required for persons applying pursuant to §301 (I) and §303 (C). A master plumber shall not engage in the work of a journeyman plumber unless he also possesses a journeyman plumber's license issued by the board. A person issued a master plumber's license shall designate to the board, as required by the rules of the board, an employing entity, which may be a corporation, partnership, or sole proprietorship. A licensed master plumber shall notify the board of any change of employment status with an employing entity within 30 days of the effective date of change in employment status. A master plumber shall designate no more than one employing entity at any time. The board may charge a reasonable fee for processing such redesignations.

E. No employing entity shall hold itself out as engaging in the business or art of plumbing unless it employs a master plumber. No master plumber shall knowingly allow an employing entity to hold itself out as employing such master plumber at a time when it does not employ him within the meaning of R.S. 37:1368(c) and §301 (G) of these rules. Notwithstanding any other provision to the contrary, a journeyman plumber may repair existing plumbing independently and without the supervision of a master plumber.

F. Every employing entity shall maintain an established place of business, with facilities for receiving complaints, calls and notices during normal business hours, from any person for whom it is performing plumbing or from the board and its representatives. It shall display a sign, plainly visible from the street at every place where it and its employees are performing plumbing work. The sign shall designate the employing entity's full name, address, telephone number and master plumber license number issued by the board to the designated active master plumber in its employ. The sign shall include legible lettering at least two inches high with the words "Louisiana Licensed Master Plumber" (or abbreviated "La. Lic. Master Plumber"). The employing entity shall also identify itself by permanent signs or lettering affixed to its service vehicles on both sides of such vehicles indicating the same information required of jobsite signs, except the master plumber license number can be abbreviated as "LMP _____." All public advertising, solicitations, customer invoices, and business correspondence issued by or on behalf of an employing entity shall set forth the information described herein.

G. Employment of an active master plumber by an employing entity on a regular paid basis, as required by R.S. 37:1368(C) and §301 E of these rules, shall mean employment or self-employment for wages or under a bona fide contract of hire with no more than one employing entity at any given time. Such employment or self-employment must in-

clude services performed by the active master plumber which is within the state of Louisiana or both within and without the state of Louisiana.

H. Temporary working permits to journeyman plumbers only may be issued as required by R.S. 37:1376 and may be issued to a holder of a state license from states with like examinations, should that state recognize the Louisiana license, or where other bona fide evidence shows that the applicant's past experience would be capable of protecting the public from defective plumbing. Each temporary permit must be signed by both the chairman and the secretary of the board. A reasonable fee may be charged for the issuance of temporary permits, as fixed by the board.

I. A restricted master plumber license, as permitted by R.S. 37:1368(C) and (D), shall be issued by the board to any natural person who, prior to July 1, 1990, possessed a master plumber license issued by a local governmental jurisdiction or to a journeyman plumber licensed by this board who was permitted by local law to conduct a plumbing business in a local governmental jurisdiction as an employing entity. This restricted master plumber license shall permit the license holder to perform the work and business of plumbing only in the geographic area previously covered by the local governmental authority and only within the scope of plumbing work or business permitted by such local license or local law. Any employing entity designated by a restricted master plumber shall likewise be limited to the conduct of its plumbing business to the geographic area and scope of plumbing work or business described in the license issued to the restricted master plumber.

J. An inactive master plumber, as that term is used in R.S. 37:1368(E), shall mean a natural person who is licensed by the board as a master plumber or who successfully applies for and passes the examination for master plumber license administered by the board pursuant to §305 of these rules. An applicant for inactive master plumber status must state in a form supplied by the board that he does not wish or intend to practice as a master plumber. An inactive master plumber shall not be permitted to designate an employing entity, or knowingly allow an employing entity to hold itself out as employing him as a master plumber. An inactive master plumber can convert his status to that of a master plumber by submitting to the board an appropriate form supplied by the board and upon payment of a fee established by the board. During the period of his inactive status the inactive master plumber shall pay a fee established by the board. An inactive master plumber converting his status under this section shall designate an employing entity. Persons issued a restricted master plumber license under §301 (I) of these rules shall likewise be permitted to apply for inactive master plumbing status. However, should that person convert his status to that of master plumber such converted status shall be subject to the same restrictions applicable to his original restricted license.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§303. Application for License

A. Applications for journeyman plumber license shall be completed and sworn to before a notary public by the

applicant. Each applicant, except those completing apprenticeship programs approved by the board, must furnish references from three journeyman plumbers licensed by this board, stating the periods, to the best of their knowledge, that the applicant has worked at the manual labor of the trade of plumbing and is qualified to take the examination without assistance, and provide whatever other information is requested, on official board application form. However, the board may accept an affidavit from the applicant in lieu of references in the event the applicant satisfies the board that such references are not obtainable for reasons beyond his control.

B. The board must satisfy itself that an indentured apprentice plumber has satisfactorily completed the approved apprenticeship program.

C. Applications for master plumber license shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he is licensed by the board at the time of application as a journeyman plumber or as a restricted master plumber or the applicant must submit proof that he is a professional engineer licensed by the state of Louisiana with experience in the art of plumbing as defined in R.S. 37:1377(D). He must furnish whatever other information relevant to his experience that is requested in the application form or specially requested by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board. LR 17: (January 1991).

§305. Requirements to Take Exam for Journeyman Plumber's License

A. Requirements

1. An applicant for journeyman plumber's examination shall have performed 8,000 hours of manual labor of plumbing under the direct on-the-job supervision of a licensed journeyman plumber;

2. He shall have sufficient education to read and write the answers to the examination questions and shall understand the plumbing terms used in the sanitary code adopted by the Department of Health and Hospitals in regards to the installation or repair of plumbing;

3. He shall furnish a 2" x 2" photograph of himself with the application;

4. He shall submit his application and required documents to the New Orleans office of the board not less than 30 days before any scheduled examination. The board shall inform all interested persons of the examination schedule;

5. He must attach a money order or check for the appropriate fee to the application. The fee is established in §309;

6. No master plumber certificate shall permit any master plumber to do the work of a journeyman plumber.

B. Regular quarterly examinations will be held on the first Saturdays of January, April, July and October in the City of New Orleans, and on the second Saturday of January, April, July, and October in the City of Alexandria, LA. The above is subject to postponement for holidays or other conditions beyond the control of the board.

C. Failure to report for examination will result in the forfeiture of the applicant's fee. This forfeiture may be reversed by the board upon showing a good cause by the ap-

plicant explaining his failure to attend the scheduled examination.

D. Special examinations may be held at such time and places as the board may direct. Any person or persons may request that he be examined by the board at times and places other than the regularly scheduled examination dates, and the board shall examine such applicant or applicants as are qualified, at a reasonable time and place designated by the board after notice of such request, at the payment of a fee as established by the board.

E. The examination shall be given by one or more examiners. At least one board member shall be present.

F. The chairman of the board shall appoint the examiner or examiners as required. The chairman of the board will be the director of examinations, the vice-chairman would be the assistant director and the secretary would act as an alternate assistant. They will appoint the supervisors and examiners. However, at each examination, there will be only four people to be paid for their services, they being three examiners, one of which will also act as custodian, and one board member who will act as supervisor of examination, and who will be paid his regular per diem and expenses. If necessary, the chairman shall appoint additional examiners to conduct the special examinations described in §305(G).

G. An applicant for journeyman plumber's examination, who does not have sufficient education to read and write the answers to the examination questions, as required in §305(A)(2) of these rules, can apply to the board for a waiver of that particular requirement upon producing satisfactory proof to the board that the applicant has 10 years experience in manual labor of plumbing under the direct on-the-job supervision of a licensed plumber and has no more than a fourth grade education. A fee for this examination may be established by the board.

The chairman of the board shall appoint special examiners to assist these applicants in the completion of the written portion of their examinations. These special examiners will not provide any information or data to the applicants, but will only complete the written portion of any examination given to such applicants by writing the answers for the applicants as provided to the special examiner. These examiners will assist these applicants in such a manner as to prevent disclosure of answers to examination questions to any other applicant participating in the examination.

These applicants will be granted provisional licenses. This provisional and limited license shall permit any such applicant to engage in the work of a journeyman plumber, upon passing the special examination described herein, within the geographic areas to which the Louisiana State Plumbing Law has been made applicable. However, the license issued by the board shall state that the license was issued pursuant to these provisions.

Applicants under these special provisions will not be relieved of any other requirements or conditions associated with the issuance of a journeyman plumber's license by this board as established under the board's revised rules and regulations and the Louisiana State Plumbing Laws. R.S. 37:1365 through 1378.

H. Notwithstanding the foregoing provisions of this Section, any person or persons who at any time within three years of being cited by the board or its agents for engaging in the work of a journeyman plumber at a time when he did not possess a license or renewal thereof issued by the board, or

was otherwise subject to civil or criminal prosecution for doing the work of a journeyman plumber without possessing a license or renewal thereof issued by the board, may request that he be examined by the board pursuant to this Section, but only after the payment of a special enforcement fee as established by the board, which shall be in addition to the regular license fee established by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§306. Requirements to Take Exam for Master Plumber License

A. Requirements

1. An applicant for master plumber examination shall have a current journeyman plumber license issued by the board or a restricted master plumber license described in R.S. 37:1367(C), or the applicant shall possess a current license issued by the State Board of Registration for Professional Engineers and Land Surveyors certifying or registering him as a professional engineer. A registered or certified professional engineer must further have experience in the art of plumbing as defined in R.S. 37:1377(D) for a period of five years.

2. In all cases the applicant shall have sufficient knowledge and understanding to comprehend, interpret, and apply the sanitary code relative to plumbing adopted by the Louisiana Department of Health and Hospitals. In this regard, he must possess sufficient knowledge to plan and lay out plumbing systems. He must also possess knowledge and understanding to comprehend business and legal terms of the business of plumbing.

3. Persons possessing a restricted journeyman license issued pursuant to §305(G) shall not be eligible for examination as a master plumber.

4. The applicant shall furnish a 2" x 2" photograph of himself with the application.

5. He shall submit his application to the New Orleans office of the board and all required documents not less than 30 days before any scheduled examination. The board shall inform all interested persons of the examination schedule.

6. He must attach a money order or check for the appropriate fee to the application. The fee is established in §309.

B. Regular quarterly examinations will be held in conjunction with the examination conducted pursuant to §305(B), or on such days specially set by the board.

C. Failure to report for examination will result in the forfeiture of the applicant's fee. This forfeiture may be reversed by the board upon a showing a good cause by the applicant explaining his failure to attend the scheduled examination.

D. Special examinations may be held by the board under the same conditions described in §305(D).

E. The examination shall be given by one or more examiners. At least one board member shall be present. The examiner must be a master plumber licensed by the board or a special appointee under §306(F).

F. The chairman of the board shall appoint the examiner or examiners, who may be a representative of a private professional service provider qualified to administer a stand-

ardized, nationally recognized test duly adopted by the board.

G. Notwithstanding the foregoing provisions of this Section, any person or persons who at any time within three years of being cited by the board or its agents for engaging in the work of a master plumber at a time when he did not possess an appropriate active master plumber license or renewal thereof issued by the board, or was otherwise subject to civil or criminal prosecution for doing the work of master plumber without possessing a license or renewal thereof issued by the board, may request that he be examined by the board pursuant to this Section, but only after payment of a special enforcement fee as established by the board, which shall be in addition to the regular license fee established by the board for active master plumbers.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§307. Renewals

A. All licenses expire December 31 of each year. Applications for renewal will be mailed out by the end of October. The issuance of renewals will start November 1 of each year.

B. All renewal applications received at the board's office later than midnight the last day of December will be delinquent and will require a revival fee in addition to the renewal fee. Any license not renewed by the last day of December will pay a revival fee, in addition to the renewal fee, if renewed between January 1 and March 31. Any license renewed after March 31, will require an increased revival fee, in addition to the renewal fee. The fees are set forth in §309. Any person performing the work of a journeyman plumber or a master plumber without the appropriate license issued by the board after March 31 of any year without having renewed his license from the immediately preceding year shall be subject to the special enforcement fee established in §305(H) or §306(G).

C. A person who has allowed his previously issued journeyman plumber license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of \$50 per year for each year the license was not renewed up to a limit of four consecutive years. However, any such person who performs the work of a journeyman plumber without possessing a license issued by the board during this period shall be subject to the special enforcement fee established in §305(H).

D. A person who has allowed his previously issued master plumber license, inactive master plumber license or restricted master plumber license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of \$250 per year for each year the license was not renewed up to a limit of four consecutive years. However, any such person who performs the work of a master plumber without possessing a license issued by the board during this period shall be subject to the special enforcement fee established in §306(G).

E. To be considered timely filed, any renewal application under this §307 must actually be received at the New Orleans office of the board within the time specified for filing or be sent to that office by first-class mail, postage prepaid,

and bearing a postmark showing that the application was mailed on or before the last day for filing.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§308. Insurance Requirements for Master Plumbers

A. Before the issuance, renewal or revival of a master plumber or restricted master plumber license, the applicant shall furnish to the board a certificate of insurance with an insurance company authorized and approved to do business in the state of Louisiana, evidencing that the employing entity designated by said applicant has workers' compensation insurance, if applicable; has a comprehensive general liability and property damage policy that includes minimum limits of \$100,000 for injuries, including accidental death to any one person, and subject to the same limits for each person in an amount not less than \$300,000 for each occurrence; and property damage insurance in an amount not less than \$100,000 for each occurrence; and auto and truck liability insurance with minimum limits as required by Louisiana law, which shall include hired cars and non-ownership coverage. The certification of insurance shall contain a provision, and the policy so endorsed, that the insurer company shall notify the board, in writing of any change or cancellation of the insured certificate at least 30 days prior thereto. These insurance provisions shall not apply to master plumbers applying for and being issued an inactive master plumber license. In the event a master plumber or restricted master plumber changes his designation of an employing entity, the foregoing insurance requirements shall apply. A licensed journeyman plumber performing "repairs" as defined in §101(E) and §301(E) shall be subject to the insurance requirements of this Subsection.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§309. Fees

A. The fees and charges of the board relative to journeyman plumbers shall be as follows:

- 1. Special examinations \$ 500
- 2. Examinations \$ 75
- 3. Illiterate examinations \$ 100
(This fee's actual cost not to exceed \$100)
- 4. Initial license fee \$ 30
(This fee to be paid after applicant has successfully passed the exam, in order to receive his first license)
- 5. Renewal fee \$ 30
- 6. Revival fee \$ 10
(If renewed after March 31) \$ 20
- 7. Temporary permits \$ 50
- 8. Administrative charges for processing application 50% of Exam Fee
(To be retained by the board should an applicant withdraw his application before taking the examination)
- 9. Fee for N.S.F. or returned check \$ 20
- 10. Special enforcement fee imposed under §305(H) \$ 500

B. The fees and charges of the board relative to master plumbers or restricted master plumbers shall be as follows:

- 1. Special examinations \$ 500
- 2. Examinations \$ 100
- 3. Initial license fee \$ 150
(This fee to be paid after applicant has successfully passed the exam, in order to receive his first license.)
- 4. Renewal fee \$ 150
- 5. Revival fee \$ 50
(If renewed after March 31st) \$ 100
- 6. Administrative charges for processing application 50% of Exam Fee
(To be retained by the board should an applicant withdraw his application before taking the examination)
- 7. Fee for N.S.F. or returned check \$ 20
- 8. Special enforcement fee imposed under §306(G) \$ 500
- 9. Inactive master plumber fee \$ 30
- 10. Fee for conversion of inactive master plumber license to active master plumber license \$ 120
- 11. Employing entity redesignation fee \$ 150

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

Chapter 5. The Board

§501. Applicability

This Part shall apply to:

- A. All cities, towns, villages, communities and public sewerage and/or water districts in the state of Louisiana.
- B. All areas within one mile of the boundary of any city or sewer or water districts referred to above; and all areas within one mile of the community, sewerage or water facilities of the areas referred to above.
- C. Nothing herein contained shall be construed to apply to any employee of any municipal department or gas, sewer, and/or water district system.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§503. Officers

Officers of the board shall be representative of the trade, so that all board members will be eligible for office, but the three officers cannot all be from the same organization.

A. Chairman

The chairman shall be chief executive officer of the board and shall:

- 1. preside over all meetings of the members;
- 2. have general active management of the board's business;
- 3. see that all regulations, declaratory orders, resolutions, and minutes of all regular or special meetings of the board are carried into effect;
- 4. have the general powers and duties of supervision and management usually vested in the office of president, all subject to the approval of the board at the next meeting;

5. execute agreements in the name of and on behalf of the board, and co-sign checks, but shall not enter into contracts, agreements, or debts without approval of a majority of the board members present at a regular or special meeting, or favorable written ballot of at least five board members.

B. Vice-Chairman

The vice-chairman shall:

1. perform the duties of chairman in the absence of the chairman at all annual or called meetings or should the chairman become temporarily incapacitated. The vice-chairman shall succeed the chairman in case of resignation or death of the chairman;

2. perform the duties of the secretary-treasurer should the secretary-treasurer become temporarily incapacitated.

C. Secretary-Treasurer

The secretary-treasurer shall:

1. keep minutes of all meetings in a separate official minute book provided for that purpose, which, upon approval by the board, shall be signed by the president and secretary;

2. give notice of all meetings of the board and in general, he shall perform all duties incident to the office of the secretary;

3. be charged with the performance of such services on behalf of the board as may from time to time be determined by the board members;

4. have custody of all funds, securities, and other properties and assets of the board;

5. keep books belonging to the board, full and accurate amounts of all receipts and disbursements;

6. deposit all monies, securities, and other valuable effects in the name of the board in such depositories as may be designated for that purpose by the board members;

7. disburse the funds of the board as may be ordered by the board members, making proper vouchers for such disbursements, and shall render to the chairman and to the board at the regular meeting or when requested, an account of all his transactions as treasurer;

8. submit a detailed financial statement in writing at the annual meeting;

9. co-sign all checks;

10. with the chairman, shall prepare a budget for presentation to the board at each annual meeting;

11. mail minutes of all meetings or examinations to each board member not less than 30 days after such meeting or examination;

12. mail notices and renewal applications to all holders of certificates not later than November 1 each year;

13. as soon as possible after March 1 each year, compile a list of all certificates issued by the board, and make list available without cost to board members, advisory committee members, State Pipe Trades Association, Louisiana Association of Plumbing-Heating-Cooling Contractors and to such state officials, state boards, or committees as normally require such a list;

14. shall cause himself, the chairman, vice-chairman and the other necessary employees to be bonded in the amount as set by the board. The premium shall be paid by the board;

15. have authority with approval of the chairman to hire temporary office help, when needed, and subject to confirmation at the next board meeting;

16. after each meeting promptly record all motions.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§505. Duties of board members

A. Each board member shall:

1. represent himself as a board member only in official board activities;

2. attend and take an active part in all board meetings;

3. review financial reports, and all correspondence sent them pertaining to board business;

4. promptly respond to all mail polls.

B. No board member shall correspond or conduct himself in any manner tending to create an appearance of official board action without specific written authority of the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§506. Executive Director

The board may appoint and employ an executive director who shall be responsible for performing whatever duties the board may assign or delegate to him to effectuate the purposes and policies of the Plumbing Law, these regulations or orders of the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§507. Meetings

A. The board shall hold quarterly meetings and any special meetings shall be called when and if necessary, if funds are available.

B. The annual meeting of the board and election of officers shall be held during the month of August of each year. Special meetings may be called by the chairman or by five members of the board. No special meetings shall be called without notifying each board member and each member of the advisory committee in writing 10 days in advance.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

Chapter 7. Board Employees

§701. Seasonal and Part-time Employees

A. Board members and advisory board members shall be given ID cards, with their pictures on them, so that they can act as special enforcement officers for the board.

B. The board may employ special enforcement officers as is necessary for the conduct of the board's affairs, as directed by the board. These enforcement officers shall receive a salary fixed by the board, plus travel expenses.

C. The special enforcement officer's duties shall be as follows:

1. visit job sites and check for licenses in areas as designated by the board;

2. conduct inspections and investigations of plumbing

work and activities of employing entities as instructed by the board;

3. document his enforcement activities and any violations of the Plumbing Law investigated by him;
4. all reports of field work shall be reported in writing to the board's office;
5. provide evidence in any administrative or legal proceeding initiated under the Plumbing Law by the board.

D. Examiners

Examiners employed to conduct any examination for a journeyman plumber license must be licensed journeyman plumbers or possess such skill and knowledge relating to the pipe trades as the board may deem appropriate. Examiners employed to conduct any examination for a master plumber license shall conform with §306(E) or (F). They shall be notified two weeks prior to date of examination, and shall notify the board if they are unable to attend. They shall receive for their wages, a fee fixed by the board. The journeyman plumber examiner shall report at least 15 minutes prior to time of the examination, to the board member presiding over examination, and his duties shall be as follows:

1. administer the examination under the supervision of the board members in attendance;
2. correct all papers pertaining to the examination and tabulate for final grades, before leaving;
3. sign each project of examination which is assigned to and graded by him;
4. sign master grade sheet.

The master plumber examiner shall report to the board member present and shall assist the board member as directed.

E. Custodians

The duties of the custodians shall include the care of all tools and materials pertaining to the examination and to assure that examination site is prepared for the examination to commence at the scheduled time. Wherever and whenever a person acts as both a custodian and an examiner at an examination given by this board, he shall be paid fees due for each task.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§703. Salaries

A. The board may employ other necessary employees who shall receive a salary according to the salary schedule fixed by the board.

B. Custodians, examiners, and special enforcement officers shall receive a fee fixed by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

Chapter 8. Preemption

§801. Preemption of Municipal or Other Local Regulatory Authorities.

A. The Plumbing Law and these regulations shall preempt municipal or other local regulatory examination authority over master plumbers, notwithstanding any contrary provision of any home rule charter. Municipal or other local

regulatory authorities may assess and collect locally adopted fees and charges relative to plumbing work as defined in R.S. 37:1377 performed in their respective jurisdictions, but only to persons licensed under R.S. 37:1368.

B. Any permit issued by a municipal or other local regulatory authority which authorizes the applicant to perform plumbing work shall state on the face of the application form in bold, conspicuous writing and lettering the following notice:

NOTICE

Any person who performs plumbing work as defined by the Louisiana Plumbing Law, R.S. 1377, shall possess a license issued by the Louisiana State Plumbing Board. A master plumber shall properly designate his employing entity to the board. Any questions concerning compliance shall be addressed to the board.

C. The board may enter in cooperative arrangements with local governing authorities to enforce the provisions of the board's regulations.

D. Nothing herein shall prohibit the board from receiving and acting under R.S. 37:1378(7) upon notices of adjudications of violations of municipal or other local plumbing codes not otherwise preempted by the Plumbing Law and these regulations.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

Chapter 9. Revocation and Related Administrative Proceedings.

§901. Revocation, Suspension and Probation Procedures

A. All adjudication proceedings initiated pursuant to R.S. 37:1378 and conducted by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:955 et seq. The term "licensee" as used in this Section, shall refer, where applicable, to the holder of a journeyman plumber, restricted journeyman plumber, master plumber, restricted master plumber or inactive master plumber license.

B. All proceedings calling for suspension, revocation or probation of a licensee shall begin with the receipt of a complaint by the board. This complaint shall be in writing and signed by the complainant, who shall be a person of the full age of majority.

C. The complaint shall be investigated by the executive director or a special enforcement officer under the direction of the board or executive director. The board may designate representatives of local governing authorities to investigate complaints.

D. The executive director shall conduct an informal conference with the licensee identified in the complaint. The purpose of this procedure shall be to afford the licensee the opportunity to review a summary of the evidence developed as a result of the investigation of the complaint as well as an opportunity to respond. If the executive director determines that the licensee has sufficiently proven the complaint to be without merit, he may recommend to the board that no further investigation be conducted. If the executive director determines after the informal hearing that the complaint has merit, he shall report his findings to the board. The informal hearing may be conducted by correspondence, if the li-

censee consents. If a conference with the executive director is requested, the licensee must make all reasonable efforts to cooperate with the executive director or designated representative in scheduling the time and place of the informal hearing.

E. Upon conclusion of the informal hearing procedure, a formal hearing shall be scheduled before the board or a hearing officer designated by the board. In the event the executive director recommends rejection of the complaint, the board shall review his findings and conclusions. The board may refuse the recommendation of the executive director and proceed with a formal hearing.

F. Formal hearing procedures shall be commenced by a formal notice of complaint outlining the charges against the licensee sent to the licensee at his last known address. It shall comport with the provisions of R.S. 49:955(B). This notice shall require a response by the licensee within 10 days. Upon written motion by the licensee or his attorney, the response time may be extended.

G. The licensee shall return his response to the complaint to the board within 10 days or within the extended time granted by the board. Failure to respond shall be deemed a waiver of his right to a hearing. In response, the licensee shall either deny or admit the allegations of the complaint and shall either request a hearing before the board or a designated hearing officer or waive his right to said hearing.

H. If the licensee waives his right to a hearing or does not respond in writing within the time allotted, the board or designated hearing officer shall decide the case forthwith. The board or designated hearing officer shall make specific findings of fact, conclusions of law. The hearing officer shall submit his findings and conclusions in the form of a recommendation to the board.

I. If the licensee responds and participates in a formal hearing, he shall be afforded the opportunity to present evidence and cross-examine witnesses. The testimony of the witnesses shall be transcribed. The hearing shall be conducted according to the Administrative Procedure Act. Pre-hearing discovery by any party may be permitted upon motion to the board. Subpoenas shall issue in accordance with R.S. 49:956(5).

J. The board shall make a decision based on the evidence heard by it or the hearing officer's report and determine what sanctions if any should be imposed and issue an appropriate order with respect thereto. This order shall be served on the licensee.

K. Sanctions imposed by the board may include reprimand, probation, suspension, revocation or any combination thereof and, where applicable, reinstatement fees.

1. Reprimand

May include a personal conference between the licensee and the executive director and/or a letter to the licensee regarding the incident or incidents which have been brought to the board's attention and which may or may not be determined to warrant a hearing.

2. Probation

Will include stipulations which may be imposed by the board as a result of the findings of facts developed at a formal hearing. The order shall clarify the obligations of the licensee through a specified period of time. A licensee who is placed on probation by the board may practice but only in accordance with the terms of his probation as established by the board. He may be required to certify to the board his

compliance with the terms of probation from time to time as directed by the board.

3. Suspension

a. A license to practice plumbing in the state of Louisiana may be withheld by the board as a result of the findings of facts presented in a hearing. The time of suspension may be a definite stated period or an indefinite term. A licensee whose license is suspended may not practice plumbing in the state of Louisiana during the suspension period so designated.

b. The definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order. The reinstatement fee shall not exceed the special enforcement fee under §305(H) or §306(G).

c. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee, which shall not exceed the amount established as the special enforcement fee under §305(H) or §306(G).

L. Revocation

A license to practice plumbing in the state of Louisiana may be withdrawn by the board.

M. If, at any point in the informal or formal hearing process described herein, the board finds that the public health, safety, or welfare requires emergency action, the board may proceed with an action for injunctive relief in a court of competent jurisdiction. It may request a restraining order from that court suspending the license of the person under investigation pending formal hearings for revocation or suspension of said license.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

§902. Declaratory Orders and Rulings

A. The board on its own motion may move for a declaratory order or ruling as to the applicability of any statutory provision or of any rule or order of the board. Any interested party may petition the board for a declaratory order or ruling as stated above.

B. Said petition shall contain the following information:

1. the full name, address, telephone number of the petitioner;
2. the interest asserted by the petitioner;
3. specific reference to the statute, rule, or order with respect to which the declaratory order or ruling is sought;
4. a concise statement of the purpose, reasons and nature of the declaratory order or ruling sought.

C. Said petition shall be considered by the board at its next regularly scheduled meeting provided that the petition has been filed at least 30 days prior to said meeting.

D. The order or ruling rendered by the board on said petition shall be in writing and mailed to petitioner at last address furnished to the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

Chapter 10. General

§1001. Gender and Meaning

A. Whenever any words are used in these regulations in the masculine gender, they shall also be construed to include the feminine gender in all situations where they would so apply; and whenever any words are used in the singular, they shall also be construed to include the plural in all situations where they would so apply and wherever any words are used in the plural, they shall also be construed to include the singular.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968. Repromulgated, as amended, by Department of Employment and Training, State Plumbing Board, LR 17: (January 1991).

Don Traylor
Executive Director

RULE

Division of Administration Office of Risk Management

Patient's Compensation Fund Oversight Board
Medical Review Panel

In accordance with R.S. 40:1299.47, et seq., (Act 967 of the 1990 regular session) notice is given that medical malpractice claims filed pursuant to the above statute should be submitted effective October 1, 1990 as follows:

Patient's Compensation Fund Oversight Board
Post Office Box 4304
Baton Rouge, LA 70821

Claims should no longer be sent to the Commissioner of Insurance.

Service on the Patient's Compensation Fund Oversight Board pursuant to R.S. 40:1299.44 C. (2) shall be made by certified mail addressed to:

Seth E. Keener, Jr.
Patient's Compensation Fund Oversight Board
Post Office Box 4304
Baton Rouge, LA 70821

Seth E. Keener, Jr.
State Risk 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 (GOEA) has amended the GOEA Policy Manual, effective January 20, 1991. The purpose of this rule change is to reflect the provisions of the Older Americans Act regarding the time frames for the development and submission of state and area plans on aging.

Title 4

ADMINISTRATION

Part VII. Governor's Office of Elderly Affairs

Chapter 11. Elderly Affairs

Subchapter A. Authority, Organization, Functions

§1111. Governor's Office of Elderly Affairs Administration

A. - D. ...

E. State Plan on Aging

1. - 2. ...

3. Development and Amendment of the State Plan

a. The state plan is developed for a two-, three-, or four-year period, determined by the state agency, with such annual revisions as are necessary. The state plan shall meet such criteria as the commissioner of the Administration on Aging may by regulation prescribe. The plan's resource allocation, including allotments to area agencies, is prepared annually and as available allotments change.

b. The state plan is amended whenever necessary to reflect changes in laws, regulations, resources, or other material changes.

c. The Governor's Office of Elderly Affairs holds public hearings on the state plan and all amendments. The state plan and all amendments are published in the *Louisiana Register*.

4. ...

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931, R.S. 49:932, OAA Section 203(b), OAA Section 307, 45 CFR 1321.17, 45 CFR 1321.19 and 45 CFR 1321.21.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 17:

Subchapter B. Area Agency on Aging

§1133. Area Plan for Programs on Aging

A. ...

B. Duration and Format of the Area Plan

Each area agency on aging designated by the Governor's Office of Elderly Affairs shall, in order to be approved by the state agency, prepare and develop an area plan for a planning and service area for a two-, three-, or four-year period determined by the state agency, with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the state developed by the Governor's Office of Elderly Affairs.

C. ...

D. Development and Amendment of the Area Plan

1. Area plans shall be developed for a two-, three-, or four-year period with annual updates and amendments as necessary. The plan's resource allocation, including allotments for services, shall be prepared annually, and as availa-

ble allotments change. The format of the area plan and instructions for its completion shall be prescribed by the Governor's Office of Elderly Affairs and issued separately.

2. Prior to the adoption of the content areas described in Subsection (C) of this Section, the area agency must conduct public hearings in accordance with a schedule established by the advisory council. The area agency (after consultation with the parish councils on aging if the area agency is not a parish council on aging) must give at least 14 days' notice to older persons, public officials, and other interested parties of the times, dates and locations of the public hearings in each parish. The area agency shall prepare public hearing materials to provide information and serve as a basis for comments, recommendations and other input to the development of the area plan.

3. Public hearings on plan amendments will only include information relating to the part of the plan being amended.

4. In accordance with the state public meetings law, R.S. 42:4.1 et seq., the area agency, in holding public hearings, must give at least 14 days' notice to older persons in each parish, including the advisory council, public officials, and other interested parties of the times, dates, and locations of the public hearing(s) which will be held. Public hearings must be held at a time and location which permit older persons, public officials, and other interested parties a reasonable opportunity to participate. The area agency must submit the area plan and amendments for review and comment to the advisory council.

E. Review and Approval of the Area Plan and Amendments

The completed area plan will be submitted to the Governor's Office of Elderly Affairs for review and approval by a date specified by the Governor's Office of Elderly Affairs. The resource allocation plan describing the projected costs by source of funds and service, will be submitted annually as prescribed by the Governor's Office of Elderly Affairs.

2. The area plan must be amended if:

a. a new or amended state or federal statute or regulation requires a new provision, or conflicts with any existing plan provisions;

b. a U.S. or Louisiana Supreme Court decision changes the interpretation of a statute or regulation;

c. the area agency proposes to add, substantially modify, or delete any area plan objective(s); or

d. the Governor's Office of Elderly Affairs specifies additional circumstances under which area plan amendments are required.

3. Amendments must be documented on those area plan exhibits affected by the change and submitted to the state agency with a written rationale. Such proposed changes may not be executed until approved by the Governor's Office of Elderly Affairs.

4. The state agency shall approve an area plan which meets the requirements of this manual and the area plan format and guidelines issued.

5. A plan which is disapproved by the state agency shall be returned to the area agency along with a written reason for disapproval. At its discretion, the state agency may request that specific changes be made before resubmittal.

6. The area agency may appeal disapproval of its area plan or amendment in accordance with GOEA hearings and appeals procedures.

F. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306, Section 307(a)(2) and Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:

* * *

Vicky Hunt
Director

RULE

Department of Health and Hospitals Board of Nursing

Editors' Note: The following Rule, as appeared in the December 20, 1990 Louisiana Register, is being reprinted to correct a typographical error.

The Louisiana State Board of Nursing hereby gives notice that the board, at its November 15, 1990 meeting, amended LAC 46:XLVII.3356, Requirements for Relicensure: Continuing Education/Nursing Practice.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General Rules

Subchapter D. Registration and Licensure

§3356. Continuing Education/Nursing Practice

A. Authority of the Louisiana State Board of Nursing (the Board): The Board derives its authority to establish the requirement for evidence of activities which contribute to continued competence for relicensure to practice as a registered nurse from R.S. 37:911, R.S. 37:918(E) (K) and R.S. 37:920(E).

B. Definitions: For the purposes of this Section:

1. *Active nursing practice* means the use and development of one's nursing knowledge and judgment and the continuous, personal participation in the profession by a registered nurse.

2. *Approved provider* means those individuals, partnerships, corporations, associations, organizations, organized health care systems, educational institutions, or governmental agencies offering continuing education as approved by the Louisiana State Board of Nursing (LSBN).

3. *Clinical competence* means the possession and use of professional knowledge and skills in relation to direct patient/client care.

4. *Competence* means the possession of the necessary professional knowledge and skills and functioning at the legally qualified level.

5. *Continuing education unit (C.E.U.)* means 10 contact hours of an activity designed for educational purposes and meeting established criteria.

6. *Contact hour* means an hour of instruction that includes 50 minutes of an activity designed for educational purposes and meeting established criteria, or three hours of associated clinical practice.

7. *Continued competence* means the possession and maintenance of current professional knowledge and skills.

8. *Continuing education* means a planned educational

activity designed to update the knowledge and skills of its participants beyond the entry level or to prepare them to practice a different area of expertise.

9. *Criterion* means a standard, rule or test by which something can be judged, measured or valued.

10. *Current* means occurring and accepted in the present time; contemporary.

11. *Documentation of nursing practice* means the presence of written evidence of active practice.

12. *Examination* means an exercise designed to evaluate progress or test qualifications or knowledge.

13. *Full-time active practice* means a minimum of 2,080 hours of practice or the meeting of requirements set forth by the employer to equate to the full-time equivalent.

14. *Inactive practice status* means not being engaged in or performing active nursing practice.

15. *NCLEX-RN* means the National Council of State Boards of Nursing, Inc. Licensure Examination for Registered Nurses. It is the written examination measuring competency for initial licensure as a registered nurse.

16. *Practice hours* means the work done in an hour of time (60 minutes) while engaging in active nursing practice.

17. *Refresher course* means instruction designed to update professional knowledge and skills to expected current level of competence.

18. *Requirement* means something needed or demanded by virtue of a law, regulation, etc.

19. *Written examination* means a paper-and-pencil or computer-assisted exercise designed to evaluate progress or to test judgment or knowledge.

C. Continuing Education/Active Practice Requirements: Effective January 1, 1993, evidence of meeting the continuing education/active practice requirements for relicensure shall be submitted on the appropriate affidavit form with the application for relicensure. The following options are available to fulfill the requirement for evidence of continued competence:

1. For renewal of an active license or relicensure after less than a four-year interruption, the applicant must provide documentation of one of the following:

a. a minimum of 30 LSBN approved contact hours of continuing education every two years; or

b. a combination of: (1) a minimum of 20 LSBN approved contact hours of continuing education in a two-year period and (2) 320 hours of active practice as a registered nurse within the same previous two-year period; or

c. a combination of: (1) a minimum of 10 LSBN approved contact hours of continuing education in a two-year period and (2) full-time active practice as a registered nurse within the same previous two-year period; or

d. initial licensure by examination or by endorsement within the previous two years;

e. Licensees who are certified in a specialty area of nursing and whose continued certification requirements are equivalent to or exceed the above requirements need only to show evidence of continued certification.

2. For reinstatement of a license which has lapsed, or has been suspended, or has been granted nonpracticing status for four years or more, the applicant must provide documentation of one of the following:

a. a board approved refresher course consisting of a minimum of 160 hours of instructor planned, supervised instruction, including theory at a ratio of 50 minutes instruction per one hour of credit and clinical practice at a ratio of three

hours of practice per one hour of credit; or

b. individualized remediation including an assessment of needs, a program of study designed to meet these needs, and an evaluation of the learning outcomes of the program. Such program must be sponsored by an approved provider in an accredited post-secondary educational institution whose faculty hold masters degrees in nursing; or

c. a minimum of 60 contact hours of LSBN approved continuing education within the previous four years; or

d. successful completion of the NCLEX-RN examination during the immediate previous year.

D. Continuing Education Courses: Continuing education course credit may be given for the following continuing education course/programs:

1. courses which meet the criteria for content of continuing education offerings as specified in §3356.E and which are offered by approved providers as specified in §3356.F;

2. academic courses in an accredited post secondary institution which are related to specific knowledge and/or technical skills required for the practice of nursing as specified in §3356.E, or which lead to an advanced degree or to a certificate in advanced nursing. One academic semester hour is equivalent to 15 contact hours of continuing education;

3. programs, courses or independent study offerings which have been approved for voluntary or mandatory continuing education by other boards of nursing, the American Nurses Association continuing education accrediting/approval process, or specialty nursing organizations which have equivalent approval criteria;

4. other courses as may be approved by the board at its sole discretion.

No credit may be given for attendance at part of course/program; however, instructors who present part of an offering may receive full credit if the total offering is attended.

E. Content of Continuing Education Courses: The following areas are acceptable subject matter to fulfill continuing education requirements for relicensure in Louisiana:

1. nursing practice topics related to counseling, teaching, or care of clients in any setting;

2. sciences upon which nursing practice, nursing education, and nursing research are based, e.g., nursing theories; biological, physical and behavioral sciences; and advanced nursing in general or specialty areas;

3. professional, social, economic, spiritual, and ethical/legal aspects of nursing;

4. management or administration of nursing practice or of nursing education;

5. education of clients and their significant others, or of personnel associated with nursing functions.

F. Criteria for Approved Providers: Continuing education providers may be designated by the board as "Approved Providers" upon showing evidence of meeting the following criteria:

1. have a consistent, identifiable authority who has the overall responsibility for the execution of educational offerings;

2. accept full responsibility for each and every course/program, including, but not limited to record keeping, advertising course/program content as related to board requirements, issuance of certificates, and instructor qualifications.

3. demonstrate nursing participation in the planning and implementation of educational offerings;

4. utilize a program plan which includes a statement of purpose, measurable educational objectives, outline of content, teaching methodology, contact time for each objective, and an evaluation of the attainment of the objectives and of the overall effectiveness of the offering.

5. select appropriate subject matter as provided in §3356.E;

6. utilize educational methodology in accord with adult education principles;

7. maintain participant and program records for a minimum of five years. The record storage system assures confidentiality and allows for retrieval of essential information for each offering including:

a. title of offering;

b. names and addresses of participants and number of contact hours awarded to each;

c. names and titles of planning committee members;

d. name, title, and curriculum vitae for each faculty member;

e. starting and ending dates;

f. name and address of facility where offering is held;

g. program plan as specified in §3356.F.4;

h. description of target audience;

i. number of contact hours awarded for the offering;

j. summary of participants' evaluation; and

k. copy of any co-providership agreement, if applicable.

8. provide notification of the availability of each offering, including at least the following information: date, time, location, cost of the program, items covered by the fee and refund policy; areas of subject matter, educational objectives, credentials of instructors and intended audience; amount of continuing education credit to be awarded and approved provider number. A copy of each brochure shall be sent to the board prior to each offering.

Evidence of accreditation/approval as a provider unit in the American Nurses Association's continuing education system may be submitted in lieu of evidence of meeting the above criteria.

An application for approved provider status shall be filed with the board, on the form supplied by the board, at least 90 days prior to the implementation of the offering.

Fees payable upon submission of an application for review of an offering are: \$25 (non-refundable) plus \$5 for each contact hour of instruction, up to a maximum of \$700. A fee of 25 percent of the original fee, with a minimum of \$30, is payable for an extension of the approved status.

Fees payable upon submission of an application for total program review are \$500 for two years, with \$100 being non-refundable.

G. Monitoring System: Fulfillment of the requirements for continuing education/nursing practice for relicensure shall be ascertained as follows:

1. Verification of continuing education/nursing practice: with the application for relicensure, licensees shall submit a statement, indicating compliance and agreeing to supply supporting documents on request.

2. Audit of licensees: the board shall select not less than three percent of the licensees for an audit of continuing education activities on a random basis. Additionally, the board has the right to audit any questionable documentation of activities. Such shall be governed by the following:

a. the licensee must submit verification of compliance

with continuing education requirements or exceptions for the period being audited. Verification includes legible copies of certificates of attendance, transcripts, or documentation of compliance with exceptions as provided in §3356.K;

b. licensees who use the active practice option as partial evidence of continued competence shall document active practice on the audit form provided by the board. Said documentation shall be signed by a registered nurse who has practiced in a supervisory, collaborative or peer relationship. Because there may be exceptions to this form of documentation, the staff of the Board of Nursing will manage these exceptions on an individual basis;

c. verification shall be submitted within one month after the notice of audit;

d. failure to complete the audit satisfactorily or falsification of information may result in disciplinary action against the licensee in accord with the process and procedures provided in LAC 46:XLVII.3333.

e. failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement.

3. Audit of approved providers: the board reserves the right to audit approved providers to ascertain their compliance with the criteria for approval. Upon a finding of a deviation from the criteria for approval, after a hearing before the board, approval status may be withdrawn or the provider may be placed on probation for a specified period of time. Approval status may be restored upon submission of evidence that the provider satisfactorily fulfills the criterion (criteria) in question.

4. Appeal: a provider who wishes to request reconsideration shall do so within 20 days from the date of receipt of notification of the action of the board. The provider shall submit a statement which shows cause why action should not have been taken by the board. This statement shall be acted upon by the board within 20 days.

A final decision of the board may be appealed in the 19th Judicial District Court within 30 days of the receipt of the decision.

H. Refresher Course: To be approved by the board, a refresher course shall meet the following criteria:

1. the sponsoring institution must have access to adequate facilities and resources and qualified educational staff to implement both the required theoretical and clinical components of the refresher course;

2. the course must be based on clearly stated objectives which are realistic for the time allotted in the course and appropriate for the course content;

3. the course content must provide a review of basic nursing care concepts, principles, and skills related to patients across the life cycle;

4. the sponsoring institution must file for approved provider status at least 90 days prior to the anticipated implementation of the course, or submit evidence of approval of the course by an appropriate agent within the continuing education system of the American Nurses Association at least 20 days prior to the beginning of the course.

I. NCLEX-RN: Licensees who choose the option of taking the NCLEX-RN shall follow the process provided in LAC 46:XLVII.3349.

J. Exceptions: At the time of filing an application for relicensure, a licensee may request exemption from the continued competence requirements or for an extension of time

within which to fulfill the requirements for one of the following reasons:

1. the licensee is requesting inactive status for the license. In this case, the requirements apply when the licensee seeks to reactivate the license.

2. the licensee served on active duty in the armed forces for the entire licensure period.

3. the licensee is employed by an agency of the United States government outside the state of Louisiana.

4. there is a total physical disability for up to two years and verification of readiness or ability to return to work.

5. there is a total disability of a member of the immediate family for whom the licensee has had total responsibility for one year or more, not to exceed two years; or

6. the individual is duly enrolled as a bonafide student in a board-approved refresher course.

K. Penalty for Non-compliance: Failure to comply with these requirements shall prohibit license renewal and result in the licensee being placed on inactive status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(E)(K) and R.S. 37:920(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 16: (December 1990), repromulgated LR 17: (January 1991).

Barbara L. Morvant, MN, RN
Executive Director

RULE

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

Title 48

PUBLIC HEALTH — GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Policies and Guidelines for Review of Capital Expenditures under Section 1122 of the Social Security Act

§12501. Introduction

A. General Information

1. The Department of Health and Hospitals will conduct a Facility Need Review to determine if there is a need for beds/facilities of the following types to enroll in the Title XIX Program:

Nursing Facilities (Includes ICF I and II beds, and Title XIX SNF beds)

Intermediate Care Facilities for the Mentally Retarded (ICF/MR community and group homes)

Free-standing psychiatric hospitals (Psychiatric beds for Title XIX recipients under age 22 and age 65 and older)

2. Applications are submitted to: Department of Health and Hospitals, Bureau of Health Services Financing, Facility Need Review Program, Box 91030, Baton Rouge, LA 70821-9030, (504) 342-3956.

B. Definitions

When used in this document the following terms and phrases shall have the following meanings unless the context requires otherwise:

1. *Applicant*: The person who is developing the proposal for purposes of enrolling the facility and/or beds in Medicaid. See definition of Person.

2. *Applicant Representative*: The person specified by the applicant on the application form to whom written notifications are sent relative to the status of the application during the review process.

3. *Approval*: A determination by the department that a proposal meets the criteria of the Facility Need Review Program for purposes of participating in Medicaid.

4. *Approved*: Beds and/or facilities which are grandfathered in accordance with the grandfather provisions of this program and/or beds approved in accordance with the Facility Need Review Program.

5. *Community Home*: A type of community residential facility which has a bed capacity of eight or fewer beds.

6. *Department*: The Department of Health and Hospitals, in the state of Louisiana.

7. *Department of Health and Hospitals (DHH)*: The agency responsible for administering the Medicaid Program in Louisiana.

8. *Disapproval*: A determination by the department that a proposal does not meet the criteria of the Facility Need Review Program and that the proposed facility/beds may not participate in Medicaid.

9. *Enrollment in Medicaid*: Execution of a provider agreement with respect to reimbursement for services provided to Title XIX eligibles.

10. *Facility Need Review*: A review conducted for Nursing Facility (NF) beds (including Title XIX SNF beds, ICF I and II beds), ICF/MR beds, and beds in free-standing psychiatric hospitals (for patients under age 22 and age 65 and older), to determine whether there is a need for additional beds to enroll and participate in the Medicaid Program.

11. *Good Cause*: CFR 42 Part 442.12 (d) allows the Medicaid agency to refuse to execute a provider agreement if adequate documentation showing good cause for such refusal has been compiled (e.g. when sufficient beds are available to serve the Title XIX population). The Facility Need Review Program will review applications for additional beds/facilities to determine whether good cause exists to deny participation in the Title XIX Program to prospective providers of Nursing Facility Services (Title XIX SNF, ICF I and II), ICF/MR services, and services to persons under age 22 and age 65 and older in free-standing psychiatric hospitals.

12. *Group Home*: A type of community residential facility which has a bed capacity of nine to 15 beds.

13. *Health Standards Section*: The section in the Bureau of Health Services Financing, Office of the Secretary, which administers the Facility Need Review Program, licenses health care facilities, certifies those applying for participation in the Medicaid (Title XIX) and Medicare (Title XVIII) Programs, conducts surveys and inspections, and enrolls Title XIX providers.

14. *HCFA*: Health Care Financing Administration.

15. *Intermediate Care Facility - Level I (ICF-I)*: A level of care within a Nursing Facility (NF) which provides basic nursing services under the direction of a physician to persons who require a lesser degree of care than skilled services, but who need care and services beyond the level of room and board.

16. *Intermediate Care Facility - Level II (ICF-II)*: A level of care within a Nursing Facility (NF) which provides super-

vised personal care and health related services, under the direction of a physician, to persons needing nursing supervision in addition to help with personal needs. Services can usually be provided by trained aides and orderlies.

17. *Intermediate Care Facility for the Mentally Retarded (ICF-MR)*: A facility which provides mentally retarded residents with professionally developed individual plans of care, supervision, and therapy, to attain or maintain optimal functioning.

18. *Medicaid Program*: The program administered in accordance with Title XIX of the Social Security Act.

19. *Medicaid State Plan*: The plan under which the Department of Health and Hospitals administers the Medicaid Program.

20. *Notification*: Is deemed to be given on the date on which a decision is mailed by the Facility Need Review Program or a hearing officer.

21. *Nursing Facility*: An institution (or distinct part of an institution) which (1) is primarily engaged in providing to residents (A) skilled nursing care and related services for residents who require medical or nursing care, (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or (c) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities, and is not primarily for the care of mental diseases; (2) has in effect a transfer agreement with one or more hospitals.

22. *Person*: An individual or other legal entity.

23. *Program*: The Facility Need Review Program.

24. *Psychiatric Beds*: Beds which are located in free-standing psychiatric hospitals. Title XIX payments for services in free-standing psychiatric hospitals are made only for recipients under age 22 and age 65 and older.

25. *Psychiatric Hospital*: An institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons. Title XIX payments for recipients in free-standing psychiatric hospitals are made only for recipients under age 22 and age 65 and older.

26. *Review Period*: The 60-day period of time in which the review is conducted and the decision to approve or disapprove the proposal is made.

27. *Secretary*: The secretary of the Department of Health and Hospitals.

28. *Skilled Nursing Care*: A level of care within a Nursing Facility (NF) which provides intensive, frequent, and comprehensive nursing care and/or rehabilitation services ordered by and under the direction of a physician. Services are provided under the supervision of a registered nurse seven days a week during the day tour of duty with licensed nurses.

SNF beds are located in nursing facilities and in "distinct parts" of acute care hospitals. Facility Need Review policies governing SNF beds in nursing facilities apply to Title XIX SNF beds in hospitals; in order to be enrolled in Title XIX, SNF beds in hospitals must be approved through Facility Need Review. Skilled care is also referred to as "extended care."

C. Department Designation and Duties

1. The department shall be responsible for reviewing proposals for facilities and beds by health care providers

seeking to participate in Medicaid; the secretary or his designee shall issue a decision of approval or disapproval.

2. The duties of the department under this program include but are not limited to the following:

a. to determine the applicability of these provisions to all requests for approval to enroll facilities or beds in the Medicaid Program;

b. to review, determine and issue approvals or disapprovals for proposals determined to be subject to these provisions;

c. to adopt and promulgate such rules and regulations as may be necessary to implement the provisions of this program pursuant to the Administrative Procedure Act; and

d. to define the appropriate methodology for the collection of data necessary for the administration of the program.

D. Scope of Coverage

The Facility Need Review Program reviews proposals for increases in the number of beds eligible to participate in Medicaid. The following types of facilities/beds are reviewed:

1. Nursing Facilities (includes ICF I, ICF II, and SNF beds)

2. ICF/MR group and community home beds

3. Beds in free-standing psychiatric hospitals for persons under age 22 and age 65 and older.

E. Grandfather Provision

1. An approval shall be deemed to have been granted under this program without review for Nursing Facilities (NF'S), and ICF/MR facilities and/or beds described below:

a. All valid §1122 approved health care facilities/beds;

b. All valid approvals for health care facilities/beds issued under the Medicaid Capital Expenditure Review Program prior to the effective date of this program.

c. All valid approvals for health care facilities issued under the Facility Need Review Program.

d. All nursing facility beds which were enrolled in Medicaid as of January 20, 1991.

2. For psychiatric beds, an approval shall be deemed to have been granted under this program without review for beds in psychiatric facilities which were enrolled in Medicaid as of the effective date of the Facility Need Review Program, and for approvals which were subsequently issued and remain valid under the Facility Need Review Program.

F. Revocation of Approvals/Availability of Beds for Title XIX Recipients

1. Nursing facility beds and psychiatric beds which are added to existing, licensed facilities must be enrolled in the Title XIX Program within one year of the date of approval by the Facility Need Review Program. New nursing facilities and psychiatric hospitals which are approved to be constructed must be enrolled in the Title XIX Program within 16 months of the date of the approval. An extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g. acts of God). Inappropriate zoning is not a basis for an extension.

2. Group and community home beds for the mentally retarded must be enrolled in the Title XIX Program within nine months of the date of approval by the Facility Need Review Program. A one-time 90-day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g. acts of God). Inappropriate zoning is not a basis for an extension.

3. If the beds are not enrolled in the Title XIX program within the time limits specified above, the approval will automatically expire.

AUTHORITY NOTE: Promulgated in accordance with P.L. 93-641 as amended by P.L. 96-79, 42 U.S.C. Chapter 7, and R.S. 36:256(b).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Management and Finance, LR 13:246 (April 1987), amended by the Office of the Secretary, LR 17: (January 1991).

§12502. Determination of Bed Need

A. Community and Group Home Beds for the Mentally Retarded

1. The service area for a proposed or existing facility is designated the planning region in which the facility or proposed facility is or will be located. The planning regions are as follows:

Region I - New Orleans

Jefferson, Orleans, Plaquemines, and St. Bernard

Region II - Baton Rouge

Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Tammany, Tangipahoa, Washington, West Baton Rouge, and West Feliciana

Region III - Thibodaux

Assumption, Lafourche, St. Charles, St. James, St. John, and Terrebonne

Region IV - Lafayette

Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, and Vermilion

Region V - Lake Charles

Allen, Beauregard, Calcasieu, Cameron, and Jeff Davis

Region VI - Alexandria

Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn

Region VII - Shreveport

Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster

Region VIII - Monroe

Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll

2. The beds and population of the service area where the facility is located, or is proposed to be located, will be considered in determining need for the facility/beds. Beds which are counted in determining need for community and group homes are approved, licensed beds, and approved but not licensed beds, as of the due date for a decision on an application.

3. Data sources to be used include information compiled by the Facility Need Review Program, and the middle population projections recognized by the State Planning Office as official projections. Population projections to be used are those for the year in which the beds are to be enrolled in Medicaid.

4. In accordance with the department's policy of least restrictive environment, there is no currently identified need for additional facilities with 16 or more beds. Therefore, applications for facilities of 16 or more beds shall not be accepted for review, and applications to increase existing facilities to 16 or more beds shall not be accepted for review.

5. At the present time, the recommended bed to popu-

lation ratio for community and group homes (.375 per 1000 population) has been achieved; however, special needs and circumstances may arise which the department may consider as indicators of need for additional beds, such as occupancy rates, availability and accessibility of clients in need of placements, patient origin studies, requests for special types of beds or services, etc.

a. For service areas in which average annual occupancy for the four most recent quarters (as reported in the LTC-1) in excess of 93 percent, the department may review the census data, utilization trends, and other factors described above to determine if additional beds are in fact needed.

b. If the department determines that there is in fact a need for beds in a region and/or area with average annual occupancy in excess of 93 percent, a Request for Proposal (RFP) will be issued. The RFP will indicate the region in need of beds, the number of beds needed, the date by which the beds are needed to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining the need for the additional beds. The RFP will specify the MR-2 on which the determination of need is based.

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

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

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

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

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

- availability of site for the proposal

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

- accessibility to target population

- relationship or cooperative agreements with other health care providers

- distance to other health care providers

0-20 pts: Availability of funds; financial viability

0-20 pts: Responsiveness to groups with special needs

0-20 pts: Experience and availability of key personnel

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

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

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

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

6. Exception for beds approved from downsizing large residential ICF/MR's (16 or more beds)

a. A facility with 16 or more beds which voluntarily downsizes its enrolled bed capacity in order to establish a group or community home will be exempt from the Facility Need Review application process and from the bed need criteria.

The beds in the facility will be disenrolled from the Title XIX Program upon enrollment of the same number of group or community home beds.

b. Facilities to whom these provisions apply should contact the regional Office of Human Services, Division of Mental Retardation, in the region where the large ICF/MR facility is located. The regional office will review and evaluate the proposals, and recommend approval or disapproval to the Facility Need Review Program.

c. The Division of Mental Retardation will send a copy of the application with recommendations and comments to the Facility Need Review Program; the Facility Need Review Program will review the proposal, consider the recommendations, and issue notification to the applicant of approval or disapproval. A copy of the notification will be sent to the Provider Enrollment office in the Health Standards Section. The beds will not be enrolled in Medicaid without the approval of the Facility Need Review Program.

d. Beds in group and community homes which are approved under this exception are not included in the bed-to-population ratio or occupancy data for group and community homes approved under the Facility Need Review Program.

B. Nursing Facilities/Beds

1. Service Area

The service area for proposed or existing nursing facilities/beds is the parish in which the site is located. Exceptions are the parishes of Ascension, Iberville, Plaquemines and St. John, each of which is composed of two separate service areas as divided by the Mississippi River.

2. Nursing facility beds located in "distinct parts" of acute care general hospitals must be approved through Facility Need Review in order to be enrolled in Medicaid.

3. In determining occupancy rates of nursing facilities/beds, beds used in the calculations shall include nursing facility beds (SNF, ICF I and II) which are enrolled in Title XIX.

4. The beds and population of the service area where the facility is located, or is proposed to be located, will be considered in determining need for the facility/beds. Beds which are counted in determining need for nursing facilities/beds are approved, licensed beds, and approved but not licensed beds, as of the due date for a decision on an application.

5. Data sources to be used include information compiled by the Facility Need Review Program, and the middle population projections recognized by the State Planning Of-

fice as official projections. Population projections to be used are those for the year in which the beds are to be enrolled in Medicaid.

6. In order for additional beds/facilities to be added in a service area, the bed to population ratio for nursing facility beds shall not exceed 65 Medicaid approved beds per 1000 elderly population in a service area, and average annual occupancy for the four most recent quarters (as reported in the LTC-2) shall exceed 95 percent in the service area. Exceptions for areas with high occupancy are described below:

a. A Medicaid enrolled nursing facility which maintains 98 percent average annual occupancy of its enrolled beds for the four most recent quarters (as reported in the LTC-2) may apply for approval for additional beds to be enrolled in the Medicaid Program.

i. In order for an application to be considered, all approved beds in the facility must be enrolled in Title XIX.

ii. In order for a facility to reapply for additional beds, all approved beds must be enrolled in Title XIX for the four most recent quarters, as reported in the LTC-2.

iii. Maximum Number of Beds

The number of beds for which application may be made is determined by the recommended minimum nurse/patient ratio for the number of beds in the facility which are enrolled in Medicaid; the number of proposed beds may not result in a change in the number of nurses required for the number of enrolled beds in addition to the proposed beds; however, a facility which is at or near maximum may apply for additional beds in increments of 20. Facilities with 210 or more beds may not apply for additional beds, and no additional beds will be approved if the total number of enrolled beds in the facility will reach or exceed 210 with the addition.

b. When average annual occupancy for the four most recent quarters (as reported in the LTC-2) exceeds 95 percent in a parish, the department will determine whether additional beds are needed, and if indicated, may issue a Request for Proposal to develop the needed beds.

i. Upon issuance of the Utilization Report (LTC-2, issued quarterly), the department will identify the parishes with average annual occupancy in excess of 95 percent. The LTC-2 is issued by the department in the second month following the end of each calendar quarter.

ii. For each parish in which average annual occupancy is in excess of 95 percent, the department, in order to determine if additional beds are in fact needed, may review the census data, utilization trends, and other factors such as special needs in an area, information received from other health care providers and other knowledgeable sources in the area, waiting lists in existing facilities, requests from the community, patient origin studies, appropriateness of placements in an area, remoteness of an area, occupancy rates in adjoining and/or adjacent parishes, availability of alternatives, reasonableness of distance to facilities, distribution of beds within a service area or geographical area, and such other factors as the department may deem relevant. The number of beds which can be added shall not exceed 15 percent of the existing approved beds in the parish or 120 beds, whichever is less. The department will strive to assure that occupancy in existing facilities in the area will not decline below 85 percent as a result of the additional beds.

iii. If the department determines that there is in fact a need for beds in a parish with average annual occupancy in excess of 95 percent, a Request for Proposal (RFP) will be

issued. The RFP will indicate the parish and/or area in need of beds, the number of beds needed, the date by which the beds are needed to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining need for the additional beds. The RFP will specify the LTC-2 on which the determination of need is based.

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

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

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

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

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

- availability of site for the proposal

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

- accessibility to target population

- relationship or cooperative agreements with other health care providers

- distance to nearest acute care hospital

0-20 pts: Availability of funds; financial viability

0-20 pts: Responsiveness to groups with special needs (e.g. AIDS patients, ventilator assisted patients, technology dependent children)

0-20 pts: Experience and availability of key personnel (i.e. director of nursing, administrator, medical director)

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

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

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

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

5. Alternate Use of Licensed Approved Title XIX Beds
In a service area (parish) in which average annual oc-

cupancy is lower than 93 percent, a nursing home may elect to temporarily convert a number of Title XIX beds to an alternate use (e.g. adult day care). The beds may be converted for alternate use until such time as the average annual occupancy in the service area exceeds 93 percent, at which time the facility may re-enroll the beds as nursing home beds, or surrender the approval and continue to use the beds for other purposes.

C Psychiatric Beds

1. The service area for psychiatric beds, for Medicaid planning purposes, is the state.

2. The psychiatric bed supply shall not exceed 39.0 per 100,000 population statewide.

3. Beds which are counted in determining need shall include (1) psychiatric beds which were grandfathered under the provisions of the Facility Need Review Program (7-20-88), and which remain licensed; and (2) psychiatric beds which are approved under the Facility Need Review Program.

4. Data sources to be used include information compiled by the Facility Need Review Program, and the middle population projections recognized by the State Planning Office as official projections. Population projections used in determining bed need are those for the year in which the beds are to be enrolled in Medicaid.

AUTHORITY NOTE: Promulgated in accordance with P.L. 93-641 as amended by P.L. 96-79, 42 U.S.C. Chapter 7, and R.S. 36:256(b).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 17: (January 1991).

§12505. Application Procedures

A. General

1. Application shall be made to the department on forms provided for that purpose and shall contain such information as the department may require. Applications shall be submitted on 8½" x 11" paper, and shall be accompanied by a non-refundable fee of \$10 per bed. An original and five copies of the application shall be submitted.

2. The applicant representative specified on the application will be the only person to whom the Facility Need Review Program sends written notification in matters relative to the status of the application during the review process. If the applicant representative (or his address) changes at any time during the review process, the applicant shall notify the Facility Need Review Program in writing.

3. Applicants may request application forms in writing or by telephone from the Facility Need Review Program. The Facility Need Review Program will provide the applicant with application forms, inventories, utilization data, and other materials relevant to the type of application.

4. Applications submitted under §§12502.B. 2 and 12502.C. 2 will be accepted for review only as specified in those Sections.

B. Review Process

The review period will be no more than 60 days. The 60-day review period begins on the first day after the date of receipt of the application, or, if applicable, on the first day after the 30-day period specified in the RFP.

2. A longer review period will be permitted only when requested by the Facility Need Review Program. A maximum of 30 days will be allowed for an extension. An applicant may not request an extension of the review period, but may withdraw (in writing) an application at any time prior to the notifi-

cation of the decision by the Facility Need Review Program. The application fee is non-refundable.

3. The Facility Need Review Program shall review the application within the specified time limits and provide written notification of the decision to the applicant representative. Notification of disapproval shall be sent by certified mail to the applicant representative, with reasons for disapproval specified. If notification is not sent by the sixtieth day, the application is automatically denied.

C. Appeal Procedures

1. Upon refusal of the department to grant approval, only the applicant shall have the right to an administrative appeal. A written request for such an appeal (by registered mail) must be received by the secretary of the Department of Health and Hospitals within 30 days after the notification of disapproval is received by the applicant. A fee of \$500 shall accompany a request for an appeal.

2. Hearings shall be conducted by a hearing officer designated by the governor, provided that no person who has taken part in any prior consideration of or action upon the application may conduct such hearings. However, a hearing officer who presided over a hearing and remanded the matter to the department may hear a subsequent appeal of the same application if the department again disapproves the application.

3. The hearing shall commence within 30 days after receipt of the written request for the hearing. Requests by the department or the applicant for extensions of time within which to commence a hearing may be granted at the discretion of the hearing officer, provided that if the hearing is not concluded within 180 days from the date of receipt by the applicant of notification of disapproval, the decision of the department will be considered upheld.

4. The hearing officer shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues. The hearing shall be open to the public.

5. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs may be admitted and given probative effect. The rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

6. All evidence, including records and documents in the possession of DHH of which it desires to avail itself, shall be offered and made part of the records, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within DHH's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material notices, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed.

7. The hearing officer shall have the power to sign and issue subpoenas, or to direct the department to do so, in order to require attendance and the testimony by witnesses and to require the productions of books, papers and other documentary evidence. The applicant is required to notify the hearing officer in writing at least 10 days in advance of the hearing of those witnesses whom he wishes to be subpoenaed. No subpoena shall be issued until the party (other than the department) who wishes to subpoena a witness first deposits with the hearing officer a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. DHH may request issuance of subpoenas without depositing said sum of money. The witness fee may be waived if the person is an employee of DHH. When any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, DHH may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. It shall be the duty of the judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing, the judge may issue such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for this default or disobedience.

8. The department or any party to the proceedings may take the deposition of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in the review proceeding at issue. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the hearing officer in accordance with the rules of evidence provided in this Subsection.

9. The applicant, the department, and any other agency which reviewed the application, and other interested parties, including members of the public and representatives of consumers of health services, shall be permitted to give testimony and present arguments at the hearing without formally intervening. Such testimony and arguments shall be presented after the testimony of the applicant and DHH has been presented, or, at the discretion of the hearing officer, at any other convenient time. When such testimony is presented, all parties may cross-examine the witness.

10. A record of the hearing proceeding shall be maintained. Copies of such record together with copies of all documents received in evidence shall be available to the parties, provided that any party who requests copies of such material may be required to bear the costs thereof.

11. The hearing officer shall notify all parties, in writing or on the record, of the day on which the hearing will conclude and of any changes thereto; provided, a hearing must be concluded in accordance with the time requirements specified in Paragraph 3 of this Subsection. As soon as practicable, but not more than 45 days after the conclusion of a hearing, the hearing officer shall send to the applicant, the department, and to any interested parties who participated in the hearing, his written decision and the reasons for the decision. Such decisions shall be publicized by the department

through local newspapers and public information channels. After rendering his decision, the hearing officer shall transmit the record of the hearing to the department.

12. An applicant who fails to have the disapproval reversed shall forfeit his filing fee.

13. Judicial review of the decision of the hearing officer shall be in accordance with the provisions of R.S. 49:964 provided, however, that only an applicant aggrieved by the decision of the hearing officer shall have the right to judicial review.

AUTHORITY NOTE: Promulgated in accordance with P.L. 93-641 as amended by P.L. 96-79, 42 U.S.C. Chapter 7, and R.S. 36:256(b).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Management and Finance, LR 13:246 (April 1987), amended by the Office of the Secretary, LR 17: (January 1991).

David L. Ramsey
Secretary

RULE

Department of Insurance Commissioner of Insurance

The Department of Insurance has adopted rules regarding the Governing Advertisements of Medicare Supplement Insurance with Interpretive Guidelines in the state of Louisiana.

The purpose of this rule is to provide prospective purchasers with clear and unambiguous statements in the advertisements of Medicare supplement insurance; to assure the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as Medicare supplement insurance. This purpose is intended to be accomplished by the establishment of guidelines and permissible and impermissible standards of conduct in the advertising of Medicare supplement insurance in a manner which prevents unfair, deceptive and misleading advertising and is conducive to accurate presentation and description to the insurance-buying public through the advertising media and material used by the insurance agents and companies.

A copy of these rules may be obtained through the Office of the State Register, 900 Riverside North, Baton Rouge, LA, Telephone: 342-5015.

Douglas D. "Doug" Green
Commissioner

RULE

Department of Insurance Commissioner of Insurance

The Department of Insurance has adopted rules regarding the Coordination of Benefit Provisions in Group Health Insurance Policies and repealed Regulation 34 in the state of Louisiana.

The purpose of this regulation is to adopt the Group Coordination of Benefit provisions and uniform Guidelines for their interpretation and administration as promulgated by the National Association of Insurance Commissioners. These provisions are designed to operate where there are two or more group or group-type contracts of insurance and one or more of such contracts contain a COB provision which relates to group or group-type coverage whether provided on a major medical, basic coverage or other basis which, within policy limits, entitles the insured to recover 100 percent of his allowable medical expenses as that term is defined elsewhere herein. This regulation is intended to required the secondary carrier to pay all deductibles and co-insurance percentages when the primary carrier is not required to pay under its plan, provided such deductibles and co-insurance percentages are composed of items of "allowable expenses" as herein defined.

A copy of these rules may be obtained through the Office of the State Register, 900 Riverside North, Baton Rouge, LA, Telephone: 342-5015.

Douglas D. "Doug" Green
Commissioner

RULE

Department of Insurance Commissioner of Insurance

The Department of Insurance has adopted rules regarding the Medicare Supplement Insurance Minimum Standards Model Act in the state of Louisiana.

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

A copy of these rules may be obtained through the Office of the State Register, 900 Riverside North, Baton Rouge, LA, Telephone: 342-5015.

Douglas D. "Doug" Green
Commissioner

RULE

Department of Insurance Commissioner of Insurance

The Department of Insurance has adopted rules regarding the Transitional Requirements for the Conversion of Medical Supplemental Insurance Benefits and premiums in the state of Louisiana.

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

A copy of these rules may be obtained through the Office of the State Register, 900 Riverside North, Baton Rouge, LA, Telephone: 342-5015.

Douglas D. "Doug" Green
Commissioner

RULE

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby amends the rules and regulations relative to the administrative remedy procedures and the policy for implementation and regulation.

Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§325. Administrative Remedy Procedure

A. Purpose

Corrections Services has established an administrative remedy procedure through which an offender may seek formal review of a complaint which relates to any aspect of his imprisonment if less formal procedures have not resolved the matter. Pursuant to R.S. 15:1171(B), amended in 1989 under Act No. 463, such complaints and grievances include but are not limited to, any and all claims seeking monetary, injunctive, declaratory, or any other relief authorized by law and by way of illustration, includes actions pertaining to conditions of confinement, personal injuries, medical malpractice, time computations, even though urged as a writ of habeas corpus, or challenges to rules, regulations, policies, or statutes. Through this procedure, offenders shall receive reasonable responses and where appropriate, meaningful remedies. This procedure applies to all offenders confined in all Corrections Services institutions, including juvenile institutions. (The words *inmate* and *offender* can be used interchangeably and may refer to either adults or juveniles.)

B. Adoption of Procedure

This procedure implements and clarifies the intent of the secretary's September 30, 1974 memorandum on inmate grievances. It differs from that procedure by requiring offenders to exhaust remedies administratively at their units before requesting review by the secretary of the Department of Public Safety and Corrections. This formalization of the administrative remedy procedure additionally codifies the experiences and suggestions of employees and offenders of the Department of Corrections over the years. This procedure is in compliance with the requirements of 42 USC 1997, the *Civil Rights of Institutionalized Persons Act*, or CRIPA, and Part 40 of Title 28, *Code of Federal Regulations*.

C. Applicability

1 Offenders may request administrative remedies to situations arising from policies, conditions, or events within the institution that affect them personally.

2. There are three procedures already in place within all Corrections Services institutions, which procedures are hereby specifically and expressly incorporated into and made a part of this administrative remedy procedure. These procedures shall constitute the administrative remedies for disciplinary matters, denial of publications, and lost property claims.

a. Disciplinary Process, Appendix A, Disciplinary Rules for Adult Prisoners, as revised.

b. Denial of Publications, Appendix B, Department Regulation No. 30-19, as revised.

c. Lost Property Claims, Appendix C, Department Regulation No. 30-22A, as revised.

3. The following matters shall not be appealable through this administrative remedy procedure:

a. Court decisions and pending criminal matters over which the department has no control or jurisdiction.

b. Pardon Board and Parole Board decisions. Under Louisiana law, decisions of these Boards are discretionary, and may not be challenged.

c. Lockdown Review Board decisions. Inmates are furnished written reasons at the time of their Lockdown Review Board hearings as to why they are not being released from lockdown, if that is the case. The board's decision may not be challenged. There are, however, two bases for request for administrative remedy on Lockdown Review Board hearings:

i. that no reasons were given for the decision of the board;

ii. that a hearing was not held within 90 days from the offender's original placement in lockdown or from the last hearing. There will be a 20-day grace period attached hereto, due to administrative scheduling problems of the Board; therefore, a claim based on this ground will not be ripe until 110 days have passed and no hearing has been held.

D. Definitions

As used in this procedure, the following definitions shall apply:

1. *Grievance*—A written complaint by an offender on the offender's own behalf regarding a policy applicable within an institution, a condition within an institution, an action involving an offender of an institution, or an incident occurring within an institution.

2. *Emergency Grievance*—A matter in which disposition within the regular time limits would subject the offender to a substantial risk of personal injury, or cause other serious and irreparable harm to the offender.

3. *Offender*—An adult or juvenile incarcerated in a correctional institution.

4. *Unit Head*—Warden of an adult institution or superintendent of a juvenile institution, or his designee.

5. *Days*—Calendar days.

6. *Initiation of the Process*—For a particular complaint, the administrative remedy procedure shall commence the day the unit head refers the request to a staff member for the first step.

E. Policy

All offenders, regardless of their classification, impairment, or handicap, shall be entitled to invoke this grievance procedure. It shall be the responsibility of the unit head to provide appropriate assistance for offenders with literacy deficiencies or language barriers. No action shall be taken against an offender for the good faith use of or good faith participation in the procedure. Reprisals of any nature are prohibited. Offenders are entitled to pursue, through the grievance procedure, a complaint that a reprisal occurred.

1. *Offender and Employee Participation*. Offenders and employees shall be given an opportunity to participate in an advisory capacity in the disposition of grievances challenging general policy and practices. At each institution, inmates and employees who are interested in participating in this capacity should send their names in to the supervisor of the Internal Affairs Section in order that he may maintain a list of interested persons. Upon determining that a complaint of this nature has been made, the supervisor of the Internal Affairs Section shall randomly choose at least two offenders and at least two employees whose names appear on the list of interested persons from the institution from which the complaint arose, and seek written advisory comments. Names and specific facts will be deleted, and only questions of a general nature will be asked. These comments shall be advisory only, and shall not be binding or obligatory in any fashion.

2. *Reviewers*. If an offender registers a complaint against a staff member, that employee shall not play a part in making a decision on the request. However, this shall not prevent the employee from participating as a step one respondent, since the employee complained about may be the best source from which to begin collecting information on an alleged incident. In such a case, step one will be an information-gathering step, rather than one which gives rise to a decision. If the offender is not satisfied with the information gathered at step one, he should pursue his grievance to the unit head via step two, where a decision on the matter shall be made.

3. *Communications*. New employees and incoming offenders must be made aware of the system in writing and by oral explanation at orientation and should have the opportunity to ask questions and receive oral answers. The procedures shall be posted in writing in areas readily accessible to all employees and offenders.

4. *Written Responses*. At every stage of decision and review, offenders will be provided written answers that explain the information gathered or the reason for the decision reached and a statement of any provision for further review, along with simple directions for obtaining such review.

5. *Review and Comment*. The unit head shall annually solicit comments and suggestions on the handling of requests, the efficiency of the procedures and the credibility of the procedures from offenders and staff and report the results of such review to the supervisor of the Internal Affairs Section.

F. Procedure

1. *Screening*. The unit head will screen all requests prior to assignment to the first step. This discretionary decision should not unreasonably restrain the offender's opportunity to seek a remedy. If a request is rejected, it must be for one of the following reasons, which shall be noted on Form ARP-1, citing reasons for rejection:

a. This matter is not appealable through this process, such as:

i. court decisions;

ii. Parole Board/Pardon Board decisions;

iii. Lockdown Review Board (see Subsection C.3, *supra*), and must be handled through these processes.

b. There are specialized administrative remedy procedures in place for this specific type of complaint, such as:

i. disciplinary matters;

ii. denial of publications

iii. lost property claims (see Subsection C, Paragraph 2, *supra*), and must be handled through these processes.

c. It is a duplicate request. (Rejected for individual handling only).

In cases where a number of offenders have filed similar or identical requests seeking administrative remedy, it is appropriate to respond only to the offender who filed the initial request. Copies of the decision sent to other offenders who filed requests simultaneously regarding the same issue will constitute a completed action. All such requests will be logged.

d. The complaint concerns an action not yet taken or decision which has not yet been made.

e. There has been a time lapse of more than 30 days between the event and the initial request.

f. Another offender has already requested review of the same issue. (Rejected for individual handling. Will be logged in and a copy of the completed prior administrative remedy will be furnished to offender).

g. The offender has requested a remedy for another offender.

h. The offender has requested a remedy for more than one incident (a multiple complaint).

i. Established rules and procedures have not been followed.

Notice of the request's initial acceptance or rejection will be given via the Offender's Relief Form, Form ARP-1.

2. Initiation of Process

a. Offenders should always try to resolve their problems within the institution informally, before initiating the formal process. This informal resolution may be attempted by talking to staff members, unit heads, etc. If the inmate is unable to resolve his problems or obtain relief in this fashion, he may initiate the formal process.

b. The method by which this process is initiated is by a letter from the offender to the unit head. For purposes of this process, a letter is:

i. any form of written communication which contains this phrase: *This is a request for administrative remedy*, or

ii. at institutions which wish to furnish forms for commencement of the process, the form.

c. No request for administrative remedy shall be denied acceptance into the administrative remedy procedure because it is or is not on a form; however, no letter as set forth in (i) above shall be accepted into the process unless it contains the phrase, *This is a request for administrative remedy*.

d. Nothing in this procedure should serve to prevent or discourage an offender from communicating with the unit head or anyone else in the Department of Public Safety and Corrections. The requirements set forth in this document for acceptance into the administrative remedy procedures are solely to assure that incidents which may give rise to a cause of action will be handled through this three-step system of review. All forms of communication to the unit head will be handled, investigated, and responded to as the unit head deems appropriate, as in the past.

3. Abuse of the Procedure

a. If an offender submits multiple requests during the period of step one review of his first request, the first request will be accepted and handled. The others will be logged and set aside for handling at the unit head's discretion. The unit head may determine whether a letter of instruction to the offender is in order. If such a letter is sent, a copy shall also be sent to the supervisor of the Internal Affairs Section.

b. If a request is unclear or the volume of attached material is too great, it may be rejected and returned to the offender with a request for clarity or summarization on one additional page. The deadline for this request begins on the date the resubmission is received in the unit head's office.

c. If an offender refuses to cooperate with the inquiry into his allegation, the request may be denied by noting the lack of cooperation on the appropriate step response form and returning it to the offender.

4. Reprisals

a. No action shall be taken against anyone for the good faith use of or good faith participation in the procedure.

b. The prohibition against reprisals should not be construed to prohibit discipline of offenders who do not use the system in good faith. Those who file requests that are frivolous or deliberately malicious may be disciplined under the appropriate rule violation described in the *DOC Handbook for Adult Prisoners or Offender Rules, Juvenile Corrections Institutions*.

G. Process

1. First Step (Step One/Time Limit-15 days)

a. The offender commences the process by writing a letter to the unit head, in which he briefly sets out the basis for his claim, and the relief sought (see Subsection F.2, supra for requirements of letter). The offender should make a copy of his letter of complaint and retain same for his own records. The original letter will become a part of the process, and will not be returned to the offender. The institution is not responsible for furnishing the offender with copies of his letter of complaint. This letter must be written to the unit head within 30 days of an alleged event. (This requirement may be waived where circumstances warrant: If the offender was ill and unable to write, etc. The screening officer will use his best, reasonable judgment in such matters.) The requests shall be screened in the unit head's office, and, if appropriate for handling through the administrative remedy procedure, shall be forwarded to the staff member who could best afford relief (example: general security concerns would likely be referred to the camp major; food complaints to the kitchen supervisor; medical complaints to the medical director or hospital administrator, etc.). Alternatively, the request might be referred to the staff member named in the complaint, if any. In such a case, step one will be more of an information-gathering step than a decision-making step. In a case where the request is referred directly to a staff member named in

the complaint, it is anticipated that furnishing the offender with information as to how or why a certain action was taken will serve to resolve the grievance. In such an instance, the staff member's response will be furnished to his supervisor for review. If the supervisor feels that the response was inadequate or inappropriate for any reason, he shall intervene to affect any necessary changes, and shall document same in the step one respondent's file which he maintains.

b. The unit head's office will send notice to the offender via Form ARP-1 that his request is either being processed, or is being rejected, as per the screening policy. The first step respondent will respond to the offender within 15 days from the date the request is referred to the first level respondent by the unit head.

c. At times, it is appropriate for an administrative remedy procedure request to be accepted at the second step. On such occasions, the 15 days assigned to the first step are added to the time limitation provided at the second step, thus giving the unit head 40 days to handle the problem at the institution.

2. Second Step-Unit Head's Review (Step Two/Time Limit-25 Days)

An offender who is not satisfied with the results of his first step attempt may request relief from the unit head by completing the second step section of Form ARP-1. This second step request must be received in the unit head's office within five days of the offender's receipt of the reply to his first step attempt. The unit head shall see to it that the offender receives his response in writing within 25 days of receipt of the request for second step review. If the offender's reason for second step review requires that he use additional paper to explain himself, the offender must make a copy of the extra page for his records and a copy to be submitted at step three, should he pursue the matter to that step.

3. Third Step-Secretary's Review (Step Three/Time Limit-40 Days)

An offender who is dissatisfied with the second step review may appeal to the secretary of the Department of Public Safety and Corrections. He should attach all appropriate documents and responses from step one and two reviewers and mail the package directly to: Supervisor, Internal Affairs Section, Box 94304, Baton Rouge, LA 70804-9304, post-marked within five days of the date of the second step response. A final decision will be made by the secretary and the offender will be notified by mail postmarked within 40 days of the receipt of the appeal by Internal Affairs. A copy of the appeal and the secretary's response will be sent to the unit head for filing.

4. If an offender is not satisfied with the third step response, he may seek judicial review of the decision pursuant to R.S. 15:1177 within 30 days after receipt and signing for the decision. The offender must furnish the administrative remedy procedure number in the appropriate space on the court forms.

5. Monetary Damages

a. The Internal Affairs Section of the Department of Public Safety and Corrections, Corrections Services, based upon credible facts within a grievance or complaint filed by an offender, may determine that such an offender is entitled to monetary damages where monetary damages are deemed by the department as appropriate to render a fair and just remedy. Internal Affairs shall consult with the Legal Section of the Department of Public Safety and Corrections, Correc-

tions Services, to determine if monetary damages are appropriate for a fair and just remedy.

b. Upon a determination that monetary damages should be awarded by the department, the remaining question is quantum, or the determination as to the dollar amount of the monetary damages to be awarded to an offender. The matter of determining quantum shall be transferred to the Office of Risk Management of the Division of Administration which shall then have the discretionary power to determine quantum. The determination reached by the Office of Risk Management shall be returned to the Legal Section, Corrections Services, for final decision on the Office of Risk Management's recommendation. If a settlement is reached, a copy of the signed release shall be given to Legal Programs on that same date.

H. Deadlines and Time Limits

1. No more than 90 days from initiation to completion of the process shall elapse, unless an extension has been granted. Absent such an extension, expiration of response time limits shall entitle the offender to move on to the next step in the process. Time limits begin on the date the request is assigned to a staff member for a first step response.

2. An offender may request an extension in writing of up to five days in which to file at any stage of the process. This request shall be to the unit head for steps one and two, and to the supervisor of the Internal Affairs Section for step three. The offender must certify valid reasons for the delay, which reasons must accompany his untimely request. The issue of sufficiency of valid reasons for delay shall be addressed at each step, along with the substantive issue of the complaint.

3. The unit head may request permission for an extension of not more than five days from the supervisor of the Internal Affairs Section. The offender must be notified in writing of such an extension.

4. The supervisor of the Internal Affairs Section may grant a response time extension of five days for the third step response. The offender must be notified in writing of such an extension.

5. In no case may the cumulative extensions exceed 25 days.

I. Emergency Review

1. At all Corrections Services institutions, an offender may obtain immediate medical attention by declaring himself a medical emergency. Also, if an offender fears for his personal safety, he may ask that he be placed in lockdown as a protection case. A procedure for handling these two emergency situations is already in place within all of the institutions.

2. For situations other than the above, if an offender feels he is subjected to emergency conditions, he shall send an emergency request to the shift supervisor. The shift supervisor shall immediately forward the request to the level at which corrective action can be taken. The request shall be handled as expeditiously as possible, and shall be reviewed at the headquarters level by the secretary or his designee. All emergency requests shall be documented on a warden's Unusual Occurrence Report or other form of incident report and filed in the offender's institutional file.

3. Abuse of the emergency review process by an offender shall be treated as a frivolous or malicious request and the offender shall be disciplined accordingly (see Subsection F.4 supra). Particularly, but not exclusively, matters

relating to administrative transfers, time computation disputes, and family illness or death are NOT to be treated as emergencies for purposes of this procedure, but shall be expeditiously and compassionately handled by the shift supervisor, where appropriate.

J. Sensitive Issues

1. If the offender believes the complaint is sensitive and that he would be adversely affected if the complaint became known at the institution, he may file the complaint directly with the supervisor of the Internal Affairs Section (third step level). The offender must explain, in writing, the reason for not filing the complaint at the institution.

2. If the supervisor of the Internal Affairs Section agrees that the complaint is sensitive, he shall accept and respond to the complaint. If he does not agree that the complaint is sensitive, he shall so advise the offender in writing, and return the complaint. When this occurs, the supervisor of the Internal Affairs Section shall also send a copy of this memo to the unit head's office. The offender shall then have five days from the date the rejection memo is received in the unit head's office to submit his request through regular channels (beginning with the first step if his complaint is acceptable for processing in the administrative remedy procedure).

K. Records

1. Administrative remedy procedure records are confidential. Employees who are participating in the disposition of a request may have access to records essential to the resolution of requests. Otherwise, release of these records is governed by R.S. 15:574.12.

2. All reports, investigations, etc., other than the offender's original letter and Forms ARP-1 through 4, are prepared in anticipation of litigation, and are prepared to become part of the attorney's work product for the attorney handling the anticipated eventual litigation of this matter and are therefore confidential and not subject to discovery.

3. Records will be maintained as follows.

a. A log (on computer) will be maintained by the unit head which will document the nature of each request, all relevant dates, and disposition in the first and second steps.

b. The supervisor of the Internal Affairs Section will submit a summary report to the secretary as of December 31 of each year. This report will show the number, type, and disposition of requests by institutions and should be provided to the secretary no later than March 30 of the new year.

c. Individual requests and dispositions, and all responses and pertinent documents shall be kept on file at the unit head's office or at headquarters.

d. Records shall be kept at least three years following final disposition of the request. The supervisor of the Internal Affairs Section shall formulate a procedure for orderly disposal of these records.

L. Transferred Offenders

When an offender has filed a request at one unit and is transferred prior to the review, or if he files a request after transfer on an action taken by the sending unit, the sending unit will complete the processing through the second step (unit head's review). The unit head of the receiving unit will assist in communication with the offender.

M. Discharged Offenders

If an offender is discharged before the review of an issue that affects the offender after discharge is completed, or if he files a request after discharge on such an issue, the unit will complete the processing and will notify the offender

at his last known address. All other requests shall be considered moot when the offender discharges, and shall not complete the process.

N. The effective date of this regulation is January 20, 1991. This regulation supersedes Department Regulation 30-40 dated November 20, 1985.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1171 through 1176.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Offices of Adult and Juvenile Services, LR 11:1089 (November, 1985), amended LR 17: (January 1991).

Bruce N. Lynn
Secretary

RULE

Department of State Office of Uniform Commercial Code

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and R.S. 49:230(C)(2) relative to the authority of the Department of State, Office of The Uniform Commercial Code, to promulgate rules and regulations, notice is hereby given that the Department of State adopted the following rules relative to the implementation and administration of Chapter 9 of The Louisiana Commercial Laws (R.S. 10:9-101, et seq.), otherwise known as the "UCC".

Title 10

BANKS AND SAVINGS AND LOANS

Part V. Uniform Commercial Code

Chapter 1. Secured Transactions

§101. Policy

R.S. 10:9-401, et seq, the Commercial Laws-Secured Transactions, (hereinafter referred to as the "UCC") adopts Article 9 of the Uniform Commercial Code. The UCC adopts the "notice filing" approach under which an abbreviated notice is filed with the appropriate filing officer evidencing that a debtor and a secured party intend to engage in or have engaged in a secured transaction using specified collateral as security. Effective January 1, 1990, the UCC applies to transactions occurring on and after that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-401, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§103. Place of Filing - When Filing is Required in Louisiana

A. The proper place to file in order to perfect a security interest is with the clerk of court of any parish, or, in the case of Orleans Parish, with the recorder of mortgages thereof (the "filing officer").

B. It is only necessary to file in one parish to properly perfect a security interest, notwithstanding the location of the collateral, the location of the debtor, or the fact that the secured collateral may be relocated or situated in various parishes within the state of Louisiana.

C. The Secretary of State is not authorized to accept

UCC filings. Any filings directed erroneously to the Secretary of State will be returned to the secured party with directions as to the proper filing procedures.

D. The law governing filing rules applicable to multi-state transactions is contained in R.S. 10:9-103.

E. The filing of a financing statement otherwise required by the UCC is not necessary or effective to perfect a security interest in property subject to the following statutes:

1. R.S.32:701, et seq., pertaining to motor vehicles; and

2. R.S.3:3651, et seq., pertaining to farm products.

AUTHORITY NOTE: Promulgated in accordance with R.S.10:9-103, 10:9-302, and 10:9-401.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§105. Formal Requisites of Financing Statement

A. To be effective, a financing statement must:

1. give the debtor's name, mailing address, and Social Security Number or employer identification number, as applicable;

a. A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor and sets forth his or its Social Security Number or employer identification number, as applicable.

b. The trade names of the debtor, or the names of the individual partners, may also be set forth in the financing statement at the option of the secured party.

c. There are two types of taxpayer identifying numbers, Social Security Numbers or employer identification numbers, which are required to be set forth in identifying a particular debtor. These identifying numbers, which are used for indexing purposes only, are further defined as follows:

i. Social Security Number (SSN) means the number that is assigned to a person by the Social Security Administration of the Department of Health and Human Services. The SSN has nine digits separated by hyphens, as follows: 000-00-0000; it does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary under the Social Security System. See 20 CFR §422.103.

ii. Employer Identification Number (EIN) means the taxpayer identifying number of an individual, trust, estate, partnership, association, company, or corporation that is assigned pursuant to Section 6011(b) of the Internal Revenue Code of 1986, or corresponding provision of prior law, or pursuant to Section 6109 of the Code. The EIN has nine digits separated by a hyphen as follows: 00-0000000.

iii. In instances where a debtor has both a Social Security Number and an employer identification number (such as individuals who are engaged in business as sole proprietors), the Social Security Number should be used as the debtor's taxpayer identifying number in the financing statement.

2. give the name of the secured party and an address of the secured party named from which information concerning the security agreement may be obtained;

3. give a statement indicating the types, or describing the items, of collateral;

a. If the collateral is minerals or the like, including oil and gas, or accounts resulting from the sale thereof at the wellhead or minehead, or is a fixture, the financing statement must:

i. show that it covers this type of collateral;

ii. be accompanied by an attachment containing a de-

scription of the real estate sufficient if it were contained in a mortgage of the real estate to cause such mortgage to be effective as to third persons if it were properly filed for record under Louisiana law; and

iii. if the debtor does not have an interest of record in the real estate, the financing statement must also show the name and Social Security Number or employer identification number, as applicable, of a record owner of the immovable or real right therein. It is not necessary to name all record owners of the immovable or real right.

b. The standard UCC-1 form approved by the Secretary of State contains appropriate spaces to indicate whether the filing is fixture or mineral related, and to set forth the name and Social Security Number/employer identification number of a record owner if the named debtor does not own the real estate.

4. be signed by the debtor.

a. Limited exception: In the following cases, only the signature of the secured party is required when filing a financing statement to perfect a security interest in:

i. collateral already subject to a security interest in another jurisdiction when it is brought into Louisiana, or when the debtor's location is changed to Louisiana. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state;

ii. proceeds of the original collateral if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral;

iii. collateral as to which the filing has lapsed; or

iv. collateral acquired after a change of name, identity or corporate structure and Social Security Number or employer identification number, as applicable, of the debtor;

b. The standard UCC-1 form approved by the Secretary of State contains appropriate boxes to be checked by the secured party if one of the exceptions set forth herein is applicable.

c. The financing statement is not required to be notarized or witnessed.

B. When a debtor so changes his name or in the case of an organization its name, identity or corporate structure and the debtor also changes its Social Security or employer identification number so that a filed financing statement becomes seriously misleading to third parties, a new UCC-1 financing statement must be filed within four months after the change to perfect a security interest in collateral acquired by the debtor more than four months after the change. This UCC-1 may be filed by the secured party without the debtor's signature, as explained in §105 A.4.a.iv.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-402 and 10:9-508.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§107. Forms to be Used in Filing

A. Under the UCC, the notice to be filed with the filing officer is called a financing statement. The standard financing statement approved by the Secretary of State, Louisiana Form UCC-1, measures 8 1/2" x 11". All filing officers will accept these standard forms.

B. UCC forms are not stocked or dispensed by filing officers or the Secretary of State. A list of approved vendors may be obtained by contacting the Secretary of State at (504) 922-1314.

C. If the space provided on the UCC-1 is inadequate, the item should be identified and continued on an additional 8 1/2" x 11" sheet. The name of the debtor and its Social Security Number or employer identification number, as applicable, should appear as the first item on the additional sheet.

D. The security agreement entered into by the secured party and the debtor is sufficient as a financing statement if it contains all the information required in a financing statement and is signed by the debtor; however, the nonstandard form penalty will be assessed for the filing of such agreement.

E. A carbon, photographic, facsimile or other reproduction of a security agreement or financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

1. Filing officers shall reject any financing statement or security agreement if the copy is illegible.

2. As of the effective date of these rules, many filing offices are not equipped with fax machines; therefore, the filing officer of the parish in which the financing statement is to be filed should be contacted regarding the acceptance of fax filings.

3. Laser printed financing statements prepared by computerized loan documentation service companies will be accepted as standard filings if presented in the same form as the Louisiana Form UCC-1 on 8 1/2" x 11" paper.

F. A nonstandard filing is subject to a nonstandard form penalty, and is defined as follows:

1. A filing which is made in any form other than on the UCC-1 prescribed by the Louisiana Secretary of State.

2. Filings made on an approved UCC-1 form with attached pages containing information other than additional debtor names, or the real estate description required by R.S. 10:9-402(5).

Note: See fee schedule for nonstandard filing fees.

G. A consignor, lessor, depositor or bailor of goods has the option of filing a financing statement using the terms "consignor", "consignee", "lessor", "lessee", "depositor" (or "bailor"), and "depository" (or "bailee"), instead of the terms "secured party" and "debtor". The filer may indicate that the financing statement is filed as a lease, consignment, deposit, or bailment either by indicating the same in the statement describing the types, or items, of the secured collateral or by designating the status of the parties to the transaction in the appropriate debtor and secured party name blocks and in the space designated for signatures, or both.

H. A financing statement may disclose an initial assignment of the security interest by giving the name and address of the assignee. After disclosure of the assignment, the assignee is the secured party of record. The standard UCC-1 form approved by the Secretary of State contains appropriate space to disclose such an initial assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§109. Presentation of Filing

A. All filings required by the UCC shall be made by presenting the appropriate documents and tendering the required fees to any of the 64 filing officers. Filings may be made in person or by mail, or by fax machine pursuant to §107.E herein. Payment of the fees shall be made in any manner acceptable by the filing officer in the parish in which the filing is made.

1. If Louisiana Form UCC-1 is presented for filing, the first two parts (filing officer copy and acknowledgment copy) are filed with the filing officer with the interleaved carbons still intact. The third and fourth copies are to be retained by the secured party and the debtor, respectively.

2. When submitting a copy of the security agreement in lieu of the UCC-1, the filer is encouraged to complete a standard UCC-1 form and attach it to the nonstandard filing. If the required signatures appear on the nonstandard filing they need not appear on the UCC-1. Completion and attachment of the UCC-1 greatly simplifies the filing and indexing process for the filing officer.

3. If an acknowledgment copy from the filing officer is desired by persons submitting a facsimile copy of the financing statement, a laser printed financing statement or a copy of the security agreement, the filer must submit an additional copy of the document.

B. The filing officer shall mark each financing statement with a file number, the parish of filing, and the date and time of filing.

C. After the document has been filed, the second copy (acknowledgment copy of the UCC-1 or the photocopy of the document submitted by the filer) will be returned to the secured party of record. If the acknowledgment copy is to be returned to another party or another address, indicate the same in the appropriate box on the UCC-1 form.

D. The filing officer shall transmit the information contained in the financing statement together with the date and time of filing and file number thereof, no later than 4:30 p.m. on the second business day following filing, to the Secretary of State for inclusion in the master index. Note that a summary of the collateral described in the financing statement may be included in the information transmitted to the Secretary of State. This summary is for informational purposes only and is not a substitute for the description of the collateral contained in the financing statement.

E. The Secretary of State shall, within two business days following receipt of such information from the filing officer, send written notice to the secured party confirming such receipt and reflecting all information received and included in the master index.

F. Any questions regarding the filing information reflected in the written notice of acknowledgment from the Secretary of State should first be directed to the filing officer which accepted and recorded the filing.

a. Data entry errors will be corrected by the filing officers at no charge to the secured party. The filing officer shall make each correction and transmit the same to the Secretary of State for inclusion in the master index, together with the date and time such correction was made, no later than 4:30 p.m. on the second business day after receiving written request for the correction. Upon such correction, the Secretary of State will send written notice to the secured party confirming receipt of the same.

b. Errors committed by the secured party in preparing the financing statement must be corrected by filing an amendment or by filing a new financing statement.

G. Any questions regarding receipt of the written notice of acknowledgment from the Secretary of State should be directed to the Secretary of State's UCC Division at (504) 922-1314.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-403.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§111. Indexing

A. If more than one debtor name is set forth in the financing statement or other statement, all debtors, including any listed trade names, will be entered into the Secretary of State's master index. If an attachment is required to complete the debtor name listing, please indicate the same in the additional debtor name block on the UCC-1 and attach the listing on an 8 1/2" x 11" sheet. An additional fee of \$5 per debtor name will be assessed.

B. Debtor names shall be indexed exactly as set forth by the secured party in the debtor name block of the UCC-1, or in the case of a nonstandard filing, as set forth in the body of the agreement. Please note the following for clarification:

1. If the secured party desires to have the filing officer additionally index a married woman under her maiden name, the secured party must specifically request the same by setting forth the maiden name separately, at an additional fee of \$5.

2. In the event the debtor's signature varies from the typewritten name set forth in the debtor name block of the UCC-1 (or in the body of a nonstandard filing) and the secured party desires to have this varied name included in the master index, the secured party must specifically request the same by setting forth the varied name as an additional debtor name on the financing statement at an additional fee of \$5.

C. The Secretary of State shall maintain a master index of information contained in all financing statements and other statements filed with filing officers and transmitted to the Secretary of State. The master index shall list all such statements according to the name and Social Security Number or employer identification number, as applicable, of the debtor and shall include all of the information transmitted to the Secretary of State by all filing officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-403.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§113. Perfection By Filing of Accounts Receivable Outside the Scope of the UCC

A. Filings relating to assignments of accounts receivable entered into after January 1, 1990, which affect accounts not subject to Chapter 9 (e.g., assignments of accounts generated by lease of immovable property) shall be accomplished by filing a financing statement conforming to the requirements of Chapter 9.

1. The standard UCC-1 form should be presented in filings relating to accounts receivable outside the scope of Chapter 9.

2. Filings may be made with the clerk of court of any parish, or, in the case of Orleans Parish, with the Recorder of Mortgages thereof.

3. If the filing is presented on the UCC-1 approved by the Secretary of State, the standard filing fee of \$15 is applicable; otherwise, the nonstandard form penalty will be assessed.

B. All procedural rules set forth in §§ 103-125 relating to the formal requisites of a financing statement, prescribed forms to be used in filing, presentation of the filing, indexing of names, and other procedures governing changes made to an original UCC filing are incorporated by reference herein

and are specifically applicable to the filing of accounts receivable outside the scope of Chapter 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3112(B).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§115. Duration

A. A financing statement is effective for a period of five years from the date of filing.

1. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

2. In cases where an insolvency proceeding is commenced by or against the debtor, the security interest remains perfected for 60 days after the termination of the insolvency proceedings or until expiration of the effective five-year period, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S.9-403(2).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§117. Subsequent Filings

A. Filings relating to changes affecting the original financing statement have been consolidated and incorporated into a single form prescribed by the Secretary of State called a "UCC-3". This single composite form may be used as a Continuation Statement, a Partial Release Statement, a Statement of Partial Assignment, a Statement of Assignment (full assignment), a Termination Statement, or an Amendment to a financing statement.

B. The standard Form UCC-3 approved by the Secretary of State measures 8 1/2" x 11" . Any filings made on any form other than on the approved UCC-3 form prescribed by the Louisiana Secretary of State will be assessed the non-standard filing fee penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S.10:9-409.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§119. Procedure for Filing a UCC-3

The procedural rules set forth in §§107 and 109 herein governing the use of prescribed forms and presentation of the UCC-1 filing are incorporated by reference herein and must be followed in the presentation of a UCC-3 or other statement changing the status of an original filing.

AUTHORITY NOTE: Promulgated in accordance with R.S.10:9-402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§121. Place of Filing a UCC-3

A. Any subsequent filings affecting an original UCC financing statement must be filed in the parish in which the original UCC financing statement was filed.

B. Filings erroneously directed to a parish other than that in which the original financing statement was filed shall be rejected by the filing officer.

AUTHORITY NOTE: Promulgated in accordance with R.S.10:9-402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§123. Preparation of a UCC-3 Filing

A. Any UCC-3 filing changing the original financing statement must be signed by the secured party of record.

1. The secured party and debtor of record are those

parties shown on the Secretary of State's master index.

2. When the original financing statement discloses an assignment of the security interest, the assignee is the secured party of record and must sign all subsequent UCC-3 filings.

B. Give the name, address and Social Security Number or employer identification number, as applicable, of each debtor as it appears on the original financing statement or the most recent filing. See §105 A.1.c regarding guidelines on taxpayer identification number.

C. Give the name and mailing address of the secured party of record.

D. Give the original UCC file number (entry number), the date of filing and the parish in which the original financing statement was filed.

E. Indicate the type of action requested. Only one type of transaction may be requested on any UCC-3 form.

AUTHORITY NOTE; Promulgated in accordance with R.S. 10:9-402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§125. Additional Specific Requirements for Filings Changing the Status of an Original UCC Filing

A. Continuation Statement

1. A filed financing statement is effective for a period of five years. No exception is made for a stated maturity date of less than five years. A security interest ceases to be perfected unless a continuation statement is filed prior to the expiration date of a financing statement. A continuation statement may only be filed by the secured party within the six-month period prior to the expiration date and must state that the original financing statement is still effective. The timely filing of a continuation statement extends the effectiveness of the original financing statement for an additional five-year period after the last date to which the filing was effective. Continuous perfection may be achieved by filing successive continuation statements in this manner.

2. If the original financing statement lapses due to a failure to timely continue within the six-month period prior to the end of the five-year period of effectiveness, the secured party must file a new financing statement rather than a continuation statement. However, the new financing statement need only be signed by the secured party, and is effective from the date of filing. See §105.A.4 regarding filing a UCC-1 upon lapse of a financing statement.

3. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and include the required fee for an assignment.

B. Release

1. The secured party of record may release all or a part of any collateral described in a filed financing statement. The statement of release must include a description of the released collateral.

2. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record, and include the required fee for an assignment.

3. If the secured party wishes to release all of the collateral, a termination statement should be filed.

C. Assignments

1. In addition to the general information required on a UCC-3, a statement of assignment must set forth the name and address of the assignee.

a. Full Assignment: A full assignment is made when a secured party assigns all rights under the financing statement. The standard UCC-3 form approved by the Louisiana Secretary of State contains an appropriate box to be checked by the secured party if a full assignment is contemplated.

b. Partial Assignment: A partial assignment is made when a secured party assigns rights to only part of the collateral described in the financing statement. A description of the assigned collateral must be set forth in the appropriate space on the UCC-3, or on an attached sheet if more space is required. The standard form UCC-3 approved by the Louisiana Secretary of State contains an appropriate box to be checked by the secured party if a partial assignment is contemplated.

2. A copy of the assignment agreement is sufficient as a separate statement if it contains all the requirements set forth in §§117-123 and §125.C, but will constitute a nonstandard filing subject to the nonstandard filing fee.

D. Termination

1. Prior to expiration of the five-year effective period, a financing statement may be cancelled by filing a termination statement. The termination statement must state that the secured party of record no longer claims a security interest under the financing statement, which must be identified by its original file number. The standard form UCC-3 approved by the Louisiana Secretary of State contains an appropriate box to be checked by the secured party when a termination is requested.

2. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record, and include the required fee for an assignment.

E. Amendment

1. An amendment may be used to change or add to the name(s) of the debtor or the secured party, the address of either the debtor or the secured party, the Social Security Number or employer identification number of the debtor, or to add collateral. If an amendment adds collateral, a description of the collateral must be included; this filing is effective as to the added collateral only from the filing date of the amendment.

2. The amendment must be signed by both the debtor and secured party unless the amendment changes only the name of the secured party or the address of either the debtor or the secured party.

3. The filing of an amendment does not extend the period of effectiveness of a financing statement.

4. When a debtor name has been deleted by the filing of an amendment changing the name, the original debtor name will continue to be reflected in the Secretary of State's master index and therefore will be reflected on a certificate requesting that exact name.

5. An amendment signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record, and include the required fee for an assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S.10:9-402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§127. Reinscription of Pre-Chapter 9 Filings

A. Pre-Chapter 9 filings are defined herein to include assignments of accounts receivable, chattel mortgage and collateral chattel mortgages executed prior to January 1, 1990. Reinscription of the above described security devices shall be accomplished by filing a continuation statement on the standard form UCC-3 approved by the Secretary of State. The filing may be made with any parish filing officer. However, it is recommended that the continuation statement be filed in the parish in which the original Pre-Chapter 9 filing was recorded in order to facilitate retrieval of all original documents relating to a particular transaction.

B. Assignments of Accounts Receivable

Reinscription (continuation) of assignments of accounts receivable need only be signed by the secured party and must include the following information:

1. the name and address of the assignor/debtor;
2. the Social Security Number or employer identification number, as applicable, of the assignor/debtor;
3. the name and address of the assignee/secured party;
4. a general description of the assigned "accounts";
5. the date on which the original notice of assignment was filed;
6. the parish in which the notice of assignment was originally filed and the recordation information therefor.

C. Chattel Mortgages and Collateral Chattel Mortgages

Reinscriptions (continuations) of chattel mortgages and collateral chattel mortgages need only be signed by the mortgagee/secured party and must include:

1. the name and address of the mortgagor/debtor;
2. the Social Security Number or employer identification number, as applicable, of the mortgagor/debtor;
3. the name and address of the mortgagee/secured party;
4. the date of the original mortgage;
5. a brief description of the mortgaged property;
6. the parish or parishes or other public entity with which the mortgage or the Notice of Security interest was previously filed.
7. recordation data as applicable to such a previously filed mortgage or Notice of Security interest.

D. The filing officers shall collect fees applicable for the filing of a UCC continuation statement. Additionally, the uniform fee for filing a termination statement shall be prepaid at the time the reinscription is filed. Fees collected shall be allocated between the filing officer and the Secretary of State as set forth in R.S. 9:2770(A)(1)(a).

AUTHORITY NOTE: Promulgated in accordance with R.S.9:3112(B) and 9:5356(J).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§129. Request for Information or Copies

A. Background: The Secretary of State's master index of information is composed of UCC filing data submitted by the 64 filing officers statewide. The data base is a composite of all presently effective financing statements, as well as any statements of assignment, continuation, release, or amendment, and original financing statements which have been terminated within the one-year period prior to a request for a

certificate. All UCC filings are indexed according to the name and Social Security Number or employer identification number, as applicable, of each particular debtor.

The Secretary of State's master index does not contain information on statutory liens or tax liens, except for statements filed pursuant to R.S.23:1546 relative to unemployment compensation contributions. In addition, the master index does not contain any information on notices of assignments of accounts receivable, or chattel mortgage or collateral chattel mortgage filing information, except for those pre-Chapter 9 filings which have been reinscribed under the UCC filing provisions in accordance with R.S. 9:3112(B) and R.S. 9:5356(J).

Original UCC documents filed with the parish filing officers remain at the local level in the parish of filing. Any filings which change the status of an original UCC filing must be made with the filing officer with whom the financing statement was originally filed, and the original will remain on file in that parish. The Secretary of State does not receive copies of UCC filings. Therefore, requests for copies of documents must be made in the parish in which the filing was originally made. If filings on a particular debtor have been made in more than one parish, each parish filing officer must be contacted for copies of such filings. If the file numbers cannot be provided by the requesting party, a certificate must be requested from the filing officer.

B. Prescribed Forms to be Used in Requesting Information or Copies

A standard form UCC-11 has been prescribed by the Louisiana Secretary of State to be used in requesting (1) copies of filings, and/or (2) the filing officer's certificate showing whether there is listed any presently effective financing statements or other statements naming a particular debtor identified by Social Security Number or employer identification number. It is recommended that the standard form UCC-11 be utilized to facilitate accurate responses, but there is no penalty for failure to use the form.

C. Information Request (Certificate)

1. A separate written request for information (certificate) must be submitted for each debtor name. If information is requested on more than one name, a separate UCC-11 form must be submitted for each name. A business name, trade name or D/B/A is considered a separate name. A husband and wife are considered separate debtors.

2. The requesting party must be sure to submit a request for a certificate with the correct spelling of the debtor's name and the correct Social Security Number or employer identification number, as applicable. A deviation or error in the debtor's name or taxpayer identification number may result in a failure to disclose all of the desired information.

3. The UCC certificate issued by the filing officer will contain the following information as reflected in the Secretary of State's master index:

a. statements filed under the exact debtor name requested as particularly identified by the debtor's Social Security Number or employer identification number, as applicable;

b. statements filed under the exact debtor name requested in which no Social Security Number or employer identification number was provided in the original financing statement;

i. Note that if the requesting party is unable to provide the debtor's taxpayer identification number, the certificate

will reflect all filings under the exact name requested without regard to the various taxpayer identification numbers designated therein.

ii. If the requesting party desires a certificate which reflects all filings under an exact debtor name without regard to the taxpayer identification numbers on the financing statement (e.g. whether the number is different, the same, or not disclosed on the financing statement), the requesting party should omit the taxpayer identification number when submitting his request to the filing officer. Note that a certificate run on a common debtor name (e.g. John Smith) without regard to taxpayer identification numbers may disclose an indefinite number of listings and may result in a substantial fee.

c. statements filed under the exact Social Security Number or employer identification number provided, without regard to the spelling of the debtor's name.

4. Upon request, a supplement to the certificate will also be provided by the filing officer which will set forth filings listed under debtor names which may be considered similar to the name requested, so as to assist the requesting party in locating all desired filings. The supplement is not certified by the filing officer and may not represent a complete listing of debtor names which may be considered similar to the name under which the search was made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-403, 407, 409 and R.S. 23:1546.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

§131. Schedule of Fees for Filing and Information Requests (Certificates)

UCC-1	* Financing Statement	\$15
	* Financing Statement with Assignment	\$20
	* Financing Statement relating to fixture or mineral filings.	\$25
UCC-3	* Amendment	\$15
	* Assignment (Full or Partial)	\$15
	* Continuation	\$15
	* Reinscription of Pre-Chapter 9 Filing	\$15
	* Release	\$15
	** Termination	\$ 5

*Extra fee of \$5 for each additional debtor name or tradename

**Termination fee of \$5 per debtor name is prepaid at time of original filing of financing statement. In addition, a \$5 non-standard form penalty is assessed if the standard UCC-3 form is not used at the actual time of termination.

*Nonstandard form penalty (UCC-1 and UCC-3) \$15
(plus \$1 per page in excess of 10 pages)

UCC-11 ***UCC Certificate (per name) \$15
Copies of Documents \$ 1 per page
(Minimum \$3 per request)

***If a certificate contains listings for more than 10 statements, add \$1 for each statement in excess of 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-403, 407, 409 and R.S. 23:1546.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17: .

W. Fox McKeithen
Secretary

RULE

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended language in the Plan Document of Benefits, effective September 20, 1990, to provide that those state employees who are ordered to active military service be allowed, at their option upon their return to state service, to reinstate their coverage with the State Employees Group Benefits Program without a pre-existing condition limitation.

Amend Article 1, II (F) (1) of the Plan Document, as follows:

- F. Pre-existing condition
- 1. Overdue Application

The terms of the following paragraphs shall apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired. The provisions of this section shall not apply to military reservists or national guardsmen ordered to active duty who return to state service and reapply for coverage with the State Employees Group Benefits Program within 30 days of the date of reemployment. Their coverage will be reinstated effective on the date of return to state service.

Tommy D. Teague
Acting Executive Director

RULE

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

**Title 76
WILDLIFE AND FISHERIES
Part V: Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds
§109. Regulations for Signs and Sign Placement for
DMAP Cooperators**

Rules and regulations to comply with R.S. 56:111.1 relative to the Deer Management Assistance Program and which will prohibit unauthorized persons from taking game on Deer Management Assistance Program areas are as follows:

- Sign Color: Orange
- Size: 11 1/4" x 11 1/4"

Lettering: The words DMAP and Posted can be no less than four inches in height.

Construction: Metal, wood, plastic, paper or other material

Placement: Signs will be placed no more than 200' apart and at each point of entry.

The provisions of this Act are applicable only to clubs enrolled in the Deer Management Assistance Program and participation with the requirement of R.S. 56:111.1 are optional.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:111.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 17: (January 1991).

Jimmy Jenkins
Chairman

RULE

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

**Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life**

**Chapter 1. Freshwater Sport and Commercial Fishing
§147. Daily Take and Possession Limits for Freshwater
Trout**

The Louisiana Wildlife and Fisheries Commission hereby establishes a daily take and possession limit of five fish for freshwater trout, *Salvelinus spp. Salmo spp.*, taken in waters designated as being part of the Department's Freshwater Trout Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6, 56:326.3 and Act 376 of 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17: (January 1991).

Jimmy Jenkins
Chairman

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Animal Health Services**

The Department of Agriculture and Forestry advertises its intent to adopt rules regarding the revision of LAC Title 7, Part XXI, Chapter 123. These rules will establish the procedures and requirements for the operation and licensing of pet turtle farmers in Louisiana.

These rules comply with R.S. 3:2358.1 et seq. and were mandated by the enactment of Act No. 770 of the 1990 regular Legislative session.

These rules may be viewed in their entirety at the Office of the State Register, 900 Riverside North, Room 512,

Baton Rouge, LA or at the Department of Agriculture and Forestry at the address below.

A public hearing on these proposed regulations will be held on February 27, 1991 in Baton Rouge, LA at the Louisiana Department of Agriculture and Forestry Building at 5825 Florida Boulevard at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at that hearing.

Bob Odom
Commissioner

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

Rule Title: Diseases of Animals, Pet Turtles

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Costs are expected to increase to approximately \$7,500, of which \$6,500 represents projected administrative costs and \$1,000 represents projected auditing costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue will increase by approximately \$7,500 due to the implementation of a license fee.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Persons wishing to become Louisiana licensed pet turtle farmers will be required to pay a \$250 license fee each year.
In addition, turtle group sizes have been reduced from a maximum of 40,000 turtles to 20,000. Since each group must undergo laboratory microbiological examination prior to shipment, more examinations will be required. However, it is anticipated that these costs will be offset by higher prices for the product and reductions in the costs of performing the laboratory examinations.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is anticipated.

Richard Allen
Asst. Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board**

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and LSA 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, notice is hereby given that the Louisiana Livestock Sanitary Board advertises its intent to amend and/or add to the regulations of the board:

Louisiana Administrative Code, Title 7, §11731, to require the following:

B. 3. b. is herewith deleted in its entirety.

Interested persons may comment on the proposed policy changes and/or additions, in writing, until 4:30 p.m., February 16, 1991, at the following address: Maxwell Lea, Jr., D.V.M., State Veterinarian, Louisiana Department of Agriculture and Forestry, Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

Richard Allen
Assistant Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: 11731 - Admission of Cattle Into Louisiana**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There would be no costs or savings to state or local governmental units to implement the proposed amendments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of the proposed amendments would have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There would be no costs and/or economic benefits to directly affected persons or non-governmental groups, if the proposed change is implemented.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There would be no effect on competition and employment by this change.

Richard Allen
Asst. Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Real Estate Appraisal Subcommittee**

Notice is hereby given that the Real Estate Appraisal Subcommittee intends to amend the following rules and regulations of the Subcommittee: LAC 46:LXVII, Subpart II, Chapter 103, §10313.E.11-12.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate**

**Subpart 2. Appraisers
Chapter 103. Certification
§10313. Residential Certification Minimum Experience**

E. Residential Appraisal Points

11. (Repeal)

12. Rural Residence - one unit primary dwelling, 10 acres or less 1 point

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Subcommittee, LR 15:814 (October 1989), amended LR 16:493 (June 1990), amended LR 17:

Interested parties may direct inquiries and present their views in writing to the Louisiana Real Estate Appraisal Subcommittee, % Stephanie C. Fagan, Office Coordinator, Box 14785, Baton Rouge, LA 70898 through the close of business, February 4, 1991.

Jane H. Moody
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Residential Certification**

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

There is no impact on costs to the agency through adoption of the amendments. Implementation corrects an inconsistency in the experience criteria required for certification as a state real estate appraiser.

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

Implementation of the amendments will not impact revenue collections in any measurable way.

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

Proposed amendments provide an equal opportunity to appraisers of similar properties in meeting the mandatory experience requirement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no way to measure future effects on competition and employment. The provisions of the state certification law are presently voluntary, however, all appraisers will fall under the jurisdiction of federal requirements effective July 1, 1991.

Jane H. Moody
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

**State High School Diploma -
Nonpublic Schools**

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 deleted in its entirety the present policy on the awarding of state high school diplomas and approved the policy change submitted by the department for placement into Bulletin 741, Part B, Nonpublic School Standards.

These proposed rules have been published in their entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy in writing, until 4:30 p.m., March 11, 1991 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: To Implement Graduation Exit Examination
for Nonpublic Schools (GEE) and to Provide
Remediation**

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

The estimated implementation costs of this rule are: 1990-91, \$29,385; 1991-92, \$1,046,671; and 1992-93, \$1,265,070 per fiscal period. Source of funding is Louisiana Quality Education Support Fund 8(g) and State General Fund.

Table I and Table II exhibit the basis for the estimated total implementation and remediation costs.

TABLE I/TEST ADMINISTRATION

	Number of Students	Cost Per Student	Total Cost
1990-91 Grade 10	9,000	\$3.25	\$ 29,250
Grade 11	100	1.35	135
			Subtotal \$ 29,385
1991-92 Grade 10	11,050	3.25	35,913
Grade 11	9,000	1.35	12,150
Grade 12	25	2.30	58
			Subtotal 48,121
1992-93 Grade 10	11,762	3.25	38,227
Grade 11	11,050	1.35	14,918
Grade 12	2,250	2.30	5,175
			Subtotal 58,320
			TOTAL \$135,826

TABLE II
*Remediation

Year	Grade	#Tested	#Projected Rem. Units (Each student could generate up to 5 units.)	Cost Per Unit (\$50 8(g) + \$100 State)	Total Cost
1990-91	10	9,000	5,670	0	0
	11	100	42	0	0
					Subtotal \$ 0
1991-92	10	11,050	4,310	150	646,500
	11	9,000	2,340	150	351,000
	12	25	7	150	1,050
					Subtotal 998,550
1992-93	10	11,762	4,587	150	688,050
	11	11,050	2,873	150	430,950
	12	2,250	585	150	87,750
					Subtotal 1,206,750
					\$2,205,300

*Explanation - For 1991-92 and 1992-93 the failure rate was estimated at 13 percent. These percentages were selected because they were the actual failure rates for the first two years of the public school testing. In grade 10 students are required to take three components of the test and in grade 11 they are required to take two components. In grade 12 we assumed that these students would need to take two components. The number of students was therefore, multiplied by the appropriate percentage rate and again by the number of components.

Example: 1991-92 -- Percentage of failure 13%
Grade 10 -- 11,050 students x 13% x 3 components = 4,310 remediation units.

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

There was no effect on these revenue collections.

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

Exhibiting proficiency on the GEE certifies a level of accepted content competency in required high school subjects and may increase economic benefits over their lifetime.

The students who successfully complete this examination will have a much increased chance of completing high school and thus have increased economic benefits over their lifetime.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The receipt of a high school diploma will result in additional employment opportunities.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Amendment to Salary Schedule
for State Technical Institutes**

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 the following amendment to the salary schedule for State Technical Institutes as #5 under NOTE. This is an amendment to Bulletin 1868, *BESE Personnel Manual*.

If a former employee was RIF'd and has been employed in the vocational-technical system under another source of funding and reemployed in a State Table of Organization position, he or she will be given credit for pay purposes for those years worked.

This amendment was also adopted as an emergency rule, effective December 20, 1990. See August, 1990 issue of the *Louisiana Register*, page 671 for salary schedule.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., March 11, 1991 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: Amendment to Salary Schedule for State
Technical Institutes**

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

The estimated implementation cost for this change is \$677 per person per year for RIF employees coming

back on to a state T.O. position. For 1990-91, it is estimated that this change would cost the vocational-technical system \$8,124; 1991-92, \$16,925; and 1992-93, \$6,770.

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)

The economic benefits to directly affected persons will be an increase in returning salary back on to a state T. O. position. They will not have to start back on the salary when they were RIF'd. They will receive the same amount they were paid under the other funding source.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The vocational technical system will have more experienced instructors/SPSO, etc., in our institutes by rehiring experienced personnel.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

**LTIP/LaTEP "Benchmarks" and
Standards for Teacher Evaluation**

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 the following "benchmarks" and standards for LTIP/LaTEP Teacher Evaluation. This policy was also advertised as an emergency rule, effective December 20, 1990.

This proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy in writing, until 4:30 p.m., March 11, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Standards for Teacher Evaluation**

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

The estimated costs for FY 90-91 are for printing of the standards (\$280 at the state level and indeterminable at the local level).

The costs for FY 91-92 will be to place the standards in the LTIP/LaTEP Implementation Guide. The costs for

printing of the LTIP/LaTEP Guide would be approximately \$1.75 per guide or \$21,000 for 12,000 guides.

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 evaluated teachers could receive either positive or negative economic benefits depending upon their rating. Those rated superior could receive more funds, those rated unsatisfactory could have a negative effect.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rating of the teacher could definitely affect competition for a teaching position, especially for those in the local school district offering the higher rates of compensation.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Employment and Training
Office of Labor**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and R.S. 23:101-115 and Act 1083 of the 1990 Regular Session, the Louisiana Department of Employment and Training, Office of Labor, advertises its intent to repeal all previous rules adopted by it regulating private employment services, including but not limited to those rules adopted March 20, 1988, and to substitute a complete new set of rules relating to the administration and enforcement of the State Private Employment Service Law. These rules comply with the statutory law administered by the agency.

Copies of the proposed rules may be obtained at the Office of Labor, 1001 North 23rd Street, Baton Rouge, LA. A public hearing on the proposed Private Employment Service rules and regulations will be held on February 26, 1991, commencing at 9 a.m., at the Office of Labor Annex Conference Room, Third Floor, 1001 North 23rd Street, Baton Rouge, LA.

Interested persons may comment on the proposed rules either by attendance at the public hearing or by writing to Robert B. Levy, Assistant Secretary of Labor, Box 94094, Baton Rouge, LA 70804-9094, through February 26, 1991.

Phyllis Coleman Mouton
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Private Employment Services**

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

There will be no additional implementation costs or savings to the Louisiana Department of Employment and

Training or to local governmental units as a result of the adoption of these rules. Private employment services is within the Office of Labor, which has a budget of \$846,524 which will not be affected by the adoption of these rules.

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

The estimated effect on revenue collections to the state from the assessment and collection of license fees, manager examination fees and penalties is estimated to be between \$45,000 and \$60,000 annually; however, this revenue collection estimate does not reflect the collection or generation of any new additional dollars because the Office of Labor is already collecting this amount as provided by existing law. These proposed rules will have no effect on revenue collections of local governmental units.

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

The estimated costs to directly affected persons and non-governmental groups are as follows; bond requirements will result in a cost of \$50 to \$100; employment agency investigation requires a fee of \$250; employment agency licensee and manager's examination requires a fee of \$100; and foreign employment services advertisement fee of \$100. Additionally a resumé preparation fee of up to \$10 may be charged to the job applicant.

As mentioned in items I and II above, these proposed rules do not impose any new or additional costs to the regulated community because the Office of Labor is already implementing the intent of the proposed rules as authorized in current statute.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected by these rules as such rules are designed primarily to protect the applicants.

Robert B. Levy
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.2103, 2107, 2109, 2113, 2119 and 2127, (Log Number AQ36).

These proposed regulations will change the exemption criteria for storage tanks and oil-water separators. Additions to testing and recordkeeping requirements will be incorporated. These changes are necessary to assure approval of the State Implementation Plan by EPA.

These proposed regulations are to become effective on April 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

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

**Chapter 21. Control of Emission of Organic Compounds
Subchapter A--General**

* * *

§2103. Storage of Volatile Organic Compounds

* * *

B. No person shall place, store, or hold in any stationary tank, reservoir, or other container of more than 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound having a true vapor pressure of 1.5 psia or greater at storage conditions unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with a submerged fill pipe and one or more of the vapor loss control devices described herein.

* * *

D. Conditions Under Which an External Floating Roof is Acceptable. An external floating roof consists of a pontoon type roof, double deck type roof or external floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall and a continuous secondary seal (a rim mounted secondary) extending from the floating roof to the tank wall.

1. A secondary seal is not required if:

* * *

e. The secondary seals shall be visually inspected at least semiannually. The secondary seal gap measurements shall be made annually at any tank level provided the roof is off its legs. The primary seal gap measurements shall be made every five years at any tank level provided the roof is off its legs.

* * *

4. Repealed.

* * *

G. Exemptions. The provisions of this Section (i.e., LAC 33:III.2103) do not apply to existing and new storage tanks that are used for crude or condensate prior to lease custody transfer and that have a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards. In addition, the provisions of LAC 33:III.2103 do not apply to JP-4 fuels stored in horizontal underground tanks.

H. Compliance Tests

* * *

3. Vapor Pressure. True vapor pressure shall be determined by ASTM Test Method D323-82 for the measurement of Reid vapor pressure, adjusted for actual storage temperature in accordance with API Publication 2517, Third Edition, 1989.

I. Recordkeeping. The owner/operator of any storage facility shall maintain records to verify compliance with or exemption from LAC 33:III.2103. The records shall be maintained for at least two years and will include, but not be limited to, the following:

1. The results of inspections required by LAC 33:III.2103.D.1.e. shall be recorded.

2. For vapor loss control systems (LAC 33:III.2103.E) the following information shall be recorded:

* * *

c. Results of monitoring outlet VOC concentration of carbon adsorption bed to detect breakthrough.

* * *

4. The results of any testing conducted in accordance with the provisions specified at LAC 33:111.2103.H.

5. Records of the type(s) of VOC stored and the average monthly true vapor pressure of the stored liquid for any storage vessel with an external floating roof that is exempt from the requirements for a secondary seal and is used to store VOCs with a true vapor pressure greater than 1.0 psia.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division LR 13:741 (December 1987), amended LR (December 1989), LR 17:

§2107. Volatile Organic Compounds - Loading

* * *

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

* * *

3. For vapor disposal systems, the following information shall be recorded:

a. daily measurements of the exhaust gas temperature immediately downstream of a direct-flame incinerator; and
b. daily measurements of the inlet and outlet temperature of a chiller or catalytic incinerator.

4. The date and reason for any maintenance and repair of the applicable control devices and the estimated quantity and duration of volatile organic compound emissions during such activities shall be recorded.

* * *

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

HISTORICAL NOTE Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:116 (February 1990), LR 17:

§2109. Oil/Water - Separation

* * *

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

* * *

4. Except for the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Pointe Coupee, Saint James, and West Baton Rouge, any single- or multiple-compartment volatile organic compound water separator emitting 100 tons per year or less of regulated hydrocarbons (uncontrolled) is exempt from the provisions of LAC 33:III.2109.A.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:116 (February 1990), LR 17:

§2111. Pumps and Compressors

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:116 (February 1990), LR 17:

§2113. Housekeeping

* * *

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

* * *

4. Each facility shall develop a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound emissions from the facility. This plan shall be submitted to the Air Quality Division for approval, and a copy shall be kept at the facility.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:116 (February 1990), LR 17:

§2119. Variances

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

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:116 (February 1990), LR 17:

Subchapter D--Cutback Paving Asphalt

§2127. Cutback Paving Asphalt

* * *

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

* * *

D. Exemptions

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

a. long life (greater than one month) stockpile storage is necessary;

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear

Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:116 (February 1990), LR 17:

A public hearing will be held on February 26, 1991 at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than February 27, 1991 at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA 70804. Commentors should reference this proposed regulation by the Log Number AQ36.

J. Terry Ryder
Assistant Secretary

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

**Rule Title: Amends LAC 33:III Sections 2103, 2107,
2109, 2113, 2119 and 2127**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no additional cost to state or local government. Regulations are made more enforceable and do not add any additional workload for state and local government.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
None.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
These revisions could add some additional record-keeping requirements for regulated industries but the incremental cost should be minor.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant impact.

Mike D. McDaniel, Ph.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Environmental Quality
Office of Solid and Hazardous Waste**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq. particularly R.S. 30:2180, 2183.1.B(4) and 2183.1.B(6), 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 Hazardous Waste Regulations, LAC 33:V.Chapters 1, 7, 9, 11, 41, and 43, (Log Number HW25).

These proposed regulations will provide a framework for requiring additional copies of manifest forms in order to

enhance the department's tracking ability of hazardous waste. In addition, these amendments will provide for additional manifest requirements for certain hazardous waste derived products. Additional record-keeping requirements to the regulated community will also be included.

These proposed regulations are to become effective on April 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on February 25, 1991 at 1:30 p.m., in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than February 26, 1991 at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804. Commentors should reference this proposed regulation by the Log Number HW25. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, Commerce Building, 6th Floor, 333 Laurel Street, Baton Rouge, LA 70804.

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203.

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101.

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601.

Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002.

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

J. Terry Ryder
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Manifest Revisions**

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

Additional costs realized by the Department of Environmental Quality resulting from implementation of these rules is estimated to be on the order of \$60,000 per year for additional staff and associated costs.

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

No apparent effect on revenue collections of local governments will be realized. State revenue collections will increase by the implementation of this rule because Reuse/Recycle manifest will be terminated and the industrial regulated community will be required to use the new 8-part manifest at a cost of \$1.50 per manifest. (The old Reuse/Recycle manifest cost \$.50)

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

The regulated community (facilities) will experience a cost increase of approximately \$264,000, to be shared by approximately 6,000 facilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Little, if any, impact on competition or employment is expected.

Timothy W. Hardy
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Environmental Quality
Office of Solid and Hazardous Waste**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq. particularly R.S. 30:2186.A, 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 Hazardous Waste Regulations, LAC 33:V.105, 2503, 4462, 4481, 4901, 4903, and Table 5. (Log Number HW20).

These proposed regulations revise the existing procedure being used to identify wastes which are hazardous (extraction procedure leachate test) and replace it with the toxicity characteristic leaching procedure (TCLP). These amendments are being proposed in order to comply with federal regulations and maintain state authorization. See *Federal Registers* published March 29, 1990, 55 FR 11798, Number 61 and June 29, 1990, 55 FR 26986, Number 126.

These proposed regulations are to become effective on April 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on February 25, 1991, at 1:30 p.m., in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than February 26, 1991 at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804. Commentors should reference this proposed regulation by the Log Number HW20. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, Commerce Building, 6th Floor, 333 Laurel Street, Baton Rouge, LA 70804.

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203.

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101.

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601.

Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002.

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

J. Terry Ryder
Assistant Secretary

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

Rule Title: Toxicity Characteristic Leaching Procedure

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

Additional costs realized by the Department of Environmental Quality resulting from the implementation of this rule are estimated to be on the order of \$136,000 per year for additional staff and associated costs. The regulated community is currently subject to federal regulations. These proposed changes will merely bring state regulations into conformity with federal regulations, so there will be little or no impact on the regulated community.

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

No apparent effect on revenue collections to local governments is expected. State revenue collections could experience a minimal increase as a result of the implementation of this rule. Facilities that are presently regulated as non-hazardous units could possibly be brought into the hazardous waste system and become subject to the applicable regulations.

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

The regulated community could possibly experience a minimal cost increase as a result of non-hazardous waste facilities being brought into the hazardous waste system and, therefore, become subject to all applicable hazardous waste regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No apparent effect on competition and employment.

Timothy W. Hardy
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Environmental Quality
Office of Water Resources**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2074.B.(1) 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 Water Quality Regulations, LAC 33:IX.1113, (Log Number WP07).

This amendment will add 2, 3, 7, 8-Tetrachlorodibenzo-p-dioxin (2, 3, 7, 8-TCDD) (dioxin) numerical criteria to §1113.C.6 Numerical Criteria, Table 1. Dioxin (number 46) criteria are added because of its presence in fish tissues and its potential threat to water uses. Consequently, this revision will result in the subsequent numbers in Table 1 to be renumbered accordingly. The addition of the dioxin numerical criteria is proposed in order to comply with federal regulations. See *Federal Register* published April 17, 1990, 55 FR 14350, Number 74.

These proposed regulations are to become effective on April 20, 1991, or as soon thereafter as practical upon publication in the *Louisiana Register*.

PROPOSED RULE

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 11. Louisiana Surface Water Quality Standards

* * *

§1113. Criteria

* * *

C. Numerical Criteria

Numerical criteria identified in the Numerical Criteria Tables apply to the specified water bodies, and to their tributaries, distributaries, and interconnected streams and water bodies if they are not specifically named therein, unless it can be shown through a use attainability analysis that unique chemical, physical, and/or biological conditions preclude the attainment of the criteria. In those cases, natural background levels of these conditions may be used to establish site-specific water quality criteria. Those water bodies officially approved and designated by the state and EPA as intermittent streams, man-made watercourses, or naturally dystrophic waters may be excluded from some or all numerical criteria during specified seasonal periods as defined in LAC 33:IX.1123. Numerical criteria specifically apply to water quality conditions of state surface waters attributed to human activities or waste discharges as opposed to naturally occurring conditions.

* * *

6. Toxic Substances

Numerical criteria for specific toxic substances are listed in Table 1.

a. Numerical criteria for specific toxic substances are mostly derived from the following publications of the Environmental Protection Agency: *Water Quality Criteria*, 1972 (commonly referred to as the "Blue Book"); *Quality Criteria for Water*, 1976 (commonly referred to as the "Red Book"); *Ambient Water Quality Criteria*, 1980 (EPA 440/5-80); *Ambient Water Quality Criteria*, 1984 (EPA 440/5-84-85); and *Quality Criteria for Water*, 1986, with updates (commonly referred to as the "Gold Book"). Natural background conditions, however, are also considered. These toxic substances are selected for criteria development because of their known or suspected occurrence in Louisiana waters and potential threat to attainment of designated water uses.

* * *

f. A variance to statewide numerical criteria for toxic substances may be allowed to prevent the inappropriate application of toxic criteria to a specific water body. The variance provides a period of time during which issues concerning the appropriateness of the criteria may be resolved. A variance is temporary and shall last no more than three years. Any person may request that the office grant a variance. The office will approve or disapprove the variance only after appropriate public participation and EPA review and approval. Variances to toxic substance criteria are allowed only when at least one of the reasons listed below can be reasonably expected to cause non-attainment of water quality standards. Allowed variances for specific water bodies are noted by numerical criteria for toxic substances in Table 1.

* * *

TABLE 1

NUMERICAL CRITERIA FOR SPECIFIC TOXIC SUBSTANCES

(In micrograms per liter (µg/L) or parts per billion (ppb) unless designated otherwise)

Toxic Substance	Aquatic Life Protection				Human Health Protection	
	Fresh Water		Marine Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic		

(TABLE 1 CONTINUED)

NUMERICAL CRITERIA FOR SPECIFIC TOXIC SUBSTANCES

(In micrograms per liter (µg/L) or parts per billion (ppb) unless designated otherwise)

Toxic Substance	Aquatic Life Protection				Human Health Protection	
	Fresh Water		Marine Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic		

Other Organics

46. 2,3,7,8-Tetrachloro-dibenzo-p-dioxin (2,3,7,8 TCDD; dioxin) ^{8,9}	--	--	--	--	0.071 ppq ¹⁰	0.072 ppq
--	----	----	----	----	-------------------------	-----------

Metals

47. Arsenic	360	190	69.00	36.00	50.0	--
48. Chromium III (Tri) ⁷	(980, 1700, 3100)	(120, 210, 370)	515.00	103.00	50.0	--

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 4:302 (August 1978), amended LR 10:745 (October 1984), LR 15:738 (September 1989), LR 17:

A public hearing will be held on February 26, 1991, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 N. 4th Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Wednesday, February 27, 1991 at 4:30 p.m. to David Hughes, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804 or to 333 Laurel Street, sixth floor, Suite 620, Baton Rouge, LA, 70801. Commentors should reference this proposed regulation by the Log Number WP07.

Paul Templet
Secretary

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

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups due to the fact that if state promulgation procedures for these criteria are not initiated by February 1991, the U. S. Environmental Protection Agency will promulgate more restrictive criteria for these toxicants, thereby generating a greater cost to persons directly affected. Economic benefits of increased public health and well-being are impossible to accurately assess.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no appreciable short-term effect on competition and employment. However, improving water quality through specific guidelines can promote long-term industrial development and increase employment.

Paul H. Templet
Secretary

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Surface Water Quality Standards**

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

There will be no costs to the state in implementing these additional criteria.

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

There will be no effect on revenue collections in implementing the additional criteria.

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B), 37:3241-3257, and the provisions of the Administrative Procedure Act, intends to amend its rules governing the licensure and practice of licensed midwives, LAC 46:XLV,

Subpart 2, Chapter 23, and Subpart 3, Chapter 53. Inquiries concerning the proposed amendments may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the Louisiana State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 30 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 15 days of the date of this notice.

A copy of the proposed rules, as they are proposed to be amended, may be obtained upon request of the board office at the address indicated above, or at the Office of the State Register, 900 Riverside North, Baton Rouge, LA 70804.

Delmar Rorison
Executive Director

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

Rule Title: Licensed Midwives, Licensure and Practice

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rule amendments will result in any significant costs to the Board of Medical Examiners, other than the processing of additional applications, representing costs of \$300 during 1990-91 and \$500 during each of the succeeding two years.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
In conjunction with statutory amendments, it is estimated that the availability of apprentice permits confirmed by the rule amendments may generate approximately three additional applications for each such permits during the current fiscal year and five additional applications during each of the two succeeding years, resulting in a minimal increase in revenue to the board of \$300 during the current fiscal year and \$500 in each of the two succeeding years. This increase will be offset by an equivalent increase in operating expenses.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
It is not anticipated the rules will have any material effect on costs, paperwork or workload incurable by licensees or any other persons or non-governmental groups. Licensed midwives, however, will, pursuant to the proposed rule amendments, be required to biannually complete certification of required continuing education on a new form to be supplied by the board. It is not anticipated that the proposed rules will have any effect on the revenue of such persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that the proposed rules will have any significant impact on competition or employment in

either the public or private sector. The amendments may, however, serve to marginally increase the number of apprentice and licensed midwives practicing in the state of Louisiana insofar as the proposed amendments modify some of the pre-existing requirements for permits and licenses.

Delmar Rorison
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the board by R.S. 37:1270(B), 37:1281, and the provisions of the Administrative Procedure Act, intends to amend its rule prescribing the fees payable for certain permits and for registration for and taking of the Federal Licensing Examination (FLEX) and the Special Purpose Examination (SPEX). LAC 46:XLV, Subpart 1, Chapter 1, §125 B, C. The proposed amendments are set forth below. Inquiries concerning the proposed amendments may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Paragraphs B and C of §125 of Chapter 1, Subpart I of LAC 46:XLV shall be amended so that, as amended, said Paragraphs shall read and provide as follows:

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Profession**

**Chapter 1. Fees and Costs
§125. Licenses, Permits and Examination**

* * *

B. For processing applications for permits of the type indicated, the following fees shall be payable to the board:

1. Visiting physician permit \$50
2. Short-term residency permit \$50
3. Other institutional or temporary permits \$50

C. For registration for and taking of all or any portion of the Federation Licensing Examination (FLEX) or of the Special Purpose Examination (SPEX), the fee which shall be payable by the applicant to the board shall be equal to the cost of the examination to the board as charged by the Federation of State Medical Boards of the United States, Inc. With respect to each scheduled administration of an examination, the cost of the examination may be determined upon request of the office of the board and shall be set forth in application forms and materials furnished by the board upon request of the applicant.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:906 (November 1984), amended LR 17:

Interested persons may submit data, views, arguments, information or comments on the proposed rule

amendment, in writing, to the Louisiana State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 30 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 15 days of the date of this notice.

Delmar Rorison
Executive Director

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

Rule Title: Fees and Costs; Physicians, Permits and Examination

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

Based on projected applications for licensure examination, it is estimated that the total cost of the examination furnished to the board by the Federation of State Medical Boards of the United States, Inc. (FSMB) will increase by \$48,750 in FY 90-91, \$54,600 in FY 91-92 and \$55,900 in FY 92-93. Such increased examination costs have been, and under the proposed rule amendment, will be paid by applicants for licensure and remitted to the FSMB in full.

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

Under the proposed rule amendment, the board will collect from applicants for medical licensure examination the full amount of the actual cost of such examination, resulting, based on projected applications, in increased revenue of \$48,750 in FY 90-91, \$54,600 in FY 91-92 and \$55,900 in FY 92-93. Such increased revenue will be remitted by the board in its entirety to the Federation of State Medical boards of the United States, Inc., the examination development agency, reflecting a recently effected increase in the cost of the examination.

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

Applicants for medical licensure will, as they have in the past, be subject to increases in the expense of the Federation Licensing Examination (FLEX), furnished to the board by the Federation of State Medical Boards of the United States, Inc.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendment will have any material effect on competition and employment in the public and private sectors.

Delmar Rorison
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Hospitals
Emergency Medical Services**

The Department of Health and Hospitals, Office of Hospitals, Emergency Medical Services, gives notice of its intent to adopt regulations concerning automated cardiac defibrillation.

A complete text of these rules may be found in this month's (January 1991) *Louisiana Register* in the Emergency Rule Section.

Interested parties may submit written comments on the proposed rule to the following address: Albert S. Heck, Director, Office of Hospitals - EMS, Box 94215, Baton Rouge, LA 70804. In addition, there will be a public hearing on this proposed rule at 10 a.m. on February 25, 1991, in the Plaza Level Hearing Room of the Commissioner of Insurance Building, 950 North 5th Street, Baton Rouge, LA.

David L. Ramsey
Secretary

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

Rule Title: Early Cardiac Defibrillation

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

There are no expected costs or savings to state or local governmental units as a result of this action.

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

There is no expected effect on revenue collections as a result of this action.

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

Costs for implementation of this program are voluntary and range from \$3,000 to \$8,000 per unit for the providers. Economic benefits are dependent on fees charged and reimbursement rates by third party insurance and payment agencies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment expected as a result of this action.

David L. Ramsey
Secretary

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, as amended, the Department of Health and Hospitals, Office of Public Health intends to amend Title 48, Part V., Subpart 45., Chapter 117, Section 11707, Subsection B, of the Louisi-

ana Administrative Code governing the issuance of copies of certified records. The amendment provides a procedure whereby a displaced person without the requisite identification may obtain a certified copy of his/her birth certificate upon the submission of an affidavit of identity, a confirmation of identity statement, and the payment of the appropriate fee to the Vital Records Registry. 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. ...
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, Louisiana between the hours of 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. The requestor may purchase a certified copy of his/her birth certificate at the service counter by submitting a completed affidavit of identity, a confirmation of identity statement, and payment of the collectible fee as set forth in the Louisiana Revised Statutes. Payment must be made by cash, check or money order.

1. Definitions

As used in this Section, the following terms shall have the meanings ascribed to them in this Paragraph unless otherwise provided for or unless the context otherwise indicates:

a. *Affidavit of Identity* means a notarized affidavit executed by the requestor of a certified copy of that person's birth certificate.

b. *Confirmation of Identity Statement* means a signed and dated written statement executed by an authorized individual of a qualifying organization on behalf of the requestor of a certified copy of the requestor's birth certificate.

c. *Displaced Person* means a person who is experiencing disruptive life circumstances, such as homelessness, that may have caused the person to be without the documents or resources necessary to obtain identification.

d. *Registrar* means the state registrar of vital records.

e. *Requestor* means the person requesting a certified copy of his or her birth certificate.

f. *Qualifying Organization* means any organization, association, corporation, coalition, confederation, company, business, alliance, establishment, enterprise, firm, club, league, lodge, order, fellowship, fraternity, brotherhood, union, society, group, governmental entity, or other similar body that has met the requirements set forth in this rule for proper registration with the Vital Records Registry.

2. Issuance of Birth Certificates

The registrar of vital records shall issue a certified copy of a birth certificate to a displaced person pursuant to this rule upon receiving an affidavit of identity from the displaced person accompanied by a confirmation of identity statement from a qualifying organization and upon payment of the required fees.

3. Affidavit of Identity

a. The affidavit shall be executed by the requestor before a notary public.

b. The affidavit shall include the following information insofar as known to the requestor:

- i. the requestor's full legal name.
- ii. the requestor's date of birth including the year, the month, and the day.
- iii. the requestor's sex.
- iv. the requestor's race.
- v. the requestor's parish and/or city of birth.
- vi. the father's name, his parish, and/or city of birth, if known.

vii. the mother's maiden name, her parish, and/or city of birth, if known.

viii. an attestation to the truth of the information contained in the affidavit.

c. The affidavit of identity should be in substantially the following form or in conformance therewith:

AFFIDAVIT OF IDENTITY

STATE OF LOUISIANA

PARISH OF _____

BEFORE ME, the undersigned notary, duly qualified, personally came and appeared _____ who, being by me first duly sworn, deposed and said that:

My full legal name is _____.

I was born on the _____ day of _____,

19 ____, in _____ Parish/City. I am a

_____ (race) / _____ (sex). My father's

name is _____ and he was born in

_____ Parish/City. My mother's

maiden name was _____ and she

was born in _____ Parish/City. The information contained within this affidavit is truthful and accurate

to the best of my knowledge and belief.

SIGNATURE OF AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME, this _____ day of _____, 19 ____.

NOTARY PUBLIC

d. The Vital Records Registry will produce and maintain a supply of blank affidavit of identity forms. They will be made available upon request to requestors of certified copies of birth certificates and qualifying organizations free of charge.

e. Improperly executed, defective, or suspect affidavits may be rejected by the registrar.

f. The affidavit of identity must be accompanied by a confirmation of identity statement from a qualifying organization.

4. Confirmation of Identity Statement

a. The confirmation of identity statement must be a written, dated, and signed statement from a qualifying organization completed on behalf of a displaced person and must sufficiently identify the displaced person.

b. The confirmation of identity statement shall include the following information:

- i. the name of the qualifying organization.
- ii. the name of the agent or individual of the qualifying organization, or his designee, executing the confirmation of identity statement and the agent's capacity with the organization.

iii. the location of the qualifying organization and the mailing address, if different.

iv. the telephone number of the qualifying organization.

v. the name and sex of the requestor on whose behalf the confirmation of identity statement is being written.

vi. a statement attesting to the fact that the qualifying organization is properly registered with the Vital Records Registry.

vii. a statement attesting to the fact that the qualifying organization has had a sufficient on-going relationship with the requestor to establish that person's identity with the qualifying organization.

viii. any other relevant information that would tend to establish the reliability of the requestor's identity such as the nature, duration, and extent of the requestor's relationship with the qualifying organization.

c. The confirmation of identity statement should be in substantially the following form or in conformance therewith:

CONFIRMATION OF IDENTITY STATEMENT

TO: Registrar of Vital Records

FROM: (Name of qualifying organization)

DATE: (Date of execution of statement)

I have been designated by _____ (QUALIFYING ORGANIZATION)

_____, Louisiana,
(STREET ADDRESS) (CITY)

_____, _____, to execute
(ZIP CODE) (TELEPHONE NUMBER)
this statement on behalf of _____ (REQUESTOR'S NAME)

Mr./Mrs./Ms. _____, has had a
(REQUESTOR'S NAME)
sufficient on-going relationship with the _____ (QUALIFYING ORGANIZATION)
to establish identity.

(Additional relevant information may be included.)

(AGENT'S SIGNATURE)

(POSITION WITH QUALIFYING ORGANIZATION)

d. If the confirmation of identity statement is written on the qualifying organization's letterhead or stationery, the required information contained on the letterhead or stationery need not be duplicated within the text of the statement.

e. The individual executing the confirmation of identity statement must have a signature on file with the Vital Records Registry.

f. Improperly executed, defective, or suspect confirmation of identity statements may be rejected by the registrar.

g. A confirmation of identity statement executed in good faith by a qualifying organization shall not subject the qualifying organization to any sanction or liability.

5. Qualifying Organization - Criteria

a. To be recognized as a qualifying organization by the Vital Records Registry an organization must:

i. provide some type of service, assistance, aid, help, or support to displaced persons.

ii. submit a completed qualifying organization registration application to the office of vital records.

iii. be approved by the registrar of vital records.

6. Registration Requirements

An organization seeking qualification shall provide the Vital Records Registry with the following information.

a. Documents that prove its existence, such as articles of incorporation, articles of partnership, articles of association, bylaws, federal or state income tax returns, tax exempt status, bank accounts, letterhead or stationery, or any other such documentation that the registrar deems acceptable.

b. The street address of the organization and its mailing address, if different.

c. The telephone number of the organization.

d. The name and position of any designees authorized to execute confirmation of identity statements on behalf of the qualifying organization.

e. Signatures of the designees.

f. A concise statement of the goals or purposes of the organization and how they relate to the needs of displaced persons.

7. Registration Procedure

a. Upon receipt of a properly completed application the registrar shall have up to 20 days to approve or disapprove the application.

b. If incomplete, the application shall be returned with a list of deficiencies and notice that the organization may resubmit the application for further consideration.

c. An organization shall be notified in writing of the registrar's decision. If disapproved, the registrar shall state the reasons for disapproval.

d. The registrar, at his discretion, may reconsider a disapproved application upon the submission of additional information by the organization.

e. An organization may not submit more than one additional application within 180 days from the date of the disapproved application.

f. The Vital Records Registry shall produce and maintain a supply of qualifying organization application forms. These forms shall be made available upon request free of charge to any organization seeking to become a qualifying organization.

g. The qualifying organization application shall be in substantially the following form or in conformance therewith:

APPLICATION FOR REGISTRATION AS A QUALIFYING ORGANIZATION

_____, 19 ____
(DATE)

Org. Name _____

Org. Address _____

Mailing Address _____

if Different _____

Org. Phone # _____

Documentation of Existence 1. _____

(List Type & Attach Copies) 2. _____

3. _____

Name, Signature, and Position of Person(s) Authorized to Execute Confirmation of Identity Statements

NAME: _____ POSITION: _____

SIGNATURE: _____

NAME: _____ POSITION: _____

SIGNATURE: _____

NAME: _____ POSITION: _____

SIGNATURE: _____

Concise Description of Org. Goals/Purposes: _____

Signature of Person Completing Form for Qualifying Organization: _____

DO NOT WRITE BELOW THIS LINE

() Approved () Disapproved
Date: _____, 19 _____

Signature of Registrar: _____

h. The Vital Records Registry shall maintain a registry of qualifying organizations whose applications for registration have been accepted pursuant to this rule.

i. The qualifying organization shall keep its application current by submitting to the registrar any changes of information.

8. Penalties

a. Any improper action, misuse, fraud, misrepresentation, or deceit on the part of a qualified organization may result in the revocation of its registration. A revoked application shall be so noted and placed in the disapproved file.

b. Any suspected unlawful activity shall be reported to the appropriate police agency or district attorney's office for investigation and possible prosecution.

9. Payment of Fees

a. The Vital Records Registry shall accept the checks of qualified organizations for the payment of fees provided that the qualifying organization has supplied documentation of a checking account with an in-state bank.

b. A returned check may subject the qualifying organization to revocation of its check payment privileges, revocation of its registration as a qualifying organization, or both.

Interested persons may submit written comments on the proposed rule at the following address: William H. Barlow, Director and State Registrar, Division of Records and Statistics, DHH-OPH, Box 60630, New Orleans, LA 70160. He is the person responsible for responding to inquiries regarding the proposed rule.

David L. Ramsey
Secretary

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

Rule Title: Homeless Persons Access to Birth Certificates

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

The estimated implementation cost for the state is approximately \$500 in FY 90-91, \$500 in FY 91-92 and \$500 in FY 92-93.

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

The \$500 revenue increase represents an anticipated increase in fees collected for the issuance of additional certified copies of birth certificates to homeless persons.

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

There will be no additional costs to affected persons or non-governmental groups. The rule will facilitate

homeless persons' access to birth records and may result in economic benefits for affected persons by assisting them in qualifying for jobs or government entitlements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition. The rule may assist affected persons secure employment.

Dr. Joel L. Nitzkin, D.P.A.,
Acting Assisting Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and the Neonatal Screening R.S. 40:1299 et seq, notice is hereby given that the Genetics Program of the Office of Public Health intends to adopt the amended and added rules and regulations as follows:

Title 48

PUBLIC HEALTH - GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Neonatal Screening

§6303. Purpose, Scope, Methodology

A. R.S. 40:1299 requires physicians to test Louisiana neonates for several conditions known to be deleterious to affected infants when not treated. All hospitals that have maternity units shall institute and maintain a policy of screening all neonates before discharge regardless of their length of stay in the hospital. OPH maintains a laboratory for screening tests for the hyperphenylalaninemia manifest in phenylketonuria (PKU), for thyroxine (T4) and thyroid stimulating hormone (TSH) for congenital hypothyroidism, and hemoglobin electrophoresis for sickle cell disease. Definitive diagnostic tests are provided if the screening test is positive.

B.—C. ...

D. For a patient with PKU or other rare inborn errors of metabolism to receive the special formulas for the treatment of these disorders from the Genetics Program, the patient must:

1. receive a medical evaluation at least once annually at Tulane Human Genetics Program Clinic;
2. submit blood samples as requested by the medical specialist under contract with the program;
3. include dietary records with the submission of each blood specimen;
4. sign and submit all insurance forms relative to charges for special formula;
5. inform the program office immediately of any changes in insurance coverage.

If a patient fails to comply with these requirements, he/she will not be able to receive formula.

Interested persons may submit written comments on the proposed changes by February 20, 1990 to Charles Myers, Administrator of the Genetics Program, Room 611,

Box 60630, New Orleans, LA 70160. A public hearing shall be conducted on February 26, 1991 at 10 a.m. in Room 511 of the State Office Building located at 325 Loyola Avenue in New Orleans. Any person may appear and participate in accordance with R.S. 49:953(2)(a).

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Neonatal Screening**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no cost for implementing these rules and regulations.
- 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 economic benefits to directly affected persons or non-governmental units.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Dr. Joel L. Nitzkin, D.P.A.
Acting Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Insurance
Commissioner of Insurance**

The Department of Insurance advertises its intent to adopt Regulation 38 regarding the implementation of the "Defense Costs Within Limits Directors and Officers Liability Only" Regulation in the state of Louisiana.

**REGULATION 38
DEFENSE COSTS WITHIN LIMITS
DIRECTORS AND OFFICERS LIABILITY ONLY**

Based on Attorney General's Opinion Number 88-193 as modified June 4, 1990.

The regulation will apply ONLY to Directors and Officers Liability insurance policies issued in the state of Louisiana.

Policy provisions must state the following items:

1. There is an absence of a duty to defend by the insurer.
2. The insured hires and pays its own attorneys and is then indemnified under the insurance policy.
3. A disclosure statement, printed in a prominent typeface, is signed by the insurer and insured, indicating:

a. that insured has been offered an insurance policy which does not include defense costs within the limits of liability, and

b. that policy limits could be reduced and/or completely exhausted by legal costs without further liability of the insurer.

The disclosure must be made a part of the policy.

Insurers, who issue policies which have provisions for defense costs within the policy limits, shall also offer a policy which does not include defense costs within the limits of liability. Rates and forms for the two products must be approved as required by Louisiana Insurance Law.

Any insurer who markets a Directors and Officers Liability policy which DOES include defense costs within limits, without giving the insured an opportunity to purchase an insurance policy which DOES not include defense costs within limits shall be in violation of the Unfair Trade Practices provisions of the Louisiana Insurance Code.

Interested parties may submit written comments on the proposed regulation until 4:30 p.m., February 19, 1991, at the following address: Joseph Shorter, III, Deputy Commissioner of Management and Finance, Box 94214, Baton Rouge, LA 70804-9214.

A public hearing will be held to obtain comments from interested parties. The public hearing will be held in Baton Rouge, LA at the Insurance Building Hearing Room located at 950 North Fifth Street at 10 a.m. on February 19, 1991.

Douglas D. "Doug" Green
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Regulation 38, Defense Within Limits
Directives and Officers Liability Only**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of Regulation 38 will be revenue neutral. The Insurance Department currently operates in accordance with the proposed regulation. Local units of government have no role regarding the proposed regulation.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state and local governmental units are not impacted by the implementation of the proposed regulation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Estimated costs and/or economic benefits can not be determined at this time. Insurance companies have an "absence of duty" to defend this type of policy and the insured hires and pays its own attorneys and is then indemnified under the policy.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed regulation has no effect on competition and employment.

Douglas D. "Doug" Green
Commissioner of Insurance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

The Department of Public Safety, Office of State Police, in accordance with R.S. 36:408, R.S. 40:1485.4, and R.S. 49:950 et seq., gives notice that rulemaking procedures have been instituted to amend LAC 55:I.1701 and 1703 and to add LAC 55:I.1742, 1743 and 1744 to read as follows:

Title 55 PUBLIC SAFETY Part I. State Police

Chapter 17. Charitable Bingo, Keno and Raffle Subchapter A. General Requirements §1701. Statement of Department Policy

The public's health, safety and welfare are the primary considerations in the restatement, repeal, amendment and adoption of these rules. Further, it shall be the policy of the Division of Charitable Gaming to decrease the potential for fraud in the charitable games of chance and to insure that the net proceeds are contributed to bona fide charitable causes and further to prevent the infiltration of elements of organized crime or professional gambling into charitable gaming.

§1703. Definitions

A. As used throughout this Chapter, the following definitions apply:

1. "Act" means the Charitable Raffles, Bingo and Keno Licensing Law enacted as R.S. 33:4861.1 et seq., together with R.S. 40:1485.1 et seq., on regulation of charitable gaming including all amendments thereto that may hereafter be enacted.

2. "Applicant" means the organization, its members, officers, agents, or employees who have applied for any license from the division.

3. "Bona fide", "active", or "volunteer" member means a person accepted for membership in an organization eligible to be licensed under this Part upon application, with such action being recorded in the official minutes of a regular meeting or who has held full and regular membership status in the organization. The member functions shall not be limited to gaming-related activities.

4. "Certain related offenses" include the following offenses committed contrary to the laws of this state, local jurisdictions, other states, the federal government, or other countries:

- a. any felony offense;
- b. any offense directly or indirectly related to gambling or gaming laws;
- c. the misdemeanor offense of any theft or related offense, any attempted theft or related offense, issuing worthless checks, illegal possession of stolen things, or false swearing or related offense.

5. "Charitable gaming" is the conducting or assisting in the conducting of any game of chance authorized by R.S. 33:4861.1 et seq., and R.S. 40:1485.1 et seq.

6. "Charitable gaming supplies" means any supplies (except raffle tickets), equipment, device, goods or wares intended for use in the conducting of any charitable gaming provided by law. It includes, but is not limited to, the receptacle and numbered objects to be drawn from it, the master board upon which the objects drawn are placed, the cards or

sheets bearing numbers or other designations to be covered and the objects used to cover them, the boards or signs, however operated, used to announce or display the number or designation as they are drawn, and all other articles essential to the operation, conducting and playing of bingo, keno, pull tabs or raffles. It also includes any computer system, software or cash register designed for the primary purpose of accounting for and reporting the transactions involved in the selling of share or shares to participate in charitable gaming. Bingo game sets commonly manufactured and sold as children's games for a retail price of twenty dollars or less shall be presumed not to be bingo equipment for these purposes unless used by a licensee in the licensee's gaming activity.

7. "Department" means the Louisiana Department of Public Safety and Corrections and shall include the Division of Charitable Gaming Control of the Office of State Police, Louisiana Department of Public Safety and Corrections.

8. "Division" means the Division of Charitable Gaming Control, Office of State Police, Louisiana Department of Public Safety and Corrections.

9. "Director" means the commissioned state trooper of sufficient rank, consistent with civil service regulations, designated by the deputy secretary to head the division.

10. "Expenses" means ordinary, necessary and reasonable costs incurred in preparation for or in the conduct of the gaming activity.

11. "Ideal Net Proceeds" means the projected gross amount to be collected upon sale of all pull tabs in a set or deal minus (1) the actual cost of the pull tabs to the organization, and (2) the projected total amount of prizes or winnings in the set or deal.

12. "Licensee" means any organization licensed to conduct charitable gaming activity pursuant to R.S. 33:4861.1 et seq., and R.S. 40:1485.1 et seq., or licensed as a manufacturer or distributor of charitable gaming supplies, manufacturer or distributor of electronic video bingo machines, commercial lessors, or licensed as a private contractor for cable television bingo.

13. "Immediate family" means the subject individual's spouse, children, parents, brothers and sisters, spouses of children, and spouses of brother and sisters.

14. "Non-Commercial Lessor" means a bona fide nonprofit organization licensed by the division to conduct games of chance which leases any building or structure used for charitable gaming to other organizations licensed by the division.

15. "Private Contractor" means a firm or person possessing demonstrated skills in the conduct and administration of charitable games of chance, and licensed by the division to provide for the operation and management of cable television bingo and any employee or agent of such firm or person.

16. "Promotional Game" means any game, contest, or arrangement used by any entity in order to stimulate sales or attendance, where absolutely no purchase or fee is necessary in order to participate in or win the game, contest or event.

17. "Pull tab" or "Charity Game Ticket" means a single or banded ticket or card with its face covered to conceal one or more numbers or symbols where one or more cards or tickets in each set has been designated in advance as a winner.

18. "Pull tab set or deal" means any form, series or group of pull tabs having the same serial number.

19. "Raffle" means a type of lottery in which several persons pay, in shares, the value of something put up as a stake, and then determine by chance which one of them shall become the sole possessor of it and any portion or share is retained by the person(s) conducting the raffle.

20. "Reasonable Market Rental Rate" is that rate at which similar facilities or equipment available for similar purposes, in the community may be leased or rented.

21. "Session" represents authorized games of chance played within a time limit of four consecutive hours, within the same calendar day, with a minimum of 12 hours between sessions. The four-hour session limit shall not apply to sessions held in conjunction with a bona fide fair or festival on property where no rent is paid for the session and payout of prizes is determined by the number of persons playing. Sessions are limited to not more than one session per day per licensee. In no instance, shall the total prize amounts exceed \$4,500 per session without a special license. A session of keno or bingo, when the licensee possesses a special license is limited to six consecutive hours.

22. "Special License" means a license to conduct one bingo session where the total prize amount shall not exceed \$25,000 in cash or things of equal value. No organization shall be issued more than two special licenses a year.

23. "Patriotic" means in addition to any other commonly accepted meaning, an organization whose membership is composed of veterans of the United States of America Military to include without limitation, United States Army, United States Air Force, United States Marines, United States Navy, and United States Coast Guard, and said organization has acquired an appropriate non-profit designation issued by the Federal Internal Revenue Service with its registered office and/or place of domicile in the state of Louisiana, or an auxiliary organization to such a veterans' organization.

B. The division shall establish the following fee schedule:

1. Customized organization list per request, one dollar per name (maximum fee \$500).
2. Manufacturer's license, \$200.
3. Distributor's license, \$100.
4. Organization license, \$50.
5. License modification per organization request, \$25, after first free modification.
6. Copy of public record, 25 cents per page.
7. Super bingo license (limit two), \$100.
8. Private Contractors Cable TV Bingo, \$1,000.
9. Organization application for Cable TV Bingo, \$50.
10. Retail Sale Outlet, \$200.
11. Paid Volunteer Personnel History Disclosure/Identification Card, \$15.
12. Personnel History Disclosure Form/Identification Card/Cable TV Bingo, \$15.
13. Commercial lessor's license, \$200.

§1742. Minimum Internal Accounting Controls

A. Effective July 1, 1991, all licensees whose gaming activities grossed over \$25,000 in the prior license year or any new licensee who the division projects to gross over \$25,000 in a year, must establish and maintain an internal accounting control system which meets minimum standards established by the Division of Charitable Gaming Control. The system must provide reasonable assurance that all

transactions are properly and accurately recorded, that gaming proceeds are disbursed in accordance with established policy of the licensed organization and that assets are protected against loss or theft. The director may waive this requirement for organizations whose gaming activities gross over \$25,000 but less than \$100,000 provided that the organization demonstrates competency and proficiency in utilizing an accounting system acceptable to the director.

B. The following are minimum internal accounting controls which must be implemented by all licensees:

1. The results of each gaming session must be fully and accurately documented. The "Division's Model Accounting System" will be used in its entirety by all licensed organizations with an anticipated annual gross of \$25,000 or more in order to ensure strict accountability for the handling of cash and inventory by all participating members; provide a sound audit trail; and allow for the systematic accumulation of data needed for preparation of the division's quarterly report;

2. a specific member must be designated as session manager for each gaming session. This person will be held responsible for the overall control of cash, inventory, and accounting at the session. A record of such designees must be maintained; and,

3. the organization must maintain a single separate charitable gaming checking account. All checks on this account must be prenumbered. Checks made payable to cash are prohibited; and,

4. all proceeds from each gaming session, other than that amount paid out as cash prizes and that amount retained as a cash bank, must be deposited into the separate gaming account no later than the next banking day following the close of the session; and,

5. gaming session reports and deposits must be reviewed quarterly by a designated organization member who is not associated with gaming operations; and,

6. the separate gaming account must be reconciled monthly by someone other than a person who is authorized to sign checks on that account; and,

7. all disbursements from the separate gaming account must be in strict compliance with established written policy of the organization; must be fully supported by permanently filed receipts, invoices, or other sufficient documentation; and must be properly and accurately recorded; and,

8. detailed inventory records must be maintained on all gaming supplies. These records must be verified by means of a physical count made at least semi-annually by an organization member who is not associated with gaming operations. A record of these physical counts must be maintained; and,

9. all forms, bank records, and other documentation described herein must be maintained for a period of three years.

C. Accounting for Sale of Bingo Hard Cards

Every organization, with an anticipated annual gross of \$25,000 or more, which uses reusable bingo cards (slide, shutter or hard cards) must employ the receipting and recordkeeping procedures described by this rule, or submit to the division for preapproval an accounting system of their own design which similarly accounts for the sale of each card and provides a sound audit trail.

The following procedures are required unless advance approval is obtained from the division for use of an alternative system:

1. Each hard card must be assigned a distinct card control number. This number, along with the name of the card owner, or hall location, must be permanently and conspicuously printed or stamped on the card.

2. Duplicate preprinted serially-numbered receipts must be used to account for all hard card sales. A receipt must be prepared and issued upon each individual sale of one or more cards, with the licensee retaining the duplicate copy of the receipt. Each receipt must be initialed by the issuer (worker) and show the date of the session, the control number(s) of the card(s) issued, and the dollar amount of the sale. A line should be drawn under the last card number listed on the sheet so as to preclude anyone from adding extra card numbers to the list of paid cards.

3. All voided receipts must be initialed by the issuer, and retained by the organization.

4. Upon redemption of a winning card, the player must present his or her receipt showing purchase of the card. The checker must verify that the winning card number is listed on the receipt, and that the date of the receipt is current. In addition, should the receipt bear any apparent alterations, scratch-throughs, suspect initials, or other suspect markings, then the authenticity of the receipt must be verified by comparison to the licensee's duplicate.

5. At the end of each session, all receipts must be accounted for, and the licensee must reconcile total sales per duplicate copies of issued receipts with actual dollar amount collected from the sale of hard cards. A written record of this reconciliation must be prepared and retained by the organization.

6. The licensee shall be held strictly accountable for all receipt forms or booklets purchased and for all receipts issued. All receipt numbers must be fully accounted for, and all duplicate copies of issued receipts and voided receipts must be retained for a period of three years.

In addition to the above procedures, each organization using hard cards must attach a statement to each of their Charitable Gaming Quarterly Reports which shows the total amount collected during the quarter from the sale of hard cards.

D. Failure of an organization to establish and maintain an acceptable internal accounting control system will subject that organization to restriction, suspension or revocation of its gaming license.

E. Training sessions and accounting forms are available from the division to assist licensees in complying with this requirement.

§1743. Expenses

A. All expenses incurred in connection with the conduct of charitable gaming must be paid from the separate charitable gaming bank account.

B. All expenses paid must be bona fide, reasonable in amount, and ordinary and necessary to the conduct of the gaming activity. In connection with this rule, the following definitions shall apply:

1. *Bona fide* - an expense that is genuine and authentic.

2. *Reasonable* - an expense that is moderate or fair in amount.

3. *Ordinary* - an expense that is commonly incurred in the conduct of charitable gaming.

4. *Necessary* - an expense that is appropriate and justifiably required to conduct the games.

C. Incurring or paying, whether directly or indirectly, of expense for the following goods and services is specifically prohibited:

1. Transportation of game players.

2. Child care or baby sitting service.

3. Rentals in excess of reasonable market rental rate.

4. Promotional items given to game players during a bingo or keno session.

D. All expenses paid must be fully supported by receipt or other written evidence.

E. Payments for door prizes are not deductible as an expense, but rather are deductible as gaming prize payouts subject to the \$4,500 per session limitation [\$25,000 per special session].

F. Deductions on quarterly reports for non-sufficient fund (NSF) checks exceeding \$500 or one percent of gross proceeds must be accompanied by a written explanation of collections efforts undertaken and evidence of changes in check cashing policies which will ensure future amounts do not exceed one percent of gross proceeds.

G. Pull tabs: A licensee is prohibited from selling a pull tab for an amount different from the pull tab's face value. Under no circumstances may a licensee give away free pull tabs or sell pull tabs at discounted prices.

§1744. Assigned Fixed Value Required on Disposable and Non-disposable Bingo/Keno Cards, and Bonanza Sheets

A. For the purpose of this rule, a disposable bingo/keno card is a card made of paper or other suitable material which is designed or intended for use at a single bingo/keno occasion. A non-disposable bingo/keno card is a reusable card such as a hard card, or one that contains a slide or shutter.

B. Each organization will assign a fixed value, the amount it intends to charge, for individual non-disposable bingo/keno cards, if used; and/or for each cut and collation of disposable bingo/keno card, and bonanza sheet it intends to use, sell, or otherwise furnish in the conduct of its gaming sessions.

C. Each organization will submit a list to the division with the assigned fixed values it intends to charge for each disposable or non-disposable bingo/keno card, and bonanza sheet that it intends to sell. This list will be resubmitted with each license application submitted by the organization.

D. All sales of disposable and non-disposable bingo/keno cards, and bonanza sheets must be in accordance with the fixed assigned values as reported to the division.

E. Neither the fixed assigned values nor the cuts and collations of disposable bingo/keno cards can be changed without prior written approval from the division.

F. Organizations may not (1) issue or otherwise furnish any free disposable or non-disposable bingo/keno cards, or bonanza sheets, or (2) discount the price of any disposable or non-disposable bingo/keno card, or bonanza sheet.

Interested persons may submit written comments on the proposed rule to: Frank T. Brown, Director, Division of Charitable Gaming Control, Office of State Police, Department of Public Safety and Corrections, Office of State Police, Box 66614, Baton Rouge, LA 70896. Telephone: (504) 925-1835.

Marlin A. Flores
Deputy Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Charitable Bingo, Keno, and Raffle**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
\$990 per year in operating expenses will be the net impact of the proposed action. This figure is based on 37.5¢ per document times 1,200 organizations which will be required to utilize the forms. 37.5¢ per document is based on last year's cost of \$750 for 2,000 copies of "Minimum Internal Accounting Controls." Postage costs included in this estimate will be \$.45 times 1,200, or \$540.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This proposed action is revenue neutral.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Impact on licensed organizations will be limited to additional record keeping which the organizations will be mandated to keep. This may require some of the organizations to hire accountants to assist in the preparation of the reports. The division has determined that \$300 per quarter is a fair estimate of the reasonable expenses a large organization would incur in complying with the Model Accounting System.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed action will not impact competition or employment.

Marlin Flores
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Electronic Video Bingo Regulations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Annual operating expenses after FY 90-91, resulting from the proposed rules will total \$50 for printing costs. Initial one-time expenses total \$13,742 for the designing of forms and the purchase of portable testing equipment. The division has adequate funds budgeted for acquisitions in the existing FY 1990-91 to cover these costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed action will have no impact on local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The four distributors and five manufacturers presently licensed in Louisiana will be required to have a total of five machines tested at a total cost of approximately \$3,650 per machine. \$3,650 is a figure based on a \$3,500 estimate provided by an independent testing laboratory and \$150 estimated shipping costs. The division expects that there may be some costs to the machine owners associated with the standardization of financial reporting, however, the cost is expected to be minimal.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no impact on competition or employment in the public or private sectors.

Marlin A. Flores
Deputy Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Public Safety
Office of State Police**

The Department of Public Safety, Office of State Police in accordance with R.S. 36:408, R.S. 40:1485.4, R.S. 33:4861.17, and R.S. 49:950 et seq., gives notice that rule-making procedures have been instituted to add LAC 55:1.1901 et seq., pertaining to technical and administrative requirements for electronic video bingo machine distributors and manufacturers.

A copy of these proposed rules may be obtained in their entirety by contacting the Louisiana State Police, Charitable Gaming Division, 265 South Foster Drive, Baton Rouge, LA 70806.

Interested persons may submit written comments on the proposed regulations to Sergeant Frank T. Brown, Director, Louisiana State Police, Charitable Gaming Division, Box 66614, Baton Rouge, LA 70896.

Marlin Flores
Deputy Secretary

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

The Department of Social Services, Office of Community Services, proposes to adopt the following rule in the Title IV-E Adoption Subsidy Program as it relates to nonrecurring expenses in adoption.

In accordance with federal regulations, 45 CFR Part 1356, as published in the *Federal Register* on December 14, 1988, the Office of Community Services proposes to implement changes related to nonrecurring expenses of adoptions mandated by §1711 of the Tax Reform Act of 1986 as it relates to the Adoption Assistance Program under Title IV-E. As mandated in the regulation, changes were made to the applicable state statutes by Act 345 of the 1990 Legislative session.

The Office of Community Services proposes to set forth criteria for reimbursement of nonrecurring expenses associated with the adoption of children with special needs:

1. The amount of the payment made for nonrecurring expenses of adoption shall be determined through agree-

ment between the adopting parent(s) and the Office of Community Services. The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

2. The agreement for nonrecurring expenses must be signed prior to the final decree of adoption.

3. There must be no income eligibility requirement (means test) for adopting parents in determining whether payments for nonrecurring expenses of adoption shall be made. However, parents cannot be reimbursed for out-of-pocket expenses for which they have otherwise been reimbursed.

4. To be eligible, the child must meet the criteria previously established by the Office of Community Services to be designated as a "child with special needs." Furthermore, the child must have been placed for adoption in accordance with applicable state laws.

5. The rate of reimbursement for nonrecurring expenses has been set at \$1,000 per adoption.

6. In cases where siblings are placed and adopted, either separately or as a unit each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

7. Reimbursement is limited to costs incurred by or on behalf of adoptive parents that are not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made directly by the Office of Community Services.

8. When the adoption of the child involves interstate placement, the state that enters into an adoption subsidy agreement will be responsible for paying the nonrecurring adoption expenses of the child. In cases where there is interstate placement but no agreement for other federal or state adoption assistance (subsidy), the state in which the final adoption decree is issued will be responsible for reimbursement of nonrecurring expenses if the child meets the definition of a "child with special needs."

9. The term "nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of State or Federal law, and which have not been reimbursed from other sources or other funds. "Other expenses which are directly related to the legal adoption of a child with special needs" means the costs of the adoption incurred by or on behalf of the parents and for which parents carry the ultimate liability for payment. Such costs may include the adoption home study, including health and psychological examinations, supervision of the placement prior to finalization of the adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoption process.

Interested persons may submit written comments to the following address: Brenda L. Kelley, Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804-4367. She is the person responsible for responding to inquiries regarding this proposed rule.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Nonrecurring Adoption Expenses**

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

Programmatic implementation costs to the state are estimated to be \$35,000 for FY 90-91; \$147,000 for FY 91-92; and \$162,000 for FY 92-93. In addition, during FY 90-91 there will be a slight increase in administrative costs such as printing, case record maintenance, and mailing which are not expected to exceed \$1,000.

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

It is anticipated that additional federal funds will be collected due to an increase in eligible expenditures. The amount of federal funds anticipated for FY 90-91 is \$17,500, for FY 91-92, \$73,500, and for FY 92-93, \$81,000.

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

The ability to reimburse families adopting children with special needs a portion of their nonrecurring expenses may enable additional children to be adopted. The limit imposed by the state agency shall control the costs for this mandatory component of the Title IV-E Adoption Subsidy Program. The precise economic benefit is not ascertainable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of the proposed amendment on competition and employment is anticipated.

Robert J. Hand
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

The Department of Social Services, Office of Community Services, proposes to adopt the following rule in the Foster Care Program.

Act 348 of the 1990 Legislative session mandates that the Department of Social Services, Office of Community Services, file a case permanency plan with the court when a child enters into custody of the Department of Social Services or into foster care and that this be done within the time limits required by federal laws, rules, or regulations.

PROPOSED RULE

Effective April, 1991, the Department of Social Services, Office of Community Services, shall file a case permanency plan with the court when a child enters into custody of the department or into foster care, pursuant to or pending a child in need of care proceeding. The case permanency plan shall be filed no later than 60 days after the child comes into care.

Interested persons may submit written comments through February 5, 1991 to the following address: Brenda L. Kelley, Assistant Secretary, Box 44367, Baton Rouge, LA 70804.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Case Permanency Plan**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated costs are negligible. Foster care workers already make case permanency plans for children. This action will only require that the plans now be filed with the appropriate court and this cost will be negligible.
- 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)
There are no costs or economic benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no impact on competition or employment.

Robert J. Hand
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

The Department of Social Services, Office of Community Services (OCS), intends to adopt changes in the policy of its Child Protection Investigation program. These changes are in accordance with amendments to R.S. 14:403 enacted in the 1990 Regular Session of the Louisiana Legislature.

PROPOSED RULE

I. Prioritization and Acceptance of Reports of Child Abuse and Neglect

The OCS will accept reports alleging the abuse and/or neglect of children by their responsible caretakers as defined in R.S. 14:403, up to the limits of its available staff resources. Reports will be prioritized as high, medium, or low priority based upon the relative severity and immediacy of the maltreatment and other circumstances as described by the reporter. All three priorities will be accepted for investigation unless established maximum workloads have been attained in the Child Protection Investigation program in the parish in which the report is to be investigated. When maximum workloads are attained, the regional manager shall have the authority to direct the parish office to cease acceptance of lower priority reports. Regional managers will be required to notify the director, OCS Division of Field Services, who will in

turn convey this information to the assistant secretary, when they direct staff in any local office to cease acceptance of reports of lower priority. Reporters of such situations shall be advised that their report is in a lower priority category and cannot be accepted due to lack of sufficient staff.

The maximum workload for child protection investigation staff is considered to be 12 new investigations per month. The authority to screen out reports shall be invoked only when workloads have been exceeded by two to three cases per worker for all available investigative workers for two consecutive months, or by four or more cases per worker in any one month. Staff in other OCS programs or in contiguous parishes may be assigned responsibility for child protection investigations only if their caseloads are consistently and substantially below the standard for their programs.

II. Time Limits on Acceptance of Reports

Reports will not be accepted when the time period from the alleged abuse or neglect occurrence to the date of the report exceeds the following limits:

Physical Abuse

A. Severe abuse (i.e., high priority) - 12 months

B. Less severe (i.e., medium - low priority) - 3 months, unless documentation of the injury, such as scars or medical records, continues to be available

Neglect

One month unless the report includes several incidents which would indicate a continuing pattern of neglect

Sexual Abuse

No time limit if the alleged victim remains a minor to whom the alleged perpetrator continues to have access. Reports over 12 months post-occurrence will not be accepted if the perpetrator no longer has access. Reports in which the victim is no longer a minor will not be accepted regardless of time elapsed.

Persons interested in attending a public hearing on the above should submit written notification within 20 days of date of publication of this notice to:

Brenda L. Kelley, Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Prioritization in Child Protection Services**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The implementation costs to the state will be only those incurred in the printing of new policy and training of staff. It is expected that this will total about \$5,460.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no 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 proposed rule will result in no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Robert J. Hand
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

The Department of Social Services, Office of Family Support proposes to adopt the following rule in the Child Support Enforcement Services Program.

The enactment of Act 191 of the 1989 Louisiana Legislature provides that the Department of Revenue and Taxation shall charge \$2.75 for each state tax refund offset. This rule is required for the Department of Social Services to pass on this fee to non-AFDC custodial parents whose absent parents' state tax refunds are offset in order to pay for delinquent child support. Federal regulation 45 CFR 303.102 permits this fee for non-AFDC Payees but not for AFDC or IV-E payees. Therefore the agency will continue to absorb the cost of the \$2.75 fee for all AFDC and IV-E cases.

PROPOSED RULE

Effective April 20, 1991, Support Enforcement Services will charge a \$2.75 fee to non-AFDC custodial parents for each successful state tax refund offset of \$4 or more intercepted from the absent parent for delinquent support. This fee will reimburse Support Enforcement Services for intercepted fees paid to the Department of Revenue and Taxation.

The fee charged to non-AFDC custodial parents for the state tax offset will be deducted from the child support checks issued by Support Enforcement Services. The absent parent will be given credit for the amount of the check before the fee deduction.

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, Louisiana on Monday, February 25, 1991, 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: Support Enforcement-State Tax Offset Fee

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

There will be a decrease in expenditures for the Office

of Family Support. The amount of funds to be reduced from Parent Refunds for the State Revenue Intercept fee is \$2,357 in refunds in SFY 91, \$10,750 in SFY 92, and \$11,825 in SFY 93.

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

There will be a decrease in federal funds for the Office of Family Support. Currently, the intercept fee is charged to the Support Enforcement Program at a matching rate of 66 percent federal and 34 percent state for FY 91. After this rule, the fee will be charged to the custodial parent. It is assumed at this time that the federal matching rate will remain the same for subsequent years.

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

There is an effect on non-AFDC custodial parents who will have state tax refunds intercepted from the absent parent in order to pay their child support delinquencies. A fee of \$2.75 will be deducted from the child support check to cover the Revenue and Taxation cost of intercepting the state tax refund of the absent parent. There are expected to be 857 affected cases in SFY 90/91, 3,909 affected cases in 91/92, and 4,300 affected cases in 92/93.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

The Department of Social Services, Office of Family Support, proposes to adopt the following rule in the Job Opportunities and Basic Skills (JOBS) Training Program, also referred to as Project Independence, the name of Louisiana's program.

This rule is necessary to expand and clarify the registration procedures for family child day care homes (refer to the October, 1990 issue of the *Louisiana Register* for that notice of intent), as they apply to Project Independence participants.

PROPOSED RULE

Participants in Louisiana's Project Independence Program shall be eligible for reimbursement of child care expenses, required as a result of program participation, that are incurred for child(ren) in family child day care homes. Eligibility for such reimbursement is contingent upon compliance with established registration procedures for family child day care homes (refer to the *Louisiana Register* of October, 1990 for the complete text of that proposed rule). Participants with child(ren) in family child day care homes that care for only related child(ren) shall be eligible for reimbursement of child care expenses upon receipt of the initial application form for registration. However, if such application is subse-

quently disapproved following inspection by the Office of the State Fire Marshal, the participant is not eligible for further reimbursement until such time that notification of registration approval is received.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on February 25, 1991 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Job Opportunities and Basic Skills Training Programs (JOBS)

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

There are no implementation costs associated with this rule change.

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

There will be no effect on revenue collections.

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

This proposed rule that expands and clarifies the registration procedures for family child day care homes will have no impact on the costs of providing child care for Project Independence participants. This is because the disapproval of a provider's application for registration will result in the participant being required to locate alternative arrangements for child care. It will not result in the participant being exempt from Project Independence. Therefore, there will be no change in the total costs for providing child care.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services Office of Family Support

The Department of Social Services, Office of Family Support, proposes to adopt the following rule in the Job Op-

portunities and Basic Skills (JOBS) Training Program, also referred to as Project Independence, the name of Louisiana's program.

This rule is mandated because an amendment to the Louisiana State Plan for JOBS is being proposed.

PROPOSED RULE

Louisiana elects to exercise the state option, as specified at 45CFR250.33(b) of the federal regulations, allowing any parent under the age of 25 in an Aid to Families with Dependent Children-Unemployed Parent (AFDC-UP) case, who has not completed high school or an equivalent course of education, to meet the 16 hour per week work requirement by participating in educational activities as defined at 45CFR250.44(a). Additionally, the second parent in any AFDC-UP case, regardless of the age of that parent, may be placed in an educational component provided the first parent is participating 16 hours per week in a work activity or, if under 25 without a high school or equivalent education, in educational activities.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on February 25, 1991 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Job Opportunities and Basic Skills Training Program (JOBS)

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

There are no implementation costs associated with this rule change.

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)

The Job Opportunities and Basic Skills Training Program (JOBS) assists recipients of Aid to Families with Dependent Children (AFDC) to become self-sufficient and therefore independent of public assistance. This is accomplished through the provision of education, training, job placement and employment and other related supportive services including child care and transportation. A total of \$14,391,251 has been budgeted for FY 90/91 for providing program components. Allowing unemployed parents to participate in educational activities will have no impact on the costs of providing program components. This is because the entire Project Independence Program is funded through capped entitlement which establishes a funding limit on program expenditures. Imple-

mentation of this change will require a reordering of how these funds are spent, and will result in fewer educational placements available for other Project Independence participants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Rehabilitation Services/Commission for the Deaf**

The Department of Social Services Rehabilitation Services/Louisiana Commission for the Deaf proposes to adopt a rule specifically related to the revision of the Rules of Operation.

Revisions required for the continued implementation of the Louisiana Commission for the Deaf Program.

PROPOSED RULE

Effective July 1, 1991, the Louisiana Commission for the Deaf proposes to adopt a rule specifically related to the revision of the Rules of Operation to 1) re-organize existing material, 2) eliminate redundant language, 3) clarify existing language, 4) make minor editorial changes, 5) revise the Interpreter Certification Board, formerly State Certification Administrative Committee, 6) establish a standing committee of the Government Relations Committee, and 7) incorporate "people first" language wherever possible.

A complete copy of the proposed Rules of Operation for the Louisiana Commission for the Deaf is available for review at the Louisiana Rehabilitation Services Office located at 1755 Florida Boulevard in Baton Rouge and at the Office of The *Louisiana Register*.

Comments may be submitted to the above address prior to the public hearings or during the public hearings at the Deaf Action Centers. Public hearings will be conducted beginning at 10 a.m. as follows:

Tuesday, February 26, 1991, Shreveport, Deaf Action Center, Northwest, 601 Jordan Street, Shreveport, LA.

Wednesday, February 27, 1991, Baton Rouge, Deaf Action Center, Baton Rouge, 2585 Brightside Drive, Baton Rouge, LA.

Thursday, February 28, 1991, New Orleans, Deaf Action Center, Greater New Orleans, 1231 Prytania Street, Third Floor, New Orleans, LA 70130-4344.

May Nelson
Secretary

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

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

There are no anticipated implementation costs or savings.

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

There is no anticipated effect on revenue collections.

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

There is no anticipated cost nor economic benefit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no proposed change in competition and employment in the public and private sectors.

Alton Toms
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Rehabilitation Services/Commission for the Deaf**

The Department of Social Services Rehabilitation Services/Louisiana Commission for the Deaf proposes to adopt a rule specifically related to state sign language interpreter certification standards.

Standards required to assure acceptable sign language interpreter services for the deaf.

PROPOSED RULE

Effective July 1, 1991 the Louisiana Commission for the Deaf proposes to adopt a rule specifically related to acceptable standards for sign language interpreter services for the deaf. This proposed rule has been developed in accordance with R.S. 46:2351-2354, enacted by Act 629 of the 1980 Regular Session of the Legislature, as amended by Act 660 of the 1988 Regular Session of the Legislature, as amended by Act 529 of the 1989 Regular Session of the Legislature R.S. 46:2352(7), and R.S. 46: 2361-2374 enacted by Act 135 of the 1982 Regular Session of the Legislature, known as the Louisiana Interpreter Law.

A complete copy of the proposed standards for state sign language interpreter certification is available for review at the Louisiana Rehabilitation Services Office located at 1755 Florida Boulevard in Baton Rouge and at the Office of the *Louisiana Register*. Comments may be submitted to the above address prior to the public hearings or during the public hearings at the Deaf Action Centers. Public hearings will be conducted beginning at 11 a.m. as follows:

Tuesday, February 26, 1991, Shreveport, Deaf Action Center, Northwest, 601 Jordan Street, Shreveport, LA.

Wednesday, February 27, 1991, Baton Rouge, Deaf Action Center, Baton Rouge, 2585 Brightside Drive, Baton Rouge, LA.

Thursday, February 28, 1991, New Orleans, Deaf Action Center, Greater New Orleans, 1231 Prytania Street, Third Floor, New Orleans, LA 70130-4344.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Commission for the Deaf
Certification for Interpreters**

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

There is a total increase in cost of \$15,000 of which \$3,700 is the anticipated implementation cost.

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

There is no anticipated increase or decrease in revenue.

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

There is no anticipated impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no proposed change in competition and employment in the public and private sectors.

Alton Toms
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and R.S. 3:3655A relative to the authority of the Department of State to promulgate rules and regulations, notice is hereby given that the Department of State proposes to adopt the following rules relative to the implementation and administration of the Central Registry of Farm Product filings.

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

Chapter 3. Central Registry

§301. Definitions

Buyer in the ordinary course of business means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products.

Central registry means the master index maintained by the secretary reflecting information contained in all effective financing statements, and statements evidencing assignments, amendments, continuations, and terminations thereof.

Commission merchant means any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

Creditor means any person who holds a security interest in a farm product.

Crop year means:

1. for a crop grown in soil, the calendar year in which it is harvested or to be harvested;
2. for animals, the calendar year in which they are born or acquired; or

3. for poultry or eggs, the calendar year in which they are sold or to be sold.

Cumulative addendum means a document listing all information transmitted by the filing officers to the central registry as of the date of issuance that was not included on the most recent master list.

Debtor means any person who owns or has an ownership interest in farm products which are subject to a security interest of creditors.

Effective financing statement means a written instrument which is an abstract of a security device and which complies with the provisions of R.S. 3:3654(E). An effective financing statement may also contain additional information sufficient to constitute a financing statement or other statement under Chapter 9 of Title 10 of the Louisiana Revised Statutes.

EFS means an effective financing statement.

Encumbrance certificate means a written document which lists all effective financing statements affecting a person which have been filed with the filing officer and containing the information required by this Chapter to be transmitted to the secretary for inclusion in the central registry on the date and at the time the certificate is issued and which complies with the provisions of R.S. 3:3654(F).

Farm product means an agricultural commodity such as wheat, corn, soybeans or a species of livestock, such as cattle, hogs, sheep, horses or poultry, used or produced in farming operations or a product of such crop or livestock in its unmanufactured state, such as ginned cotton, wool-clip, maple syrup, milk and eggs, that is in the possession of a person engaged in farming operations.

Filing means the receipt of an EFS, amendment, assignment, continuation, partial release or termination of an EFS by the filing officer stamped with the date and time received and assigned a file number. NOTE: R.S. 3:3656(D) provides that an EFS is effective against third parties at the time it is filed with the filing officer and before it is included in the central registry. This may be in conflict with 7 U.S.C. 1631(c)(2)(E) and (F). Until this is clarified by court decision, parties relying on an EFS before it is included in the central registry do so at their own risk.

Filing officer means the clerk of court of any parish, or in the case of Orleans Parish, the recorder of mortgages.

Knows or Knowledge means actual knowledge.

Master List means a document listing all effective financing statements, amendments, assignments and continuations of effective financing statements which:

1. is organized according to farm products; and
2. is arranged within each such product:

a. in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors;

b. in numerical order according to the social security number of the individual debtors, or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors;

c. geographically by parish; and

d. by crop year.

Office means the office of the secretary of state of the state of Louisiana.

Person means any individual, partnership, corporation, trust or any other business entity.

Portion means portion of the master list distributed to registrants regularly that cover the farm products in which such registrant has indicated an interest.

Registrant means any person who has made application with the office of the secretary of state, has paid the required registration fee and received written notice that his application has been accepted.

Regular business day means any day that the office of the secretary of state and filing officers are open for routine business.

Secretary means the secretary of state of the state of Louisiana, or his duly authorized agent.

Secured party means a creditor with a security interest in farm products.

Security device is a written instrument that establishes a creditor's security interest in farm products or any pledge or privilege described in R.S. 9:4521, whether or not evidenced by a written instrument.

Security interest means an interest in or encumbrance upon farm products that secures payment or performance of an obligation.

Selling agent means a person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farm operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3652, R.S. 3:3654 and Public Law 99-198 (Food Security Act of 1985).

§303. Administration

A. The central registry will be administered by the secretary of state and operated by the uniform commercial code division of the office. Any notices, petitions, documents or other correspondence shall be addressed to the Louisiana Secretary of State, Uniform Commercial Code Division, Central Registry, Box 94125, Baton Rouge, LA 70804-9125.

B. Filings and encumbrance certificates will be administered by the filing officers as discussed in §§307, 309 and 317 herein. Addresses and phone numbers for the 64 filing officers are set forth in §325 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3654, 3:3655, 3:3656 and Public Law 99-198 (Food Security Act of 1985).

§305. Formal Requisites of an Effective Financing Statement

A. The Effective Financing Statement must:

1. be an original or reproduced copy thereof; and
2. be signed by the debtor and secured party;
3. contain:

a. the name and address of the secured party;

b. the name and address of each person subjecting the farm product to the security interest:

1. in the case of a natural person, the surname (last name or family name) must appear first;
2. in the case of a corporation or other entity not a natural person, the name must appear with the first word or character not an article or punctuation mark;

c. the social security number or, if other than a natural person, the IRS taxpayer identification number of each such person submitting the farm product(s) to the security interest;

d. the crop year unless every crop of the farm product in question, for the duration of the EFS, is to be subject to the particular security interest;

e. each farm product name and corresponding prod-

uct code as designated by the secretary of state (see §319 herein);

f. the dollar amount of the security interest;

g. a reasonable description of the property, including each parish code where the farm product is produced or to be produced; and

h. any further details of the farm product subject to the security interest if needed to distinguish it from other such products owned by the same person but not subject to the particular security interest.

B. The top portion of the approved EFS document (UCC-1F) also contains space to set forth information required under Louisiana law for filing financing statements pursuant to Article 9 of the Uniform Commercial Code (R.S. 10:9-401, et seq.) Filing parties are encouraged to utilize the EFS for perfection requirements under the UCC, in order to eliminate duplicate filing requirements and to promote filing efficiency.

C. The UC-1F or UCC-3F amendment must provide all information needed for preparation of the master list of farm products as set forth in §305A(3) above. In the event the farm product description provided by the secured party contains a discrepancy between the product name and product code, that particular item will be excluded from the master list. Notice of such exclusion shall be provided in the written confirmation sent by the secretary of state in accordance with §307(l) herein.

D. The secretary of state shall not be responsible for any effective financing statement (or particular farm product information contained therein) not revealed in the master list or cumulative addendum thereto, or oral or written confirmation of information furnished by the filing officers pursuant to §315 herein, which was not filed in accordance with these regulations and thereby not appearing in the central registry of farm product information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3652, 3:3654 and Public Law 99-198 (Food Security Act of 1985).

§307. Filing Procedures

A. The proper place to file in order to perfect a security interest in farm products is with the clerk of court of any parish, or in the case of Orleans Parish, the recorder of mortgages thereof ("the filing officer").

B. Security devices affecting farm products must be accompanied by a properly completed effective financing statement ("EFS") or the filing information will not be reflected in the master list or portions thereof, cumulative addenda, or encumbrance certificates issued in accordance with §§315 and 317 herein.

C. All effective financing statements must be submitted on Form UCC-1F as prescribed by the secretary.

D. All amendments, partial releases, assignments, continuations and terminations of an EFS must be submitted on Form UCC-3F, as prescribed by the secretary.

E. If the space provided on the UCC-1F or UCC-3F is inadequate, the additional data may be provided on Form UCC-2F and attached to the UCC-1F or UCC-3F at no additional charge to the filing party. It is also permissible to submit the additional data on 8 1/2" by 11" sheets of paper which are each identified at the top with the first debtor's name and taxpayer identification number.

F. Approved forms are not stocked or dispensed by filing officers or the secretary of state. A list of approved ven-

dors may be obtained by contacting the secretary at (504) 922-1314.

G. All effective financing statements, amendments, partial releases, assignments or continuations of effective financing statements must be accompanied by the required fee unless approval for billing has been granted by the filing officer.

H. If the person filing an EFS, amendment, partial release, continuation or termination furnishes the filing officer a copy thereof, the filing officer shall note upon the copy the file number and date and hour thereof, and send the copy by mail to such person. If the copy is to be returned to another party or another address, indicate the same in the appropriate box on the UCC-1F or UCC-3F.

I. The filing officer shall transmit the information contained in the effective financing statement or other statement, together with the date and time of filing and file number thereof, no later than 4:30 p.m. on the second business day following filing, to the secretary of state for inclusion in the central registry.

J. The secretary of state shall, within two business days following receipt of such information from the filing officer, send written notice to the secured party (and such other interested person designated on the form) confirming such receipt and reflecting all information received and included in the central registry.

K. Any questions regarding the filing information reflected in the written notice of acknowledgment from the secretary of state should first be directed to the filing officer which accepted and recorded the filing.

1. Data entry errors will be corrected by the filing officers at no charge to the secured party. The filing officer shall make each correction and transmit the same to the secretary of state for inclusion in the central registry, together with the date and time such correction was made, no later than 4:30 p.m. on the second business day after receiving written request for the correction. Upon such correction, the secretary of state will send written notice to the secured party confirming receipt of the same.

2. Errors committed by the secured party in preparing the financing statement must be corrected by filing an amendment or by filing a new effective financing statement.

L. Any questions regarding receipt of the written notice of acknowledgment from the secretary of state should be directed to the secretary of state's UCC Division at (504) 922-1314.

M. The secretary is not authorized to accept security devices affecting farm products, or the accompanying EFS. Any filings directed erroneously to the secretary shall be returned to the secured party with directions as to the filing procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

§309. Procedures for Filing Amendments, Assignments, Partial Releases, Continuations and Terminations of an EFS

A. Any statement of continuation, amendment, release, continuation, termination, or other similar statement pertaining to an effective financing statement shall identify the original file number and shall be filed with the same filing officer with whom the effective financing statement was originally filed.

B. Any amendment resulting in a material change to a security device shall be filed in writing and accompanied by a related EFS (Form UCC-3F) within three months of the amendment.

1. A material change is whatever change would render the master list entry no longer informative as to what is subject to the security interest in question.

2. The requirement to amend arises when the information already made available no longer serves the purpose and other information is necessary to do so.

3. The amendment must be signed by both the secured party and the person subjecting the farm product(s) to the security interest.

C. All assignments of security devices which are accompanied by a related EFS shall become effective at time and date of filing with the filing officer.

D. All continuations of security devices which are accompanied by a related EFS must be filed with the filing officer within six months before the expiration of the initial five-year period and must be signed by both the secured party and the person subjecting the farm product to the security interest.

E. Each person who filed an effective financing statement with the filing officer shall request cancellation thereof within 10 calendar days after the date the person who has granted or who is affected by the security device requests in writing, cancellation of the security device, provided the effective financing statement and security interest thereunder are then no longer in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

§311. Registrations

A. Any person may register with the central registry to receive the master list or a portion thereof. Applications for registration shall consist of two types: initial registrations and renewal registrations.

1. An initial registration application may be filed at any time of the year. Within five working days of receipt of a properly completed registration form and required fee, the secretary shall send the applicant written notice of acceptance and the most recent master list and cumulative addendum or portion thereof for which the applicant has indicated an interest. Applicants are not considered registered until they receive written notice of acceptance from the secretary.

2. A renewal registration application shall be filed by December 15 of each year. Failure to make application for renewal by December 15 shall result in termination of service by the central registry and loss of registrant status.

B. Registration application forms, as prescribed by the secretary, will be provided by the central registry upon request. The form must be completed in its entirety and submitted with the required fee.

C. The central registry will notify each registrant that a renewal application is due and provide the renewal application to the registrant by October 10 of each year.

D. Failure to register with the secretary subjects buyers, commission merchants, sellers, and others to a risk of additional liability to secured parties. Nonregistrants are encouraged to submit written requests for information to filing officers pursuant to §315.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

§313. Master List

A. The secretary shall compile all information transmitted by the filing officers to the central registry into a master list. The master list or portions thereof will be distributed to each registrant based on the farm products and parishes for which the registrant has indicated an interest.

B. The master list will be compiled on the first regular business day of each quarter, and distributed within five regular business days. Each master list shall contain all properly submitted filing information transmitted prior to close of business on the last regular business day of the previous quarter. Cumulative addenda shall be compiled on the first and 15th day of each month and distributed within three regular business days. The central registry will not distribute cumulative addenda on the first of each month in which there is a distribution of a master list.

C. The office shall allow interested parties to obtain direct access to the computerized information in the central registry. Method of access, terms, costs and conditions will be stipulated by contract between the office and the interested party. The cost of direct access to the interested party will be limited to the actual cost to the central registry.

D. Registrants shall be deemed to have received any master list or cumulative addendum distributed by the central registry on the fifth day following the date of mailing to the intended recipient or the date of actual delivery, whichever occurs first. The central registry shall maintain accurate records so that such dates can be readily determined.

E. Registrants notifying the central registry of non-receipt will be provided a new list within five regular business days of receipt of the notice.

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

§315. Requests for Information From Non-Registrants

A. Upon written request submitted on the form approved by the secretary, filing officers shall furnish oral confirmation to any person of the existence of an EFS filed with a filing officer and transmitted to the central registry. The request shall contain:

1. the name, address, telephone number (and fax number, if available) of the person making the request; and
2. the name, address, parish of residence, and social security number or federal tax identification number of the person who is the subject of the request.

B. Oral confirmation will be provided no later than the regular business day following the day on which the request is received, at or before the time of day when it was received by the filing officer.

C. If the requesting party cannot be reached at the stated telephone number on the next regular business day, the filing officer shall attempt to reach the party on the following regular business day. If at the end of that time the requesting party has not been reached, the filing officer shall be deemed to have fulfilled his obligation to provide oral confirmation.

D. All written requests and responses will be recorded and will be kept on file by each filing officer receiving such requests.

E. All oral confirmations will be followed by written confirmation in the form of an encumbrance certificate.

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

§317. Encumbrance Certificates

Encumbrance certificates may be requested from any filing officer. The request must be in writing. Each request shall be subject to the following provisions:

1. The request shall contain the name and address of the person making the request.

2. The request shall contain the complete name, address, and parish of residence of the person who is the subject of the request.

3. The request may contain the nickname, initials, or other appellation by which the person who is the subject of the request is sometimes or commonly known.

4. The request shall contain the social security number or federal tax identification number of the person who is the subject of the request.

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

§319. Farm Products List and Codes

A. Louisiana shall be deemed to be a state that has established a central registry as to all farm products produced in Louisiana. Notwithstanding the foregoing, only those farm products which have been assigned a collateral product code and approved by the secretary as falling within the definition of a "farm product" pursuant to the Food Security Act of 1985 and regulations issued thereunder shall be deemed acceptable for inclusion in the master list or portions thereof.

B. Persons desiring the most current listing of all approved farm products which have been assigned a corresponding collateral code should contact the secretary at (504) 922-1314.

C. In the event a secured party has taken a security interest in a farm product not specifically assigned a product code by the secretary, the following steps must be taken before the filing may be properly submitted to the filing officer for indexing and inclusion in the master list:

1. Contact the UCC Division/Central Registry at (504) 922-1314 to submit a request for a new farm product name and corresponding collateral product code to be assigned.

2. Generic categories of farm products, such as "Fish" or "Greens" are impermissible under the Federal Food Security Act. Requests for approval of categories deemed generic will be disallowed by the secretary and shall not be accepted for inclusion in the master list.

3. Farm Products deemed acceptable by the secretary shall be added to the list of published farm products and assigned a corresponding collateral code.

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

§321. Schedules of Fees For Filing and Encumbrance Certificates

A. In accordance with R.S. 3:3657, the following fees shall be assessed by the filing officers for filing, recording and cancelling effective financing statements:

UCC-1F	EFS Farm Product Notice Only	\$20*
	UCC and EFS Farm Product Notice . . .	\$35*
	* Includes prepaid termination fee, indexing of all debtor names, and attachments.	
UCC-3F	Amendment	\$20*
	Assignment (Full and Partial)	\$20*
	Continuation	\$20*
	Partial Release	\$20*
	* Includes indexing of all debtor names and attachments	

B. The fee for the issuance of each encumbrance certificate shall be \$15.

C. Registration (Initial and Renewal) for the master list of farm product encumbrances shall be assessed each calendar year and are calculated as follows:

FARM PRODUCTS	1 - 3	4 - 7	OVER 7
1 - 10 parishes	\$ 40	\$ 80	\$125
11 - 30 parishes	\$ 80	\$175	\$250
31 - 45 parishes	\$125	\$250	\$325
46 - 64 parishes	\$175	\$325	\$500

§323. Transition Rules

A. All effective financing statements and written security devices, as well as assignments, releases, amendments, and extensions thereof, entered into and filed with the Department of Agriculture and Forestry prior to January 1, 1991, shall remain in full force and effect.

B. Original copies of all effective financing statements and other statements, and the computerized records maintained by the Department of Agriculture and Forestry's Central Registry of Farm Product Filings shall be transferred to the secretary effective January 1, 1991.

1. Persons desiring copies of filings originally submitted to the Department of Agriculture should contact the UCC Division/Central Registry for assistance at (504) 922-1314.

2. Requests for copies of documents filed on or after January 1, 1991 must be directed to the parish filing officer with whom the filing was originally made.

C. Encumbrance certificates prepared by the filing officers on and after January 1, 1991 shall reflect filing information relating to effective financing statements and other statements originally filed with the Department of Agriculture and Forestry and transferred to the secretary.

D. Subsequent filings (amendments, partial releases, assignments, continuations or terminations) relating to effective financing statements and written security devices originally filed with the Department of Agriculture and Forestry shall be accomplished by filing an approved form UCC-3F with any parish filing officer which conforms to the following requirements:

1. The original file number assigned by the Department of Agriculture and Forestry, as well as the date and time of filing, must be identified.

2. The name(s), address(es) and taxpayer identification numbers of each debtor, and the name and address of the secured party appearing on the original effective financing statement must be identified.

3. The uniform fee for filing a UCC-3F must accompany the subsequent filing unless approval for billing has been granted by the filing officer.

Exception: Filing officers will file and record UCC-3F termination statements at no charge to the filing party.

4. Once a UCC-3F filing relating to an original CR-1 has been submitted to a parish filing officer pursuant to this Section, the filing party must submit all subsequent filings relating to that original CR-1 in that parish.

E. The compilation of the master list shall be as follows:

1. The master list or portions thereof scheduled to be compiled for the quarter beginning January 1, 1991 shall be prepared and distributed by the Department of Agriculture and Forestry, in accordance with the registration application on file for each participant for the 1990 calendar year.

2. The secretary of state shall compile and distribute its initial master list or portions thereof within five regular business days of January 15, 1991, in accordance with registration applications submitted to the secretary on or after October 15, 1990. Thereafter, cumulative addenda thereto shall be compiled on the first and 15th of each month until the next regularly scheduled master list to be compiled on April 1, 1991.

§325. Filing Officers

The names and addresses of the 64 filing officers for the state of Louisiana can be obtained from the Department of State, Office of Uniform Commercial Code/Central Registry at 1-800-247-5935.

Interested persons may submit written or verbal comments or inquiries to Jan Whitehead Swift, Deputy Secretary, Office of Uniform Commercial Code, Department of State, Box 94125, Baton Rouge, LA 70804-9125. Telephone (504) 922-1314.

W. Fox McKeithen
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Central Registry**

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

There are no estimated implementation costs or savings to state or local governmental units.

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

Adoption of this rule is not anticipated to affect revenue collections of state or local governmental units. Although filing procedures have been streamlined, net revenues collected pursuant to the new statutory fees imposed should remain about the same.

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

There will be no increased costs to directly affected persons or non-governmental groups. Economic benefits include easier filing procedures governing mortgages affecting farm products.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jan Whitehead Swift
Deputy Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of State Office of Uniform Commercial Code

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and R.S. 49:230(C)(2) relative to the authority of the Department of State, Office of the Uniform Commercial Code, to promulgate rules and regulations, notice is hereby given that the Department of State proposes to amend its existing rules by adding the following provisions governing filings affecting transmitting utility debtors and IRS tax liens.

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

Chapter 1. Secured Transactions

§107. Forms To Be Used in Filing

A. - H.....

I. Filings affecting "transmitting utility" debtors, as defined in R.S. 10:9.403(8), shall not be treated as effective until terminated unless the filing is presented on the revised form UCC-1 approved by the secretary of state effective December 1, 1990, which specifically identifies the status of the debtor by signifying the same in Item Number 8B on the form. Persons submitting nonstandard filings (security agreements, mortgages, deeds of trust, or other instruments) affecting transmitting utility debtors must attach a properly completely revised form UCC-1 to the filing in order to have the filing considered effective until terminated.

§109. Presentation of Filing

A. - D....

E. The secretary of state shall, within two business days following receipt of such information from the filing officer, send written notice confirming such receipt and reflecting all information received and included in the master index, to the secured party of record and such other requesting person as designated on the financing statement. If the debtor was specifically identified as a transmitting utility on the financing statement in accordance with §107 herein, such written notice shall be sent in duplicate and by registered mail, return receipt requested, to the secured party of record and such other requesting party designated on the financing statement.

§115. Duration

A. With the exception of transmitting utility filings presented in the format required by §107 herein, a financing statement is effective for a period of five years from the date of filing. Transmitting utility filings properly presented for filing are effective until a termination statement is filed with the filing officer with whom the financing statement was originally filed.

§131. Schedule of Fees For Filing and Information Requests (Certificates)

UCC-1.....

*Financing Statement (Transmitting Utility) \$200

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-403.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:

Chapter 2. Internal Revenue Service Tax Liens

§201. Place of Filing

The proper place to file notices of federal tax liens affecting movable property (corporeal and incorporeal) is

with the clerk of court of any parish, or, in the case of Orleans Parish, with the Recorder of Mortgages thereof (the "filing officer").

AUTHORITY NOTE: Promulgated in accordance with R.S. 52:52(C), and 10:9-401, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:

§203. Forms To Be Used In Filing

The document entitled "Notice of Federal Tax Lien Under Internal Revenues Laws" utilized nationwide by the IRS shall be accepted in lieu of the standard form UCC-1 financing statement by all filing officers. Nonstandard form penalties shall not be applicable to filings presented by the IRS pursuant to this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:230(C).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:

§207. Filing Fees

A. The uniform filing fee to be collected by each filing officer includes prepayment of the termination fee, as well as the indexing of all debtor names appearing on the lien submitted by the IRS.

B. The fee allocable to the secretary of state for each IRS Federal Tax Lien filed with the parish filing officers shall be \$7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:230(C).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:

Interested persons may submit written comments on the proposed rule to Jan Whitehead Swift, Deputy Secretary, Department of State, Box 94125, Baton Rouge, LA 70804-9125.

W. Fox McKeithen
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Uniform Commercial Code

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

There are no implementation costs to state or local governmental units.

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

Actual increase in the number of filings is difficult to estimate. However, revenue collection for the Department of State may increase up to approximately \$35,000-37,000, revenue collection for local governmental units may increase approximately \$50,000.

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

The IRS incurs increased costs from filing fees imposed for indexing liens in the UCC index. There are no estimated costs to non-governmental groups. Economic benefits include easier statewide access to information relating to these types of filings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jan Whitehead Swift
Deputy Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of the Treasury
Board of Trustees of the
State Employees' Retirement System

The board of trustees of the State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rule.

State Employees' Retirement System
Policy for Withdrawals From Drop Accounts

When a participant in the Deferred Retirement Option Plan terminates state employment, the amount accumulated in the individual's DROP account may be withdrawn in any of the following methods:

1. Lump Sum Withdrawal

The individual may withdraw the entire amount accumulated in the DROP account.

2. Monthly Withdrawal

The individual may receive a check each month until all the funds in the account are disbursed. The monthly amount to be withdrawn may be determined by: a. the individual may establish an amount to be withdrawn on a monthly basis; or

b. the retirement system can determine a level amount to be paid monthly over the expected lifetime of the individual. This method would be similar to an annuity payment.

3. Annual Withdrawal-Amount Established By Individual

The individual may establish an amount to be withdrawn once each year. The payments will be made in February of each year. Changes in the amount will be provided to LASERS in writing no later than January 15.

4. Delayed Withdrawal

The individual may choose not to withdraw the DROP account until some later date; however, the account must be disbursed within the time period shown below.

The DROP account must be totally disbursed within the expected lifetime of the individual in accordance with federal laws. The expected lifetime is determined based on the age of the individual on the date of termination. All funds from the DROP account must be withdrawn in accordance with the following schedule:

AGE AT TERMINATION	AGE OF FINAL DISTRIBUTION
55 and under	75
56-60	77
61-66	80
67-70	81
71 and older	add 10 years to age

Disbursements from the DROP accounts will be made on the sixth day of each month; if the sixth is a weekend or

holiday, the disbursement will be made on the following workday.

Interest will be based on the balance of the account at the end of each month.

The type of withdrawal and/or the amount may be changed upon written notice. Requests for change received in the office of LASERS by the fifteenth of one month will be effective the following month.

The individual must indicate whether federal income taxes should be withheld from the amount disbursed. The tax instructions must be provided by the individual before a disbursement can be made.

The forms for selecting the method of disbursement and the tax instructions will be provided to the individual at the time of termination.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, State Employees' Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Policy for Withdrawals from DROP Accounts

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no impact on state expenditures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition or employment.

Thomas D. Burbank, Jr.
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of the Treasury
Board of Trustees of the
State Employees' Retirement System

The board of trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rule.

Rules for Election of Trustees

Rule II.(2) is amended to read as follows:

II.(2) No department may be represented by more than two trustees. Department, for board election purposes,

means the twenty departments of the Executive Branch of state government as defined in R.S. 36:4(A), the Office of the Governor, the Office of the Lieutenant Governor, the Judicial Branch, and the Legislative Branch of state government.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, 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 Elections of Trustees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no impact on state expenditures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition or employment.

Thomas D. Burbank, Jr.
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
State Employees' Retirement System**

The board of trustees of the State Employees' Retirement System hereby gives notice in accordance with law that it intends to adopt the following rule.

Policy for Voluntary Deductions
from
Retiree Benefits Payroll

APPLICATION PROCESS

1. Application shall be made by the company, corporation or organization which is the provider of coverage, product, service or recipient of monies and shall be signed by two officers of the applicant company, corporation or organization. The completed application must be submitted to the Louisiana State Employees' Retirement System (LASERS).
2. The following type providers of services will be considered for approval:
 - a. the State Group Benefits program,

- b. the group insurance plan administered by the Department of Employment and Training,
- c. the Retired State Employees' Association,
- d. general insurance companies and other providers that are included on the Annual Listing maintained by the Office of State Uniform Payroll,
- e. credit unions formed for the primary purpose of serving state employees that have a payroll deduction for employees of the member agencies,
- f. other member or retiree associations approved by the Board of Trustees, and
- g. vendors receiving payment through voluntary deductions on the effective date of this policy.

3. Applicant shall designate a "coordinator" to act as primary contact with LASERS for resolution of invoicing, refund and reconciliation problems; and resolving claims problems for retirees.

4. All vendors shall file annual renewal applications with LASERS.

5. Applications must be received by LASERS between June 1 and July 30 of each year. For the initial year of this program, applications will be accepted for 60 days after the publication of this rule.

APPLICANT AND VENDOR REQUIREMENTS

1. General insurance vendors must meet the requirements of R.S. 42:455.

2. Any provider who qualifies to submit an application under Section 2(d), (e) or (g) above which is not regulated by the Department of Insurance or federal or state Office of Financial Institutions shall:

- a. Possess appropriate license or other required certification for providing the particular product or service for a fee.

- b. Have been doing business in Louisiana for not less than five years providing the product and/or services anticipated to be offered LASERS retirees.

- c. Be in compliance with all requirements of any regulatory and/or supervisory office or board charged with such responsibility by state statute or federal regulations.

- d. Provide a fidelity bond of \$100,000; an irrevocable pledge of a Letter of Credit in the amount of \$100,000; or an irrevocable pledge of a Certificate of Deposit in the amount of \$100,000 to protect LASERS and any officer, trustee or employee from loss arising out of participation in the program or plan offered by the vendor. The company providing the bond shall be rated "A" or above by A.M. Best.

NOTIFICATION, IMPLEMENTATION AND TRANSITION

1. LASERS will notify applicant whether applicant is approved as a vendor.

2. Vendor must enroll retirees for a monthly deduction amount.

3. Participation must be at least 100.

4. Vendors participating in payroll deduction on the effective date of this rule shall continue to be approved as a vendor; however, they must complete an annual application form.

5. Vendors will be allowed eighteen months after initial approval to meet the minimum participation requirements.

DEDUCTION AUTHORIZATION

1. Vendors shall provide and use a deduction authorization format approved by LASERS.

2. The form shall include:

- a. the retiree's name and social security number
 - b. the vendor name
 - c. total amount of deduction, frequency (monthly) and beginning date
 - d. retiree signature and date of signature
3. Any disclaimer, contract, or term of participation agreement between the retiree and the vendor or provider shall not be binding on LASERS.
 4. A retiree shall have only one deduction (which may cover more than one benefit) authorization for a single vendor effective at any one time. Total current deduction amount must be included on any new form.
 5. Vendor is responsible for submitting completed forms to LASERS at least 30 days prior to the beginning date of the deduction.
 6. A retiree may discontinue any voluntary payroll deduction amount by providing written notification of that intent to LASERS.
 7. State Employee Group Benefits, HMO pass-through deductions, and the group insurance plan administered by the Department of Employment and Training and the Retired State Employees' Association shall be exempt from the requirement to provide deduction authorization forms to LASERS.

SOLICITATION OF STATE RETIREES

1. Retirees may be solicited for payroll deduction only after the vendor has been notified that the application has been approved.

VENDOR RESPONSIBILITIES

1. Vendor coordinator shall be responsible for dissemination of information such as the requirements of this rule to vendor representatives.
2. Vendor shall use invoice/billing identification structure specified by LASERS to facilitate the monthly reconciliation.
3. Vendor shall be responsible for preparing a reconciliation of monthly payroll deduction/remittances to vendor invoices.
4. Monthly reconciliation shall include total monthly invoice amount, total remittance amount, and a listing of all exceptions between the invoice and deduction/remittance by retiree.
5. Monthly reconciliation exception listing shall identify the retiree by social security number.
6. Vendor must furnish evidence of monthly reconciliation to LASERS unless specifically exempted by LASERS.
7. Monthly certification of reconciliation will not be required of vendors that provide retirees with monthly or quarterly statements of activity and/or balances.
8. Vendors failing to provide accurate and timely reconciliation verification will be barred from active solicitation until satisfactory certification is submitted to LASERS.
9. Vendors shall not be authorized to submit any deduction form which was obtained from a retiree for the purpose of transmitting any part of that deduction to a third party.
10. Vendors must designate/identify specific products or basic services provided on the application form. Vendors must indicate whether the request (for each product or service) is for continuation/renewal or new/not previously approved for payroll deduction. Vendors shall not add products

or services to payroll deduction which are not indicated on currently approved application.

LASERS RESPONSIBILITIES

1. LASERS will approve or reject requests for solicitation authorization forms presented by designated coordinators of approved vendors.
2. LASERS will accept forms for retiree deductions which contain no obvious alterations without retiree's written acknowledgement of such change.
3. LASERS shall be responsible for verifying that the deduction amount is in agreement with the monthly amount shown on the authorization.

REPORTING

1. Vendors shall report within ten days of final approval any change in the name, address, company status, principal officers, and designated coordinator to LASERS.
2. Vendors shall provide as required by LASERS data disks, mailers, labels, postage, or other supplies necessary to avoid cost to the system in providing deduction information.
3. Annual renewal applications shall list specific products/services provided. No new products or services shall be added without prior approval through the annual renewal process.
4. Vendors are required to report the dismissal of any representative participating in retiree payroll deduction to LASERS.

FEES

1. Data, information, reports, labels, or any other service provided to any vendor or any other party shall be subject to payment of a fee for the cost of providing the data, information, reports, labels, and/or services as established by LASERS.
2. Fees assessed shall be satisfied in advance of receipt of the requested data.

TERMINATION OF PAYROLL DEDUCTION

1. Unethical conduct or practices of the vendor will result in the termination of deduction authority for that vendor.
2. Unethical or unprofessional conduct of any vendor representative shall result in that individual being barred from participation in retiree payroll deduction for any vendor.
3. Payroll deduction authority shall be revoked for any vendor that is removed from the annual listing maintained by UPS.
4. Payroll deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

GENERAL

1. Payroll deduction authorization shall not be transferred.
2. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor or its products or services.

Interested persons may make inquiries of or submit written comments 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: Policy for Voluntary Deductions from Retiree Benefits Payroll

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no impact on state expenditures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This rule will benefit the retirees by providing an automatic deduction for insurance premiums, credit union payments, etc. The types of deductions and the vendors for which a deduction will be made will be limited to those covered in the rules. Specifically, all vendors must have at least 100 retirees participating to continue the deduction and general insurance vendors will be limited to those included on the Annual Listing maintained by the Office of State Uniform Payroll. Vendors who qualify will benefit by receiving an automatic payment.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on employment. Vendors who do not meet the criteria in the rules will not receive the benefit of receiving an automatic payment; they must collect from each individual.

Thomas D. Burbank, Jr.
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§153. Head and Caudal Fin Intact-Freshwater Gamefish

The Louisiana Wildlife and Fisheries Commission hereby advertises its intent to establish a rule which requires that all *Micropterus spp.* (black bass and their hybrids), *Pomoxis spp.* (crappie and their hybrids), *Lepomis spp.* (bream and their hybrids), *Ambloplites rupestris* (shadow bass and its hybrids), *Centrarchys macropterus* (flier and its hybrids), *Morone spp.* (striped bass and its hybrids, white bass and its hybrids, yellow bass and its hybrids) possessed by recreational fishermen shall, prior to being set or put on shore from a vessel, have their carcasses intact and be in a whole condition, except that the gills, scales, and internal organs only may be removed.

Interested persons may submit written comments on the proposed rule to the following address before March 4, 1991: Bennie J. Fontenot, Jr., Administrator, Inland Fish Division, Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (c), 326.3

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission. L.R. 17:

James H. Jenkins
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Head and Caudal Fin Intact -
Freshwater Gamefish**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no expected implementation costs or significant savings anticipated to state or local governments as a result of imposing this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no increase nor decrease in revenue collections to state or local governments as a result of the implementation of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no anticipated short-term costs or benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have little or no effect upon competition and employment.

Bettie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

Cumulative Administrative Code Update

**CUMULATIVE ADMINISTRATIVE CODE UPDATE
January, 1990 through December, 1990**

Vol. Title:Part.Section	Effect	Location	
		Month	Page
1 LAC 10			
I.Chapter 23	Adopted	Jan	17
I.1993-1999	Amended	Mar	200
LAC 35			
I.801-809	Adopted	Feb	112

Vol. Title:Part.Section	Effect	Location LR 16 Month Page	Vol. Title:Part.Section	Effect	Location LR 16 Month Page
I.711	Adopted	Mar 202	LXI.Chapter 25	Amended	Dec 1064
I.1791	Amended	May 394	LXVII.10307	Amended	Dec 1055
I.1763	Amended	July 603	4 LAC 4		
I.1511	Amended	Sept 765	I.Chapter 5	Repromulgated	Jan 29
I.1719	Amended	Sept 764	VII.1737	Amended	Apr 302
I.1737	Amended	Sept 764	III.Chapter 1	Amended	May 402
I.1743	Amended	Sept 765	VII.1143	Amended	June 503
III.1903	Amended	Sept 764	VII.1223	Amended	June 505
III.5711	Amended	Sept 763	V.Chapter 15	Amended	Nov 965
III.5727	Amended	Sept 763	LAC 34		
V.8305	Amended	Sept 763	IX.903	Amended	Aug 690
LAC 64			5 LAC 76		
V.103	Amended	Feb 137	I.315	Adopted	Jan 38
I.Chapter 7	Amended	Aug 677	I.319	Adopted	Jan 38
2 LAC 7			VII.123	Amended	Jan 38
XXXIX.20101	Amended	Jan 16	VII.703	Amended	Apr 322
XV.9523	Amended	Apr 294	VII.145	Adopted	May 421
V.1511	Amended	May 393	VII.333	Adopted	May 421
XXI.11701	Amended	May 391	VII.335	Adopted	June 539
XIII.8719	Amended	June 492	VII.331	Adopted	Aug 698
XV.9537	Amended	July 600	VII.507	Adopted	Sept 776
XIII.8741	Amended	Oct 847	V.701	Adopted	Dec 1070
XIII.8815	Amended	Oct 847	VII.337	Adopted	Dec 1070
3 LAC 46			6 LAC 22		
LV.309	Amended	Jan 23	I.314	Adopted	June 536
V.Chapter 36	Adopted	Feb 113	I.201	Adopted	June 537
XLI.725	Amended	Feb 112	I.306	Adopted	Aug 693
XLVII.3529	Amended	Feb 133	II.105	Adopted	Aug 693
LXVII.901	Amended	Feb 133	V.Chapter 1	Adopted	Dec 1062
LXVII.Chapters 21, 25	Amended	Mar 202	LAC 55		
LXXXV.Chapters 1-11	Adopted/Amended	Mar 222	V.Chapter 7	Amended	Jan 31
LX.503	Amended	Apr 302	V.301	Amended	Apr 320
I.1109	Repealed	May 393	IX.713	Amended	Aug 694
XXI.Chapters 1, 3	Amended	May 393	IX.Chapters 1-13	Amended	Dec 1063
XLIX.103	Amended	May 409	7 LAC 25		
LXXV.301-305	Adopted	May 409	III.103	Adopted	Apr 295
I.1111	Adopted	June 493	IX.Chapters 3-7	Amended	Dec 1051
V.3703.B	Adopted	June 525	LAC 37		
XXXIII.501	Amended	June 505	I.3107	Adopted	May 401
XXXIII.1001	Adopted	June 506	I.3301	Adopted	May 400
XXXIII.601	Adopted	June 507	I.Chapter 51	Amended	May 401
XLV.Chapter 99	Adopted	June 507	I.301	Amended	July 614
XLV.Chapter 31	Adopted	June 510	LAC 40		
XLV.301-431	Amended	June 513	XVII.Chapters 1-49	Adopted	Mar 204
LXVII.Chapter 103	Amended	June 493	I.Chapter 15	Adopted	Apr 297
XXIX.Chapters 1-5	Amended	July 601	IV.329	Amended	July 608
XLVII.3534	Adopted	Aug 690	IV.361	Amended	July 609
LXVII.5903	Repealed	Aug 680	I.Chapter 15	Adopted	Oct 851
XLI.515	Amended	Sept 764	8 LAC 48		
XLI.2101	Amended	Sept 765	V.12307	Amended	Apr 307
XXXVII.901	Amended	Sept 769	I.6707	Amended	Nov 971
LXI.Chapters 1,3,5,15,17,21	Amended	Sept 772	9 LAC 48		
LXIII.Chapter 8	Adopted	Sept 769	IX.701	Adopted	Jan 31
I.703	Amended	Oct 848	V.12313	Adopted	Mar 236
I.1113	Adopted	Oct 848	V.12901	Repromulgated	Aug 692
XLIX.1103	Amended	Oct 855	10 LAC 61		
XLVII.3337	Amended	Dec 1060	V.Chapters 1-35	Amended	Dec 1063
XLVII.3355	Amended	Dec 1060	11 LAC 33		
XLVII.3356	Amended	Dec 1058	III.Chapter 1, 21	Amended	Jan 23

Vol. Title:Part.Section	Effect	Location	
		Month	Page
III.2105-2119	Amended	Feb	116
III.2123	Amended	Feb	119
III.Chapter 27	Amended	May	397
III.509	Amended	July	612
III.2131-2137	Amended	July	609
III.Chapter 21	Amended	Nov	959
III.2701	Amended	Dec	1056
13 LAC 33			
V.Chapters 1-49	Amended	Mar	217
V.Chapters 1-49	Amended	Mar	220
V.2241	Amended	Mar	220
V.2203, 2242	Amended	Mar	221
V.Chapters 1, 11, 22	Amended	May	398
V.Subpart 1	Amended	May	399
V.4901	Amended	May	399
V.Subpart 1	Amended	July	614
V.Chapters 1, 5, 7, 19, 27, 33, 51	Amended	Aug	682
V.Chapter 101	Amended	Nov	974
V.Chapters 11-49	Amended	Dec	1057
V.Chapter 51	Amended	Dec	1057
14 LAC 33			
XI.Chapters 1-15	Amended	July	614
16 LAC 70			
IX.Chapter 7	Adopted	June	538
XV.Chapter 1	Adopted	Aug	695
XIII.1901	Adopted	Dec	1069
17 LAC 43			
XIII.Chapter 11	Adopted	Feb	134
I.1305	Amended	May	414
I.1511	Amended	May	416
XIII.Chapter 31	Amended	June	532
I.723	Amended	July	625
XIX.Chapter 1	Amended	Oct	855
V.103	Amended	Dec	1062
18 LAC 28			
I.903	Adopted	Apr	297
I.921	Adopted	Apr	296
I.Chapters 1-17	Adopted	Apr	297
I.313	Amended	May	396
I.901	Amended	May	396
I.1709	Amended	May	397
I.1715	Adopted	May	395
I.901	Amended	July	605
I.925	Adopted	July	605
I.1521	Adopted	July	605
I.901.C.10	Amended	Aug	682
I.901.C.11	Amended	Aug	682
I.901.C.11	Amended	Aug	682
I.903	Adopted	Aug	680
I.907	Amended	Sept	766
I.939	Amended	Sept	767
I.945	Adopted	Sept	766
I.1523	Amended	Sept	768
I.903	Amended	Oct	850
I.920	Adopted	Oct	850
I.933	Amended	Oct	850
I.937	Amended	Oct	849
I.917	Amended	Nov	958

Vol. Title:Part.Section	Effect	Location	
		Month	Page
I.920	Adopted	Nov	958
I.922	Adopted	Nov	957
I.313	Adopted	Dec	1056
I.903	Adopted	Dec	1056

Committee Report

COMMITTEE REPORT

House Committee on Labor and Industrial Relations Oversight Review

Pursuant to the provisions of R.S. 49:968, the House Committee on Labor and Industrial Relations met on January 3, 1991, and reviewed certain proposed rules by the Louisiana Department of Employment and Training to amend and reenact rules and regulations pertaining to the fiscal responsibility of worker's compensation carriers. This rule would have provided methods and criteria for implementing self-insurance and own risk programs.

The proposed rules pertaining to financial compliance, being specifically Title 40, Part I, Chapter 17, Articles 1701 through 1725, were found to be unacceptable by a vote of 8-0.

The committee expressed concern that sections of the proposed rules, specifically Article 1721 dealing with qualification guidelines for obtaining self-insured status favor large businesses, many of which are domiciled out of state, over smaller in state businesses which may, nevertheless, be financially sound. Particularly, Article 1721(B)(1) requires a net worth of at least \$2,000,000 and Article 1721(B)(3) requires Worker's Compensation Premium payment exposure of at least \$200,000 in order to qualify. The spokesman for the Department of Employment and Training admitted that 80 percent of the self-insured businesses in Louisiana have a net worth of between \$250,000 and \$2,000,000. The department spokesman further admitted that there had been no losses or abuses by self-insured employers in the state. The proposed rules would penalize otherwise sound small businesses by forcing them to acquire worker's compensation insurance in the market place at what may be prohibitive premium rates even though the business may not be in a high risk category.

In accordance with R.S. 49:968(F), copies of this report are being forwarded this date to the Department of Employment and Training and the State Register.

Louis (Woody) Jenkins, Chairman
House Committee on Labor
and Industrial Relations

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDUM

Office of the Governor
Division of Administration

POLICY AND PROCEDURE MEMORANDUM NO. 71

TO: HEADS OF ALL STATE AGENCIES, BOARD, AND COMMISSIONS (BUDGET AND NON-BUDGET)

SUBJECT: STATE COMPLIANCE WITH IRS FORM 1099 INFORMATION RETURN REQUIREMENTS- DESIGNATION OF DIVISION OF ADMINISTRATIVE AS "1099 AUTHORITY"

A. EFFECTIVE DATE: February 1, 1991

B. AUTHORIZATION

Title 39, Section 91: Uniform System of Accounting; The Commissioner of Administration shall, under authority of the Governor and consistent with the provisions of this chapter, prescribe and cause to be installed and maintained a uniform system of accounting in all state agencies. Should the legislative auditor find that these accounting procedures do not adequately reflect the financial activities of the state agencies, he shall so advise the legislature at its next regular session in a detailed report outlining said inadequacies.

C. INTRODUCTION

The Internal Revenue Service is now providing "administrative relief" as an incentive for states to institute policies and procedures that will increase their compliance with IRS Form 1099 requirements. The Division of Administration, Office of Statewide Reporting and Accounting Policy shall be designated as the clearinghouse for state agencies for information concerning forms 1099 information return reporting and as a resource in implementing complaint forms 1099 information return reporting. It will provide state agencies a focal point for IRS interpretation and clarification of reporting requirements and current information on tax administration.

D. PURPOSE AND SCOPE

The purpose of the policy and procedure memorandum is to issue uniform statewide form 1099 accounting/reporting policies and procedures for inclusion in state agencies' financial and operational manuals and to ensure compliance of all state agencies. Areas addressed include defining the reportable payment types, reportable payees, the reporting process, listing various IRS forms to use, reporting deadlines and penalties and providing a self audit program for agencies.

OVERVIEW OF FORMS 1099 INFORMATION REPORTING REQUIREMENTS

AUTHORITY: Sections 6041 through 6050N of the Internal Revenue Code require that states and state agencies file information returns on Reportable Payment Types of non-

wage compensation paid to Reportable Payees. (See Attachment B for factors test for nonwage vs. employee compensation reporting.)

REPORTABLE PAYMENT TYPES: (See Attachments A & D)

Non-Employee Compensation Services
Professional Service Fees (Attorneys, Accountants, Architects, etc.)
Medical Payments to Doctors and Hospitals
Income Tax Refunds
Unemployment Compensation
Rents
Royalties
Annuities and Pensions (Lump Sum Distribution)
Interest Payments (not on exempt obligation of governmental entity)
Prizes and Awards (not compensation for Services)
Salary Payments to the Estate of a Deceased Employee

Certain Human Services Benefit Payments
Expense Allowances (Per Diem)
Maintenance and Repairs
Law Enforcement and Court Services

REPORTABLE PAYEES: A reportable payee is any individual, combination of individuals, sole proprietorship, partnership, or trust which receives a reportable payment type. Payments to corporations and §501 nonprofit organizations generally need not be reported. However, payments to medical services corporations for the provision of health care services must be reported. Rent paid to real estate agents need not be reported.

DATA ACCUMULATION: The data on all reportable payments for each reportable payee must be accumulated on a calendar year basis to be in compliance with Form 1099 reporting requirements.

REPORT TRIGGER AMOUNT: For most reportable payment types a 1099 report must be generated and information transmitted if \$600 or more (in aggregate) is paid, during a calendar year to a reportable payee. For Unemployment Benefits, Income Tax Refunds, and Royalties, a report must be transmitted if \$10 or more is paid, in aggregate, to a reportable payee during a calendar year. For Lump Sum Retirement Benefit payments and Acquisition or Abandonment of Secured Property there is no minimum trigger amount.

IRS REPORTING FORM TYPES: The following form types should be used to properly report non-wage compensation payments. (See Attachment C for overview)

1096 - An IRS Form 1096 "Annual Summary and Transmittal of U.S. Information Returns" must accompany each different type of 1099 Form submitted by an agency.

1099-A - A Form 1099-A must be completed and transmitted for every borrower to whom a loan has been made when:

1. The lender acquires an interest in property that is security for the debt in full or partial satisfaction of the debt, or

2. There is reason to believe that the property that is security for the debt has been abandoned by the borrower.

The amounts required to be included by the form are as follows:

1. The amount of unpaid loan principal outstanding at acquisition or abandonment,

2. The amount of unpaid loan principal outstanding

that is satisfied by the acquisition or abandonment of the property, not to exceed the property's fair market value, and
3. Where the borrower is personally liable for the debt, the fair market value of the property at acquisition or abandonment.

1099-MISC — A Form 1099-MISC must be completed for every payee receiving reportable payments in aggregate during a calendar year for:

1. Royalties of \$10 or more,
2. Rent of \$600 or more,
3. Prizes or Awards (not for services) of \$600 or more,
4. Health and Medical Services of \$600 or more,
5. Services performed as a trade or business by non-employees of \$600 or more.

These payments must be accumulated in such a way that they can be reported as separate and distinct amounts on the 1099-MISC information returns generated.

1099-G — A Form 1099-G must be completed and transmitted for every payee receiving reportable payments in aggregate during a calendar year for:

1. Unemployment Benefits of \$10 or more,
2. State Tax Refunds of \$10 or more,
3. Agriculture Payments of \$600 or more,
4. Taxable Grants of \$600 or more.

1099-R — A Form 1099-R must be completed and transmitted for every recipient of a total distribution from a pension plan, retirement plan, or deferred compensation plan.

1099-INT — A Form 1099-INT must be completed and transmitted for each payee who receives more than \$600 in interest payments during a calendar year. Where the state is acting in the capacity of a financial institution, a Form 1099-INT must be completed and transmitted for each payee who receives more than \$10.

MAGNETIC MEDIA: All entities who meet the following criteria are subject to the electronic filing requirements for transmittal of reportable payments:

1. 250 or more of 1099-MISC
2. 250 or more of 1099-G
3. 250 or more of 1099-R
4. 50 or more of 1099-INT

Those entities which are required to file by magnetic media and who do not file electronically may be fined \$50 per 1099 return, to a maximum of \$250,000.

REPORT DEADLINES: Forms 1099 must be transmitted to the payees by January 31 following the year in which data is accumulated for reporting. Forms 1099 data must be transmitted to the IRS by February 28 following the year in which the data is accumulated for reporting (one month after transmitting to the payee).

TIN: A valid, proper TIN (as determined by IRS Form W-9) must be obtained by the reporting unit for every payee, before payment is made. This must be included on the Form 1099 transmitted for the payee. The payor's TIN (Tax Identification Number) must appear on each 1099 transmitted. This may be obtained by completing IRS Form W-9 — Request for Taxpayer Identification Number and Certification.

BACKUP WITHHOLDING: If payee does not furnish a TIN, back-up withholding of 20 percent of payments is required. "Business Reporting" (IRS Publication 937) gives reporting guidelines on backup withholding.

VENDOR FILES must include or fulfill the following:

1. only one TIN per vendor,

2. proper TIN: as listed on W-9 form,
3. full vendor name,
4. full vendor address,
5. entity type must be designated.

INTERNAL REVENUE SERVICE PUBLICATIONS:

"Instructions for Forms 1099, 1098, 5498, 1096, and W-2G"

"Business Reporting" (Publication 937)

"Requirements and Conditions for Filing Information Returns in the Forms 1098, 1099, 5498 and W-2G on Magnetic Tape, 5 1/4 and 3 1/2 Inch Magnetic Diskettes" (Publication 1220)

SELF AUDIT PROGRAM: Reporting entities are responsible for implementing a self audit program for forms 1099 state compliance which at a minimum meets the assurance levels of the example program contained in Attachment F by July 1, 1991.

Any questions concerning this memorandum should be directed to: Division of Administration, Office of Statewide Reporting and Accounting Policy, Box 94095, Baton Rouge, LA 70804-9095, Phone (504) 342-0780, or LINC 421-0708.

ATTACHMENT A

LIST OF REPORTABLE PAYMENT TYPES

- Unemployment Compensation
- Tax Refunds
- Agricultural Payments
 - Subsidies
 - Payments for confiscated Livestock or crops
- Medical Services
 - Medical and Dental Services
 - Hospitalization
 - Medical Assistance Benefits
 - All Payments to Medical Services Corporations
- Prizes and Awards (not compensation for services)
 - Premiums
 - Awards
 - Prizes
 - Honoraria
- Non-Employee Compensation
 - Occasional Salaries and Wages (to non-employees)
 - Professional Services Payments
 - Advertising
 - Appraisal
 - Architectural
 - Auditing
 - Computer Programming
 - Consulting
 - Engineering
 - Legal
 - Program Administration
 - Other
- Maintenance and Repairs
 - Building
 - Computers
 - Grounds
 - Office Machines
 - Vehicles
 - Other Equipment

- Law Enforcement & Court Services
 - Court Reporters
 - Court Appointed Workers
 - Expert Witness
 - Prison Labor Allowance
 - Non-Employee Allowances
- Other Services
 - Advertising
 - Armored Car
 - Cleaning
 - Construction
 - Keypunch
 - Janitorial
 - Laundry
 - Messenger & Courier
 - Printing
 - Refuse Collection
 - Security
- Expenses Allowances (NOT itemized reimbursements)
 - Non-Employee Travel Expenses
 - Per Diems
- Rent (Except paid to Real Estate Brokerages)
 - Real Property
 - Other Property
- Interest (Except for tax-exempt obligations)
 - Prompt Payment Related
 - Paid as Financial Institution
- Total Distributions from Retirement Plans
- Acquisition of Secured Property
 - Acquisition by default, foreclosure, etc. on loan
 - Abandonment of property securing loan

ATTACHMENT B

**TWENTY COMMON LAW FACTORS
USED IN DETERMINING
EMPLOYEE STATUS**

1. **INSTRUCTIONS:** Does your organization have the right to require compliance with the timing, place and method used in completing the work being done?
2. **TRAINING:** Will your organization apprentice, train, or instruct in the details of the work, or correspond in any way the manner or method in which the work is to be performed?
3. **INTEGRATION:** Will the work be done in such close proximity and involvement so as to cause your organization's success or continuation of business to be dependent on those performing the work?
4. **SERVICES RENDERED PERSONALLY:** Will the work be done personally?
5. **HIRING, SUPERVISING, AND PAYING OF ASSISTANTS:** Will your organization hire, supervise, or pay any assistants to aid those performing the work?
6. **CONTINUING RELATIONSHIP:** Does your organization expect that those performing the work will continue in the same function or another function for the foreseeable future, although not necessarily continuously or at frequent intervals?
7. **SET HOURS OF WORK:** Will your organization dictate the hours during which the work will be performed?

8. **FULL TIME REQUIRED:** Will those performing the work devote substantially full-time to it? (Implies the inability to perform other work of the same character for other organizations.)
9. **DOING WORK ON EMPLOYER'S PREMISES:** Will the work be performed on your premises or at a location required by your organization?
10. **ORDER OR SEQUENCE SET:** Will your organization have the right to require that the work be performed in a specific order, routine or sequence?
11. **ORAL OR WRITTEN REPORTS:** Will your organization require regular written reports from those performing the work?
12. **PAYMENT BY HOUR, WEEK OR MONTH?** Will your organization pay those performing the work on an hourly, weekly, or monthly schedule other than as a convenient payment of an agreed upon lump-sum cost of the work?
13. **PAYMENT OF BUSINESS AND/OR TRAVELING EXPENSE:** Will your organization pay the business and/or traveling expenses of those performing the work?
14. **FURNISHING OF TOOLS AND MATERIALS:** Will your organization furnish the tools, equipment, or materials necessary to complete the work performed?
15. **SIGNIFICANT INVESTMENT:** Will those performing the work invest, or have they invested, in facilities (offices, factories, etc.) that employees ordinarily are not required to have?
16. **REALIZATION OF PROFIT OR LOSS:** Will those performing the work stand to realize a profit above the ordinary compensation for services or a loss as a result of the work performed?
17. **WORKING FOR MORE THAN ONE FIRM AT A TIME:** Will those performing the work be performing work for other organizations unrelated to your organization?
18. **MAKING SERVICE AVAILABLE TO GENERAL PUBLIC:** Will those performing the work continue to make their services available to the general public?
19. **RIGHT TO DISCHARGE:** Will your organization have the right to discharge those performing the work prior to the completion of the work?
20. **RIGHT TO TERMINATE:** Will those performing the work have the right to stop working for your organization at any time without incurring legal liability?

[Excerpted from Financial and Estate Planning, Commerce Clearinghouse, Inc. 1987 where it appears as an excerpt from Revenue Ruling 87-41 in which the Internal Revenue Service provides guidance relating to the determination of employee status.]

A "YES" answer to any question except number 15, 16, 17, 18, or 20 indicates a possible employee/employer relationship.

A "NO" answer to either question number 15, 16, 17, 18, or 20 indicates a possible employee/employer relationship.

Particular attention should be paid to the wording "the right to..." in some of the factors.

ATTACHMENT C

OVERVIEW OF MAJOR FORMS 1099 INFORMATION RETURNS

Form Number	Title	AUTHORIZED SIGNATURE What To Report	DATE Amounts To Report
1099-A	Information Return for Acquisition or Abandonment of Secured Property	Information about the acquisition or abandonment of property that is security for a debt for which the state is the lender.	All amounts
1099-G	Statement for Recipients of Certain Government Payments	Unemployment Compensation, State and local income tax refunds, agricultural payments, taxable grants.	\$10 or more for UC and tax refunds, \$600 or more for all others
1099-INT	Statement for Recipients of Interest Income	Interest payments not including interest on an IRA.	\$600 or more for non-financial institutions \$10 or more for financial institutions
1099-MISC	Statement for Recipients of Miscellaneous Income	Royalty Payments Payments to suppliers of health and medical services, including corporations. Rent, prizes and awards that are not for services. Payments for services performed by non-employees. Fees paid for services.	\$10 or more \$600 or more \$600 or more
1099-R	Statement for Recipients of Total Distributions From Profit Sharing, Retirement Plans, Individual Retirement Arrangements, Insurance Contracts, etc.	Total distributions from retirement plans or insurance contracts. Generally use only if the distribution closed the payee's account.	All amounts

ATTACHMENT D

**State Compliance with
IRS Forms 1099 Information Return Requirements**

Examples of Forms 1099 Reportable Payments

1. PROFESSIONAL SERVICES

A. Violet Cyan, doing business as Violet Cyan Surveyor, does surveying work on a contract basis. During the calendar year, she did work for three agencies of the state. The Department of Agriculture paid her \$400 for surveying work done on a soil improvement program during the calendar year. The Department of Corrections paid her \$700 for site work on a new facility during the calendar year. The Department of Transportation paid her \$62,000 in two equal payments for surveying condemned properties for the new highway being routed through the capitol. The Department of Transportation was one month late on the second contract payment and paid \$310 interest penalty to her.

If all payments were made by one disbursing office, then Violet Cyan should receive a Form 1099-MISC for \$63,100, the total of all payments for her services, and it should be reported to the IRS. If the payments are made separately by each department under different payor TINs then she should receive two Forms 1099-MISC, one for \$700 and one for \$62,000. The IRS should receive reports for these amounts as well. Neither she nor the IRS should receive one for the \$400 paid by the Department of Agriculture because it is below the 1099-MISC \$600 trigger level for payments for services. She would not receive a Form 1099-INT because she was not paid over \$600 in interest, and it would not be reported to the IRS. The 1099-INT trigger level is \$600 for this type of interest.

If Violet Cyan Surveyor was incorporated, no reports for either her services payments or her interest payments need be reported, because payments to corporations are generally exempt from reporting requirements.

B. Mind, Boggle, & Wowham, Inc., a corporation formed to provide legal services, does legal work for the state. They receive payments totaling \$350,000 during the

calendar year. No Form 1099-MISC need be sent for these payments and no report need be made to the IRS for these payments because payments to corporations are generally exempt from the reporting requirements.

2. SPORTS OFFICIATING

The state university pays sports officials \$200 for each game they referee, umpire, etc. They additionally pay for all travel expenses.

- A. Mr. Brown officiated at three football games during the calendar year and was paid a travel allowance of an additional \$200 for each game. He should receive a Form 1099-MISC for \$1,200, covering both his fee and his allowance for travel. This amount should be reported to the IRS.
- B. Ms. Green umpired at four baseball games during the calendar year. She was reimbursed for her travel expenses connected with umpiring those games. She is required by the university to substantiate those expenses. Her expenses were \$900 during the calendar year. She should receive a Form 1099-MISC for \$800. This amount should be reported to the IRS. Reimbursement of expenses should not be included in Form 1099-MISC reports if the amounts are substantiated to the payor.

3. MEDICAL SERVICES PAYMENTS

- A. The Department of Human Services administers a training program to rehabilitate certain of its clients. The department pays doctors for physical examinations that the doctors give to the department's clients to determine eligibility for the training program. During the calendar year, the department paid Doctor Blue \$3,000, Physician's Physical, P.S.C. \$4,000, and Physicians for Public health, a tax-exempt non-profit organization registered as such, \$5,000 under the program.

Dr. Blue should receive a Form 1099-MISC for \$3,000, and Physician's Physical, P.S.C. should receive a Form 1099-MISC for \$4,000. These should be reported to the IRS. Physician's Physical should receive the report because for medical service payments, corporations are not exempt from reporting requirements.

Physicians for Public Health need not receive a Form 1099-MISC, nor should the amount be reported to the IRS, because it is a non-profit organization and is specifically exempt from the reporting requirements.

- B. Doctor's Park, Inc. is a medical services corporation consisting of doctors, a laboratory, and a pharmacy. The pharmacy sells prescriptions and prosthetics to individuals independent of the services of the doctors. All invoices for payment itemize between services rendered, drugs sold, and prosthetic devices sold.

Under a state program, a state agency paid Doctor's Park, Inc. the following amounts during the calendar year, on behalf of its clients:

Physician's Services	\$1,000
Prescription Drugs	150
Prosthetic Devices	300
	<hr/>
	\$1,450

Doctor's Park, Inc. should receive a Form 1099-MISC from the state or the paying agency including the total payment of \$1,450. This amount should be reported to the IRS as well.

Generally when goods are provided incidentally to the service performed, the total amount of the payment should be accumulated for reporting. However, payments solely for prescription drugs and prosthetic devices need not be reported.

Form **W-9**
(Rev. December 1988)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

**Give this form
to the requester. Do
NOT send to IRS.**

Please print or type	Name (If joint names, list first and circle the name of the person or entity whose number you enter in Part I below. See instructions under "Name" if your name has changed.)	
	Address (number and street)	List account number(s) here (optional)
	City, state, and ZIP code	

<p>Part I Taxpayer Identification Number</p> <p>Enter your taxpayer identification number in the appropriate box. For individuals and sole proprietors, this is your social security number. For other entities, it is your employer identification number. If you do not have a number, see <i>How To Obtain a TIN</i>, below.</p> <p>Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.</p> <div style="text-align: center; margin: 10px 0;"> <table border="1" style="margin: 0 auto; border-collapse: collapse;"> <tr> <td colspan="9" style="text-align: center; padding: 2px;">Social security number</td> </tr> <tr> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> </tr> <tr> <td colspan="9" style="text-align: center; padding: 2px;">OR</td> </tr> <tr> <td colspan="9" style="text-align: center; padding: 2px;">Employer identification number</td> </tr> <tr> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> </tr> </table> </div>	Social security number																		OR									Employer identification number																		<p>Part II For Payees Exempt From Backup Withholding (See Instructions)</p> <p>Requester's name and address (optional)</p>
Social security number																																														
OR																																														
Employer identification number																																														

Certification.—Under penalties of perjury, I certify that:

- (1) The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- (2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding (does not apply to real estate transactions, mortgage interest paid, the acquisition or abandonment of secured property, contributions to an individual retirement arrangement (IRA), and payments other than interest and dividends).

Certification Instructions.—You must cross out item (2) above if you have been notified by IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return. (Also see Signing the Certification under Specific Instructions, on page 2.)

Please Sign Here	Signature ►	Date ►
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Instructions

(Section references are to the Internal Revenue Code.)

Purpose of Form.—A person who is required to file an information return with IRS must obtain your correct taxpayer identification number (TIN) to report income paid to you, real estate transactions, mortgage interest you paid, the acquisition or abandonment of secured property, or contributions you made to an individual retirement arrangement (IRA). Use Form W-9 to furnish your correct TIN to the requester (the person asking you to furnish your TIN), and, when applicable, (1) to certify that the TIN you are furnishing is correct (or that you are waiting for a number to be issued), (2) to certify that you are not subject to backup withholding, and (3) to claim exemption from backup withholding if you are an exempt payee. Furnishing your correct TIN and making the appropriate certifications will prevent certain payments from being subject to the 20% backup withholding.

Note: If a requester gives you a form other than a W-9 to request your TIN, you must use the requester's form.

How To Obtain a TIN.—If you do not have a TIN, apply for one immediately. To apply, get Form SS-5, Application for a Social Security Number Card (for individuals) from your local office of the Social Security Administration, or Form SS-4, Application for Employer Identification Number (for businesses and all other entities), from your local Internal Revenue Service office.

To complete Form W-9 if you do not have a TIN, write "Applied For" in the space for the TIN in Part I, sign and date the form, and give it to the requester. Generally, you will then have 60 days to obtain a TIN and furnish it to the requester. If the requester does not receive your TIN within 60 days, backup withholding, if applicable, will begin

and continue until you furnish your TIN to the requester. For reportable interest or dividend payments, the payer must exercise one of the following options concerning backup withholding during this 60-day period. Under option (1), a payer must backup withhold on any withdrawals you make from your account after 7 business days after the requester receives this form back from you. Under option (2), the payer must backup withhold on any reportable interest or dividend payments made to your account, regardless of whether you make any withdrawals. The backup withholding under option (2) must begin no later than 7 business days after the requester receives this form back. Under option (2) the payer is required to refund the amounts withheld if your certified TIN is received within the 60-day period and you were not subject to backup withholding during that period.

Note: Writing "Applied For" on the form means that you have already applied for a TIN OR that you intend to apply for one in the near future.

As soon as you receive your TIN, complete another Form W-9, include your TIN, sign and date the form, and give it to the requester.

What Is Backup Withholding?—Persons making certain payments to you are required to withhold and pay to IRS 20% of such payments under certain conditions. This is called "backup withholding." Payments that could be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee compensation, and certain payments from fishing boat operators, but do not include real estate transactions.

If you give the requester your correct TIN, make the appropriate certifications, and report all your taxable interest and dividends on your tax return, your payments will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:

- (1) You do not furnish your TIN to the requester, or
- (2) IRS notifies the requester that you furnished an incorrect TIN, or
- (3) You are notified by IRS that you are subject to backup withholding because you failed to report all your interest and dividends on your tax return (for interest and dividend accounts only), or
- (4) You fail to certify to the requester that you are not subject to backup withholding under (3) above (for interest and dividend accounts opened after 1983 only), or
- (5) You fail to certify your TIN. This applies only to interest, dividend, broker, or barter exchange accounts opened after 1983, or broker accounts considered inactive in 1983.

For other payments, you are subject to backup withholding only if (1) or (2) above applies.

Certain payees and payments are exempt from backup withholding and information reporting. See *Payees and Payments Exempt From Backup Withholding*, below, and *Exempt Payees and Payments under Specific Instructions*, on page 2, if you are an exempt payee.

Payees and Payments Exempt From Backup Withholding.—The following is a list of payees exempt from backup withholding and for which no information reporting is required. For interest and dividends, all listed payees are exempt except item (9). For broker transactions, payees listed in (1) through (13), and a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker are exempt. Payments subject to reporting under sections 6041 and 6041A are generally exempt from backup withholding only if made to payees described in items (1) through (7), except that a corporation that provides medical and health care services or bills and collects payments for such services is not exempt from backup withholding or

**SELF AUDIT PROGRAM FOR FORMS 1099
STATE COMPLIANCE**

I. Expenditure Cycle

A. Review of Expenditure Classification Systems

1. Can payments to vendors be handled separately from payroll?
2. Is there adequate distinction between the purpose of the payment and the purpose of the program for which the payment was made? (i.e., payments to medical services providers made under client benefit programs)
3. Do expenditure classifications include reportable payment types?

B. Review of Expenditure Cycle of each system reviewed should be flowcharted and described

1. Flow of data acquired and generated
2. Internal control points

C. Review of Vendor/Client Data Acquisition Process

1. Does the vendor/client contracting process allow consistent identification of the following:

Vendor/Client Name
Vendor/Client Address
Vendor/Client TIN
Vendor/Client Entity Type
Legal Status (Individual, Sole Proprietorship, Partnership, or Corporation)

2. Are procedures in place which allow identification of vendor/clients with more than one TIN?

D. Review of Procedures Used to Determine Independent Contractor Status

1. Statutes
2. Regulations
3. Administrative Procedures
4. Are the twenty common law factors used? (Attachment B)

E. Review of Vendor Invoicing Against System Information

1. Does Vendor's invoice contain adequate information to match with vendor file information and the contract for services?
2. Does Vendor's invoice contain adequate description of the services to properly classify expenditures?

F. Review of Procedures Used to Process Vendor/Client Claims for Payment

1. Is the following information consistently captured?
Vendor/Client Name
Vendor/Client Address
Vendor/Client TIN
Vendor/Client Entity Type
Legal Status (Individual, Sole Proprietorship, Partnership, or Corporation)
Expenditure Classification
2. If the payment claim system is not used to acquire data for forms 1099 reporting, how is this data acquired?

3. Are the following mandatory withholding procedures consistently utilized?

20% withholding at time of payment occurs where required timely deposit of amounts withheld made as required amounts withheld properly reported on forms 1099 reports.

G. Review of Procedures Used to Store Vendor/Client Payment Information

1. The level of aggregation of the payment history data:
Departmental/Agency
Statewide
2. Is the payment history adequate to identify the reportability of payments and reference to supporting documents and files:
Paying Department
Warrant/Check Date
Warrant/Check Number
Claim Voucher Number
Expenditure Classification
Amount of Payment
Vendor/Client Identification
Vendor/Client Name
Vendor/Client Number

H. Review of Procedures used to Store Vendor/Client Identification Information (Vendor/Client File)

1. Is the payment history adequate to identify the reportability of payments and reference to supporting documents and files:
Vendor/Client Name
Vendor/Client Address
Vendor/Client TIN
Vendor/Client Entity Type
Legal Status (Individual, Sole Proprietorship, Partnership, or Corporation)

II. Reporting Cycle

A. Review of Reporting Cycle of each system reviewed should be flowcharted and described

1. The flow of data acquired and generated
2. Internal control points

B. Review of Procedures Used to Aggregate Vendor/Client and Payment Information for Reporting

1. Are reportable payees identified properly to allow compliant reporting?
2. Is sufficient information obtained and structured to allow exclusive identification of each unique vendor/client?
3. Are reportable payments identified an aggregated properly by vendor/client to allow compliant reporting?

C. Review of Procedures Used to Report to the Internal Revenue Service and to the Payees

1. What types of reports are filed by department/agencies and what types are filed centrally (MISC, G, INT, R, Etc.)?
2. What types of reports are filed on magnetic media and what types are filed on paper forms?

ATTACHMENT F (Continued)

3. Are the reports being filed with complete payee information:
 - Vendor/Client Name
 - Vendor/Client Address
 - Vendor/Client TIN
4. Do the procedures ensure that reports are sent on a timely basis?
5. Do the procedures ensure that reporting practices are current with IRS requirements?

Dennis Stine
Commissioner

Potpourri

POTPOURRI

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

The Department of Environmental Quality is proposing to incorporate substantive changes to the Louisiana Toxic Air Pollutants Regulations (Log Number AQ12) which were proposed on November 20, 1990. Notice of a public hearing on these changes will be published in the February 20, 1991 *Louisiana Register*. All inquiries should be directed to David Hughes at (504) 342-9163 or Chris Roberie at (504) 342-1209.

Paul H. Templett
Secretary

POTPOURRI

**Office of the Governor
Wetlands Conservation and Restoration Authority**

The state's Wetlands Conservation and Restoration Authority will hold public hearings from January 31 - February 6, 1991, in five locations in coastal Louisiana. The purpose of the hearings is to receive public comments on the 1991-92 Coastal Wetlands Conservation and Restoration Plan. The schedule and location for the hearings are as follows:

January 31, Abbeville, 6 p.m., Vermilion Parish Courthouse, Police Jury Meeting Room (Tivoli Street, Second Floor). Meeting will cover projects in Vermilion, Iberia, St. Martin, and St. Mary Parishes.

February 1, Cameron, 6 p.m., Cameron Parish Annex (Courthouse Square). Meeting will cover projects in Calcasieu and Cameron Parishes.

February 4, Slidell, 6 p.m., Slidell City Council Chambers (2055 Second Street). Meeting will cover projects in St. Tammany, Livingston, and Tangipahoa Parishes.

February 5, Belle Chasse, 6 p.m., Belle Chasse Auditorium (Number 207 Belle Chasse Highway). Meeting will cover projects in St. James, St. John, St. Charles, Plaquemines, Jefferson, Orleans, and St. Bernard Parishes.

February 6, Houma, 6 p.m., Terrebonne Parish Consolidated Government Courthouse Annex, Council Meeting Room (corner School and Goode Street). Meeting will cover projects in Terrebonne, Assumption, and Lafourche Parishes.

Copies of the 1991-92 Coastal Wetlands Conservation and Restoration Plan are available at the State Library and the parish libraries of the coastal parishes.

Written testimony will be accepted until March 6, 1991. Written testimony can be submitted to: Governor's Office of Coastal Activities, Box 94004 Baton Rouge, LA 70804.

For additional information, call (504) 342-6493.

Gus Stacy III
Special Assistant

POTPOURRI

**Department of Health and Hospitals
Board of Embalmers
and Funeral Directors**

The Louisiana State Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, February 16, 1991 at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Louisiana State Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Confidential Assistant

POTPOURRI

**Department of Health and Hospitals
Board of Medical Examiners**

Notice is hereby given, in accordance with R.S. 49:953(A)(2), (3), that the Louisiana State Board of Medical Examiners will conduct a public hearing to receive oral comments on the proposed amendments to its rules governing proficiency certification of privately-employed radiologic technologists, at 3 p.m., Thursday, January 24, 1991, at the office of the board, Suite 100, 830 Union Street, New Orleans, LA. At such hearing, all interested persons may appear and present data, views, arguments, information or comments on the proposed rule amendments, which appear as a notice of intent in Vol. 16, page 1094 of the December 20, 1990 *Louisiana Register*.

Delmar Rorison
Executive Director

POTPOURRI

**Department of Health and Hospitals
Office of Public Health**

The Office of Public Health, Division of Laboratories, is soliciting information regarding the advantages of changing from the fecal coliform standard to the *Escherichia coli* and/or Enterococci standard for the indication of fecal pollution of surface waters. The division is also interested in comments as to the most efficient and effective means for the cultivation of these organisms from surface waters.

Interested individuals should submit written comments by January 31, 1991 to: Henry B. Bradford, Jr., Ph.D., Health Laboratory Director, DHH-OPH Division of Laboratories, 325 Loyola Avenue, Room 709, New Orleans, LA 70112.

The Office of Public Health has also scheduled a public hearing to solicit comments on the above matter. The public hearing will be held at 9 a.m. on January 31, 1991 at 325 Loyola Avenue, Room 511, New Orleans, LA.

David L. Ramsey
Secretary

27658	46916
27893	46861
27960	46836
27735	46884
28007	46832
28985	47052
27415	46936
27628	46916
29092	46834
28561	46862
28320	46828
28790	47048
27421	46968
28295	46822
27513	46925

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

Ron Gomez
Secretary

POTPOURRI

**Department of Health and Hospitals
Office of Public Health**

State Sanitary Code - Chapter XIII

The Department of Health and Hospitals, Office of Public Health will conduct a public hearing to afford an opportunity for interested parties to present their comments on a notice of intent printed in the November 20, 1990 issue of the *Louisiana Register*. This notice of intent changes Chapter XIII of the State Sanitary Code to require an electrician's approval of the electrical hook up of individual sewage systems using electricity.

The hearing will be held at the Jefferson Parish Health Unit Auditorium, 111 N. Causeway Boulevard, Metairie, LA from 10 a.m. to 12 Noon on February 7, 1991.

David L. Ramsey
Secretary

POTPOURRI

**Department of Social Services
Office of Community Services**

Weatherization Assistance Program

The Department of Social Services - Office of Community Services will submit a State Plan to the U.S. Department of Energy on February 15, 1991 for the Weatherization Assistance Program pursuant to 10 CFR 440. As a requirement of this plan, a public hearing must be held.

The purpose of the public hearing is to receive comments on the proposed State Plan for the Weatherization Assistance Program for low-income persons, particularly the elderly and handicapped, in the state of Louisiana. The public hearing is scheduled for Wednesday, January 30, 1991 at 10 a.m. in Baton Rouge, Louisiana at the Capitol Annex at 900 Riverside North in the third floor committee room.

Copies of the plan can be obtained prior to the hearing by contacting the Department of Social Services - Office of Community Services at (504) 342-2272 or Box 44367, Baton Rouge, LA 70804-4367. Interested persons will be afforded an opportunity to submit written comments by January 30, 1991 to the Office of Community Services at the above address.

May Nelson
Secretary

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 57 claims in the amount of \$136,272.50 were received in the month of December 1990, 39 claims in the amount of \$95,491.77 were paid, and two claims were denied.

Loran C. coordinates of reported underwater obstructions are:

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| <i>ER—Emergency Rule</i> | <i>FA—Fee Action</i> |
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PPM—Policy and Procedure Memorandum

EO—Executive Order

FA—Fee Action

N—Notice of Intent

PFA—Proposed Fee Action

R—Rule

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. This is essential for ensuring the integrity of the financial data and for providing a clear audit trail.

2. The second part of the document outlines the various methods used to collect and analyze data. These methods include direct observation, interviews, and the use of specialized software tools.

3. The third part of the document describes the results of the data collection and analysis. It shows that there is a significant correlation between the variables being studied, which supports the hypothesis.

4. The fourth part of the document discusses the implications of the findings. It suggests that the results could be used to inform policy decisions and to guide future research in this area.

5. The fifth part of the document provides a conclusion and summarizes the key points of the study. It emphasizes the need for further research to explore the underlying mechanisms of the observed relationships.

6. The sixth part of the document includes a list of references to the sources used in the study. These references provide additional context and support for the findings presented in the document.

7. The seventh part of the document discusses the limitations of the study. It acknowledges that the sample size was relatively small and that the study was conducted in a specific context, which may limit the generalizability of the findings.

8. The eighth part of the document outlines the future research agenda. It suggests that further studies should be conducted to explore the relationship between the variables in different contexts and with larger samples.

9. The ninth part of the document provides a final summary of the document. It reiterates the main findings and the importance of the research for the field.

10. The tenth part of the document includes a list of appendices. These appendices provide additional data and information that support the findings of the study.

11. The eleventh part of the document discusses the ethical considerations of the study. It ensures that all procedures were approved by the appropriate ethics committees and that the rights of the participants were protected.

12. The twelfth part of the document provides a list of acknowledgments. It thanks the individuals and organizations that provided support and assistance during the course of the study.

13. The thirteenth part of the document includes a list of contact information for the authors. This information is provided for those who wish to contact the authors for further information or to request reprints.

14. The fourteenth part of the document provides a list of keywords. These keywords are used to describe the main topics and concepts discussed in the document.

15. The fifteenth part of the document includes a list of footnotes. These footnotes provide additional information and references related to the main text of the document.



