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This public document was published at a total cost of \$2,623.90. 1,475 copies of this public document were published in this monthly printing at a cost of \$2,623.90. The total cost of all printings of this document including reprints is \$2,623.90. This document was published by Moran Colorgraphic, 5425 Florida Blvd., Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-970. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Executive Orders

EXECUTIVE ORDER EWE 85-31

WHEREAS, Section 621 of the Tax Reform Act of 1984 (the "Tax Reform Act") restricts the total principal amount of private activity bonds the interest on which is exempt from federal income taxation under Section 103 of the Internal Revenue Code of 1954, as amended (the "bonds"), which may be issued by any state of the United States during each calendar year; and

WHEREAS, the aggregate principal amount of bonds which may be issued in the State of Louisiana (the "state") during the calendar year 1985 is restricted by the Tax Reform Act to \$150 per person, based on the most recently published estimate of population obtained from the U.S. Department of Commerce-Bureau of Census, prior to January 1, 1985 (the "ceiling"); and

WHEREAS, Executive Order Number EWE 84-32 dated October 5, 1984, as amended, provides that the governor of the State of Louisiana is responsible for granting allocations from the ceiling for certain issues of bonds; and

WHEREAS, the governor of the State of Louisiana desires to grant allocations for the hereinafter described bonds;

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

SECTION 1: The bond issues described in this Section is hereby granted an allocation from the ceiling in the amount shown below.

AMOUNT OF ALLOCATIONS	NAME OF ISSUER	NAME OF PROJECT
\$3,500,000	La. Public Facilities Authority	Alton H. Howard Project

SECTION 2: The allocations granted hereunder are to be used only for the bond issues described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The bonds granted an allocation hereunder must be delivered to the initial purchasers thereof on or before 60 days from the date hereof, unless an application for a 30-day extension under Section 5.8 of Executive Order Number EWE 84-32, as amended, is timely received by the State Bond Commission staff.

SECTION 4: Pursuant to Section 103(N)(12) of the Internal Revenue Code of 1954, as amended, the undersigned certifies, under penalty of perjury, that the allocations granted hereby were not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 6: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunder set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this 6th day of June, 1985.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 85-32

WHEREAS, Section 621 of the Tax Reform Act of 1984 (the "Tax Reform Act") restricts the total principal amount of private activity bonds the interest on which is exempt from federal income taxation under Section 103 of the Internal Revenue Code of 1954, as amended (the "bonds"), which may be issued by any state of the United States during each calendar year; and

WHEREAS, the aggregate principal amount of bonds which may be issued in the State of Louisiana (the "state") during the calendar year 1985 is restricted by the Tax Reform Act to \$150 per person, based on the most recently published estimate of population obtained from the U.S. Department of Commerce - Bureau of Census, prior to January 1, 1985 (the "ceiling"); and

WHEREAS, Executive Order Number EWE 84-32 dated October 5, 1984, as amended, provides that the governor of the State of Louisiana is responsible for granting allocations from the ceiling for certain issue of bonds; and

WHEREAS, the governor of the State of Louisiana desires to grant allocations for the hereinafter described bonds;

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

SECTION 1: The bond issues described in this Section is hereby granted an allocation from the ceiling in the amount shown below.

AMOUNT OF ALLOCATIONS	NAME OF ISSUER	NAME OF PROJECT
\$3,500,000	La. Public Facilities Authority Revenue Bonds	The Specialty Papers Company Project
\$4,000,000	La. Agricultural Finance Authority Floating Rate Monthly Demand Agricultural Revenue Bond	Great River Grain Corporation Project
\$ 27,315	La. Agricultural Finance Authority Agricultural Revenue Bonds	Capital Bank & Trust Co. Project No. 11 (Herman Simoneaux and Wallace Simoneaux)
\$ 48,231	La. Agricultural Finance Authority Agricultural Revenue Bonds	Capital Bank & Trust Co. Project No. 12 (Henry K. Miller, d/b/a Old Hickory Farms)
\$ 28,980	La. Agricultural Finance Authority Agricultural Revenue Bonds	Capital Bank & Trust Co. Project No. 13 (Billy R. Walker)
\$ 16,000	La. Agricultural Finance Authority Agricultural Revenue Bonds	Capital Bank & Trust Co. Project No. 14 (Andrew J. LeBlanc, Jr.)
\$ 139,400	La. Agricultural Finance Authority Agricultural Revenue Bonds	Capital Bank & Trust Co. Project No. 7 (Kenneth McEacharn and Bruce McEacharn)

\$ 40,012.50	La. Agricultural Finance Authority Agricultural Revenue Bonds	Capital Bank of Delhi Project No. 8 (Michael Thompson)
\$ 140,000	La. Agricultural Finance Authority Agricultural Revenue Bonds	Sabine State Bank & Trust Co. Project No. 1 (Curtis and Zula Fox)
\$ 63,188	La. Agricultural Finance Authority Agricultural Revenue Bonds	The Ouachita National Bank in Monroe Project No. 9 (W.A. & T.A. Calloway Estates, Inc.)
\$ 310,500	La. Agricultural Finance Authority Agricultural Revenue Bonds	Winnsboro State Bank & Trust Co. Project No. 6 (Farmer's Gin, Inc.)
\$ 70,000	La. Agricultural Finance Authority Agricultural Revenue Bonds	Commercial Bank and trust Co. Project No. 19 (H&H Planning Co.)

SECTION 2: The allocations granted hereunder are to be used only for the bond issues described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The bonds granted an allocation hereunder must be delivered to the initial purchasers thereof on or before 60 days from the date hereof, unless an application for a 30-day extension under Section 5.8 of Executive Order Number EWE 84-32, as amended, is timely received by the State Bond Commission staff.

SECTION 4: Pursuant to Section 103(N)(12) of the Internal Revenue Code of 1954, as amended, the undersigned certifies, under penalty of perjury, that the allocations granted hereby were not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 6: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunder set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this 14th day of June, 1985.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 85-33

Executive Order Number EWE 84-44, issued on December 17, 1984, is hereby amended to place the responsibility of awarding and the authority over contractual agreements regarding energy conservation and PCB and asbestos handling jointly with the Division of Administration and the Department of Environmental Quality.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 18th day of June, 1985.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 85-34

WHEREAS, Section 621 of the Tax Reform Act of 1984 (the "Tax Reform Act") restricts the total principal amount of private activity bonds the interest on which is exempt from federal income taxation under Section 103 of the Internal Revenue Code of 1954, as amended (the "bonds"), which may be issued by any state of the United States during each calendar year; and

WHEREAS, the aggregate principal amount of bonds which may be issued in the State of Louisiana (the "state") during the calendar year 1985 is restricted by the Tax Reform Act to \$150 per person, based on the most recently published estimate of population obtained from the U.S. Department of Commerce - Bureau of Census, prior to January 1, 1985 (the "ceiling"); and

WHEREAS, Executive Order Number EWE 84-32 dated October 5, 1984, as amended, provides that the governor of the State of Louisiana is responsible for granting allocations from the ceiling for certain issues of bonds; and

WHEREAS, the governor of the State of Louisiana desires to grant allocations for the hereinafter described bonds;

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

SECTION 1. The bond issues described in this Section is hereby granted an allocation from the ceiling in the amount shown below.

AMOUNT OF ALLOCATIONS	NAME OF ISSUER	NAME OF PROJECT
\$ 4,500,000	La. Public Facilities Authority Revenue Bonds	Gonzales Inns Partnership Project
\$ 4,450,000	La. Public Facilities Authority Revenue Bonds	La. Chemical Polymer, Inc. Project
\$10,000,000	La. Public Facilities Authority Revenue Bonds	T & N Holding Co., Inc. Project

SECTION 2: The allocations granted hereunder are to be used only for the bond issues described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The bonds granted an allocation hereunder must be delivered to the initial purchasers thereof on or before 60 days from the date hereof, unless an application for a 30-day extension under Section 5.8 of Executive Order Number EWE 84-32, as amended, is timely received by the State Bond Commission staff.

SECTION 4: Pursuant to Section 103(N)(12) of the Internal Revenue Code of 1954, as amended, the undersigned certifies, under penalty of perjury, that the allocations granted hereby were not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 6: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunder set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this 3rd day of July, 1985.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Civil Service Civil Service Commission

Pursuant to the provisions of Civil Service Rule 2.10(f), the Civil Service Commission adopted emergency rules at its July 3, 1985 meeting. These include Civil Service Rules 1.39.2(a)2; 1.39.2(b); 17.16; 17.17 and the repeal of Rule 17.18. The emergency rule provision was utilized because of budget reductions in state agencies which may result in layoffs of state employees in the very near future and the need to handle all such layoffs under the same criteria.

The notice of intent to adopt these rules appears in this issue of the *Louisiana Register*.

Herbert L. Sumrall
Director

DECLARATION OF EMERGENCY

Department of Culture, Recreation and Tourism Office of Cultural Development Division of the Arts

The Department of Culture, Recreation and Tourism, Division of the Arts has exercised those powers conferred by the emergency provisions of the Louisiana Administrative Procedure Act, R.S. 49:953B, and amended the Program Guidelines for State Arts Grants 1985-86 to update deadlines for 1986-87; to change the Local Arts Agency Program funding requests to read: requests for general support in the LAA Program may not exceed 50 percent of the organization's prior year actual cash income or more than \$100,000; and, requests in the Basic Development Category of LAA to: requests may be submitted up to and not exceeding \$20,000. Other changes include the requirement of a single audit to eligible arts organizations and clarification of language in narratives.

Robert B. DeBlieux
Assistant Secretary

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to implement the

following amendment in the State Plan for the Low Income Home Energy Assistance Program.

Rule

Effective August 1, 1985, the Low Income Home Energy Assistance Program State Plan, Attachment A and Attachment B will be amended to read as follows:

Attachment A:

The Income limits column shall read:

One Person

0-171

172-285

286-346

Attachment B:

Income Limits—For a one person household, total monthly income not over \$346.00.

This emergency rule will permit the agency to make an energy payment to approximately 14,500 SSI single person households who would otherwise not be eligible for the August, 1985 issuance and to be more responsive to the health and welfare of the elderly, the ill and the handicapped.

The notice of intent to implement this amendment in the State Plan for the Low Income Home Energy Assistance Program is simultaneously published in this issue of the *Louisiana Register*.

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

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to implement the following emergency rule in the Medical Assistance Program.

RULE

Effective June 10, 1985, the Office of Family Security will amend attachment 2.2-A of the Title 19 State Plan to include as covered individuals those who are receiving Old-Age, Survivors and Disability Insurance (OASDI) benefits and who were receiving Supplemental Security Income (SSI)/State Supplementation Payment (SSP) concurrently for any month after April, 1977, and who would again be SSI eligible were it not for OASDI cost-of-living increases (paid under Section 215(i) of the Social Security Act) received since SSI benefits were terminated. All other sections of the State Plan that may be affected by this change are also being amended.

Implementation is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title 19 policy changes. If disapproved by HCFA, the policy prior to this proposed amendment remains in effect.

It is necessary to adopt this as an emergency rule to comply with a federal court order to revise eligibility requirements for Extended Medicaid.

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

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has exercised the provisions of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

Summary

Current program policy provides for transplant surgeries to be reimbursed under Medicaid if prior approval is obtained. Historically, recipients in need of transplants have had to obtain these services from out-of-state hospitals which were generally reimbursed a percentage of billed charges. Several instate hospitals now have the capability of performing transplant surgeries. However, the current reimbursement methodology for inpatient hospital services which sets a limitation on cost per discharge precludes adequate reimbursement for these costly but life-saving surgeries. As current policy provides for a "carve out" from this limitation of certain other exceptional medical services (i.e. neonatal and pediatric intensive care and burn unit services), transplant surgeries could be "carved out" also and reimbursed costs. This emergency rule will permit the agency to provide adequate reimbursement to instate hospitals performing transplant surgeries. Thus, the health and welfare of Medicaid eligible recipients in need of transplant surgeries shall not be imperiled by the nonavailability of these services from instate hospitals who would be unwilling to accept Medicaid recipients because of the inadequate reimbursement provided by the current reimbursement methodology.

Rule

Effective July 1, 1985, the Medical Assistance Program will amend the reimbursement methodology for inpatient hospital services to provide that costs for transplant surgeries shall be excluded from the cost per discharge limitation and shall be reimbursed allowable costs as defined by Medicare (Title XVIII) principles of reimbursement. The costs to be excluded include the cost for accommodations, nursing services and ancillaries for Medicaid recipients undergoing transplant surgeries. This change in reimbursement is effective for hospital admissions on or after July 1, 1985.

Regulatory Exception

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

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

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

STATEWIDE ORDER NUMBER 29-B

Amendment concerning the extent of financial responsibility required for operation of permitted commercial disposal facilities for the off-site storage, treatment, and/or disposal of non-hazardous oilfield waste generated from drilling and production of oil and gas wells.

* * * *

Pursuant to the power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 1[D], 3[1][c], 4[A], 4[B], 4[C][16a] and [b], and 4[I] and [I][11], as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953[B][1] and [2], 954[B][2], as amended, the following emergency rule and reasons therefor are now adopted and promulgated by the commissioner of conservation as being necessary to protect the public health, safety, and welfare of the people of the State of Louisiana, as well as the environment generally, by assuring continued operation of permitted commercial disposal facilities for the off-site storage, treatment, and/or disposal of oilfield waste.

A. REASONS

Because of increasing difficulties encountered by permitted commercial disposal facilities throughout the State of Louisiana in securing insurance coverage sufficient to meet the present requirements of Statewide Order Number 29-B, Section XV, Paragraph 13.3[C][10], and because at least one commercial waste disposal facility has already closed as a result of these difficulties, and because several other permitted commercial facilities are likewise facing the same prospect, it has been determined that there exists an imminent peril to the public health, safety, and welfare of the people of the State of Louisiana, as well as the environment generally, unless commercial waste disposal facilities, duly permitted and monitored, continue in operation. The alternative is indiscriminate disposal of oilfield waste generated from the drilling and production of the oil and gas wells so vital to the economy of this state and its peoples, as well as the economy and defense of this nation.

Confronted with the real, imminent peril of having our permitted commercial facilities closed, the commissioner of conservation has undertaken an investigation of the problem of insurance coverage, meeting first with insurance industry officials, and then with the officers of the Louisiana Oilfield Waste Disposal Association. After extensive deliberation, and following several staff conferences, the commissioner of conservation has concluded that a revision of Statewide Order 29-B, Section XV, Paragraph 13.3 [C][10] is urgently needed if we are to keep permitted commercial waste disposal facilities operating in Louisiana, thus preventing waste from being dumped as in the past.

The difficulties those operating permitted waste disposal facilities are experiencing with insurance coverage availability has also been reported extensively in the media, having been headlined in a recent article by the *Wall Street Journal*, *The Houston Business Journal*, and extensively treated in a *Baton Rouge Morning Advocate* article of April 17, on page 10A.

There are other considerations as well for taking immediate action to grant relief to our permitted disposal facilities, both practical and equitable. Our regulations now require every commercial facility to have the same coverage, whether the facility is operating open pits or a closed system. Common sense alone shows that the extent of potential danger to our environment from these separate, distinct modes of operation is disproportionate and the need for liability coverage is simply not the same. By no stretch of the imagination is the danger to the public health, safety and general welfare of the people of Louisiana, and our environment, the same from operation of a closed disposal system as compared to open, unlined pits. Additionally, the continued insistence on uniform insurance coverage of \$1,000,000 for every facility is counterproductive with the existing order of the commissioner of conservation that all open pits must be closed by December 31, 1985. Any incentive for open pit operators to move swiftly toward the new state of art facilities, such as the real prospect of lower operating costs from decreased insurance costs, is a practical, valid consideration.

In addition to the above, it is also noted that Statewide Order 29-B has been, for several months now, the object of extensive research, including the holding of public hearings across the State of Louisiana, for input and comments, all with the view of revising the entirety of this very complex regulation. As matters now stand, it will be a few more weeks before a public hearing can be held to consider the final draft of the revision to the environmental provisions of Statewide Order 29-B now almost ready for publication and notice, all of which will be too late, in the considered judgment of the commissioner of conservation, to assure the necessary and immediate revision of insurance coverage requirements for those permitted commercial waste facilities now serving a vital public need through their operations.

Protection of the public and our environment therefore requires the commissioner of conservation to take immediate steps to assure continued operation of permitted waste disposal facilities, and in so doing, requires the Office of Conservation to address the problem confronting non-hazardous waste disposal facility operators in securing adequate insurance coverage. The emergency rule set forth hereafter is now adopted by the Office of Conservation.

B. EMERGENCY RULE AMENDING
STATEWIDE ORDER NUMBER 29-B

SECTION XV
POLLUTION CONTROL

PARAGRAPH 13

OFF-SITE STORAGE, TREATMENT AND/OR DISPOSAL OF
NONHAZARDOUS OILFIELD WASTE GENERATED FROM
DRILLING AND PRODUCTION OF OIL AND GAS WELLS

* * *

13.3 Permit Application Requirements

* * *

C. General Information

(10) Financial Responsibility

Evidence of financial responsibility for any liability for damages which may be caused to any party by the escape or discharge of any material or waste from a permitted disposal facility shall be evidenced by filing a certificate of insurance indicating the required coverage is in effect and all deductible amounts applicable to the coverage. A copy of the insurance policy subsequently issued in conjunction with the certificate of insurance is to be immediately filed as well upon receipt thereof by the operator. The insurance coverage must be provided by a company licensed to operate in the State of Louisiana and must provide sudden and accidental pollution coverage as well as environmental impairment (absolute) liability coverage. Other evidence of equivalent financial responsibility acceptable to the commissioner may be filed in lieu of a policy of insurance, such as letters of credit or certificates of deposits issued by and drawn on Louisiana banks. However, in no event shall the amount and extent of such financial responsibility or insurance coverage be less than the face amounts hereafter set forth per occurrence and/or aggregate occurrences for each commercial facility operated:

a) \$1,000,000 minimum coverage per commercial site where open pits are in the process of being closed pursuant to an approved closure plan.

b) \$500,000 minimum coverage per commercial site for all other commercial disposal systems except facilities with closed salt water disposal systems.

c) \$250,000 minimum coverage per each closed salt water disposal systems.

d) \$100,000 minimum coverage per each transfer station operated in conjunction with a permitted commercial facility.

The commissioner retains the right to increase the face amounts set forth above as needed in order to prevent waste and to protect the public health, safety, and welfare.

C. SUMMARY

The emergency rule hereinabove adopted evidences the finding of the commissioner of conservation that there is an imminent risk to the public health, safety, and welfare, and that there is not time to provide adequate notice to interested parties. The commissioner of conservation also finds it impractical to provide a public hearing given the extreme urgency of this matter. However, the commissioner of conservation notes again that a notice of a public hearing necessary for the proposed revision of the entirety of the environmental provisions of Statewide Order 29-B will be

sent out on or about June 25, 1985, and the published version of revised Order 29-B should be available on or about July 10, 1985, with a public hearing scheduled for on or about August 5, 1985.

Nothing herein contained shall in anywise affect the existing order of the commissioner of conservation directed to all commercial facilities requiring that open pits be closed not later than December 31, 1985; nor shall anything herein be construed as permitting the operation of any commercial open pit facility other than pursuant to an approved closure plan now being implemented to achieve the necessary closure of the open pit facility by the prescribed year end date.

The commissioner of conservation concludes that the above emergency rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Louisiana Revised Statutes, and is consistent with legislative intent. The adoption of the above emergency rule meets all requirements provided by Title 49 of our Louisiana Revised Statutes. The adoption of the above emergency rule is not intended to affect any other provisions of Statewide Order 29-B, nor any other rule, order, or regulation of the Office of Conservation, except to the extent specifically provided for in this emergency rule.

Within five days from date hereof, notice of the adoption of this emergency rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this emergency rule and reasons therefor to all such parties. This emergency rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the governor of the State of Louisiana, the attorney general of the State of Louisiana, and the State Register of the adoption of this emergency rule and the reasons for adoption.

D. EFFECTIVE DATE AND DURATION

1. The effective date of this order shall be June 24, 1985.

2. The emergency rule herein adopted, containing the reasons for adoption as a part thereof, shall remain effective for a period not less than 120 days hereafter, or until the adoption of the proposed revision of Statewide Order Number 29-B as noted herein, whichever occurs first.

Signed at Baton Rouge, Louisiana, this 24th day of June, 1985.

Herbert W. Thompson
Commissioner of Conservation

DECLARATION OF EMERGENCY

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

The alligator population in Louisiana has been determined by biologists of the department to be capable of sustaining an annual harvest of surplus animals with the removal of the surplus animals considered to be a wise use of this natural resource of the State of Louisiana.

The Louisiana Department of Wildlife and Fisheries has the authority under state and federal statute to establish an alligator season, therefore, the Louisiana Wildlife and Fisheries Commission has adopted the following rules, regulations, and guidelines for administering the 1985 alligator season.

The Louisiana Department of Wildlife and Fisheries recommends that an alligator season be hereby established in accordance with the following regulations. No exceptions of these procedures will be permitted, and anyone taking alligators contrary to these regulations will be charged in accordance with Title 56 of the Louisiana Law Pertaining to Wildlife and Fisheries, appropriate federal laws, Wildlife and Fisheries Commission regulations, and/

or Louisiana Department of Health and Human Resources regulations.

1. *Open area*—Alligator habitat in the State of Louisiana. Harvest quotas will be rigidly controlled according to alligator population estimates within all of the state's wetland habitat types.

2. *Harvest season*—The open season shall run for a 31-day period beginning on August 31, 1985, and continue through September 30, 1985. Size - no alligators under four feet in length may be taken.

3. *Harvest methods*—Alligators may be taken only during daylight hours, between official sunrise and official sunset. If a licensed hunter is cited for hunting alligators out of season, at night, or on property other than that for which tags were assigned, all tags and skins for the current season will be confiscated in addition to revocation of the alligator hunting license. Special instructions will be issued to the holders of alligator hunter licenses shortly before the opening of the season describing detailed methods regarding the skinning of alligators. Skins processed contrary to the specific requirements of the department will be considered illegal and will be confiscated by department personnel. Pole hunting is prohibited to protect the nesting female population. Hooks and lines may be set no more than one day prior to the season opening. No hook and line shall remain set after the closing day of the alligator season. All alligator hooks and lines must be checked daily and all hooks and lines must be removed when a hunter's tag quota is reached. Alligators cannot be cut loose from hooks and lines for purposes of selecting larger alligators.

4. *Licenses*—An alligator hunter must have in possession a valid commercial alligator hunter license to take or sell alligators or their skins or other alligator parts. The fee for the resident license is \$25 per year and for the non-resident \$150. These licenses are non-transferable. In order to obtain a resident license, the hunter must have established bona fide residence in the state. A hunter must complete application forms provided by the department and furnish proof that he owns the land or has an agreement with the landowner or another authorized hunter to hunt alligators on the specified property. Information as to the location and acreage of the property must be provided (all land descriptions must include parish, township, range, and section delineation figures). Applications must be submitted beginning August 1, 1985. Property ownership and description requirements do not apply to public lake hunters. The alligator hunter license will be issued only after the hunter has satisfactorily complied with the above requirements. Commercial alligator hunter licenses will not be issued after September 7, 1985. Non-resident hunters and resident sport hunters must coordinate their hunt through landowners and licensed resident hunters. A non-resident hunter may take no more than three alligators per season. A fur buyer license or fur dealer license is required for purchasing and handling raw alligator skins in Louisiana. An alligator parts dealer license is required of any person who deals in alligator parts other than hides and who: (a) Buys from an alligator hunter or farmer for the purpose of resale; or (b) Manufactures within the state alligator parts into a finished product; or (c) Purchases, cans, processes, or distributes alligator meat for wholesale or retail. A retailer selling canned alligator parts or a retailer purchasing alligator parts from an alligator parts dealer or a restaurant selling prepared alligator meat for human consumption shall not be classified as an alligator parts dealer. The fee for the parts dealer license is \$50 per year. Persons or firms entering alligators or alligator skins and/or parts interstate/foreign commerce in the course of a commercial activity must be licensed in accordance with state and federal regulations. Persons shipping alligators, or alligator skins and/or parts to another state must do so in accordance with the regulations of that state. Each retailer selling canned alligator parts or purchasing alligator parts and each

restaurant selling prepared alligator meat for human consumption shall secure a license from the department before commencing business. The license shall be secured annually and shall be furnished upon the payment of \$5.

5. *Tagging*—In addition to a valid commercial alligator hunting license, the hunter must also obtain from the department, and have in his possession while hunting, official tags which must be firmly attached to each alligator immediately upon taking. Numbered tags will only be issued in the name of license holders for a sum of \$5 (one fee charged regardless of the number of tags involved). Alligator tags will not be issued after September 7, 1985. The tags must be attached and locked in the last six inches of the tail. The tag must remain attached to the skin until finally processed by the fabricator. It shall be illegal to possess alligator skins in Louisiana without valid official tags attached. Failure to properly tag an alligator or skin will result in confiscation of both the alligator or skin and tag. Official alligator tags will be issued only to alligator hunters, and farmers and only to those who have authorized applications. The number of tags will be issued on the basis of the quantity and quality of the habitat, and the rate per acre will be fixed based on extensive population estimates. Tags will be issued for alligator habitat only, based on final decision of department biologists. Tags issued on public lakes are non-transferable and limited to five per hunter. No more than this fixed number of tags will be issued. Each official tag will bear a characteristic number, and the tag numbers issued to each hunter will be recorded. Hunters will be held accountable for all alligator tags issued to them. *Unused tags must be returned by the hunter to the department no later than 15 days following the close of the season. Department personnel must be notified, within 15 days following the close of the season, of any alligator hides not sold to a commercial buyer or dealer on official Louisiana Department of Wildlife and Fisheries forms provided. Lost or stolen tags will not be replaced but must be reported within 15 days of close of season.* Tags can be used only on the lands applied for and approved on the application. Tags furnished by the Louisiana Department of Wildlife and Fisheries must be attached to all alligator meat/parts upon transfer by a hunter or farmer.

6. *Alligator Farmers and Breeders*—Licensed alligator farmers or breeders will be issued permits to kill and skin their alligators but must follow the same rules and regulations which apply to wild alligators (except farm alligators can be harvested during closed season with department approval).

7. *Sale of Alligator Skins*—All alligator skins taken during the alligator season must be validated by personnel of the Louisiana Department of Wildlife and Fisheries prior to the hides leaving the state. Special skinning instructions will be verified, and any skins not prepared according to instructions issued in advance of season will be considered illegal. Buyers/dealers must abide by special skinning instructions or be subject to forfeiture of improperly skinned hides.

8. *Buyer/Dealer Hide Records*—All buyers and dealers making purchases of alligator hides shall maintain a complete set of records of all purchases and sales. Such records will include names and addresses of buyers and/or sellers, alligator hide tag number and length, and date purchased. Dealers will submit reports as required by the department for all hides purchased/sold. Every buyer or dealer having raw alligator hides in his possession shall file with the department within 60 days after the close of the alligator season, or prior to shipping out of state, a complete report as specified on forms provided by the department.

9. *Shipment*—All interstate shipments of raw alligator skins must be tagged with official out-of-state shipping tags provided by the department. All shipments of skins within the state must be tagged with official Louisiana Department of Wildlife and Fisheries

in-state shipping tags. A severance tax of 25¢ per hide must be paid on all out-of-state shipments at the time skins are transported or shipped.

10. *Sale of Meat and Parts*—Meat and other parts from lawfully taken alligators can only be sold according to Louisiana Department of Health and Human Resources regulations, Louisiana Department of Wildlife and Fisheries regulations, and federal laws. Alligator meat sold for human food must be processed in a licensed facility, approved by the Louisiana Department of Health and Human Resources. If a person or firm is cited for buying or selling alligator meat that was not processed through a licensed alligator processing plant, all alligator meat in possession will be confiscated. Alligator hunters, farmers, and parts dealers shall maintain records of all transactions, purchases, and sales on forms provided by the department. These forms shall be submitted to the department within 30 days following the close of the season and thereafter at 60-day intervals until all parts are sold. All alligator meat and parts, excluding hides, shall be tagged with an official alligator parts tag (Color: Blue) to be furnished by the department. Hunters, farmers, and alligator parts dealers shall furnish a bill of sale to all retailers and restaurants purchasing alligator parts. This bill of sale shall be maintained for a period of six months.

11. *Nuisance Removal Program*—A statewide alligator nuisance removal program will be administered on an annual basis. This program will allow the taking of problem alligators within the confines of municipal, ward, parish, or state responsibility where there are alligator-people conflicts. Alligators taken under this program must be taken in accordance with state regulations and local regulations/ordinances. Skinning instructions issued by the department will be valid for one year, until the next year's skinning instructions are issued. This nuisance removal program depends upon close cooperation of state, parish, and local authorities. Tags may be issued by the department to an approved licensed hunter who has been designated by department supervisory personnel or officials of a local governing body. The number of tags issued will be based on the number of complaints received and the quantity and quality of alligator habitat involved. The commission is hopeful this program will lessen the threat to people and property by reducing human/alligator contact.

12. *Hunting on Public Lakes*—The department may select public lakes for an experimental alligator hunting program. The harvest will be controlled by a tag allotment for each lake as determined by population surveys by department personnel. An alligator hunter can receive tags for and hunt on only one public lake each season. The tag quota for a public lake is five per hunter. *Alligator tags issued on public lakes are non-transferable.* Applicants for public lake hunting must be 16 years of age or older. Applications for public lake hunting must be received at least ten days prior to the season opening date. In the event that the number of applicants for any particular public lake exceeds the number of allowable hunters; a public drawing will be held to select hunters. Only the applicants whose names are drawn will be eligible to hunt public lakes.

13. *Harvest Rates*—HARVEST RATES ARE PRESENTLY BEING CALCULATED AND WILL BE DETERMINED BY BIOLOGISTS OF THE FUR AND REFUGE DIVISION. AERIAL NEST COUNTS AND NIGHT COUNTS SURVEYS WILL BE COMPLETED ON JULY 1, 1985. THIS DATA WILL BE ANALYZED, HARVEST RATES FIGURED, AND ALLIGATOR TAG ALLOTMENTS WILL BE PRESENTED TO DEPARTMENT/COMMISSION ADMINISTRATORS FOR THEIR CONSIDERATION.

14. The department secretary shall be authorized to close or extend the alligator season as biologically justifiable.

This is to certify that the above and foregoing is a true copy

of the excerpt of the meeting of the Louisiana Wildlife and Fisheries Commission held in Baton Rouge, Louisiana on July 3, 1985.

J. Burton Angelle
Secretary

DECLARATION OF EMERGENCY
Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Migratory Seasons Other Than Waterfowl

Larry Soileau, research leader, representing the South-eastern Technical Committee and Joe L. Herring, assistant secretary, representing the Southeastern Association of Fish and Wildlife Agencies Directors, attended the Migratory Bird hearing meeting in Washington, D.C. on June 20, 1985. At this meeting rules and regulations were discussed pertaining to the 1985-86 migratory seasons other than waterfowl. There were no changes in these regulations from last year for Louisiana.

The Louisiana Wildlife and Fisheries Commission on this the third day of July, 1985 has set the recommendations for the Migratory Bird Seasons Other Than Waterfowl as recommended by the staff of the Louisiana Department of Wildlife and Fisheries. Details of the seasons are as follows:

Doves			
North Zone	Dates	Days	Bag Limit
	Sept. 1 - 8	8	12
	Oct. 19 - Dec. 1	44	12
	Dec. 14 - Dec. 31	<u>18</u>	12
		70 Total	
South Zone			
	Oct. 19 - Dec. 1	44	12
	Dec. 14 - Jan. 8	<u>26</u>	12
		70 Total	
	Woodcock		
	Dec. 7 - Feb. 9	65	5
	Snipe		
	Nov. 9 - Feb. 23	107	8
	Gallinules		
	Sept. 21 - 29	9	15
	Nov. 9 - Jan. 8	<u>61</u>	15
		70 Total	
	Rails		
	Sept. 21 - 29	9	15
	Nov. 9 - Jan. 8	<u>61</u>	15
		70 Total	
	Teal		
	Sept. 21 - 29	9	4

Shooting Hours:

1. September Teal Season: Sunrise to Sunset
2. Rails, Gallinules, Woodcock and Snipe: one-half hour before sunrise to sunset
3. Doves: Noon to Sunset

J. Burton Angelle
Secretary

DECLARATION OF EMERGENCY
Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

EMERGENCY RULE ADOPTED BY THE LOUISIANA WILDLIFE AND FISHERIES COMMISSION AT ITS REGULAR MONTHLY MEETING HELD IN BATON ROUGE, LOUISIANA ON WEDNESDAY JULY 3, 1985

The natural oyster reefs (oyster seed grounds) under the

managerial supervision of the Louisiana Wildlife and Fisheries Commission must open on the first Wednesday following Labor Day, September 4, 1985 as provided by statute. The statutes also authorized the commission to regulate the size limit and area closures after January 1 of each year on state controlled grounds.

The "Oyster Seed Reservations" are small portions of the "Oyster Seed Grounds" managed and controlled for seed oyster production which are opened on alternate years.

THEREFORE the Louisiana Wildlife and Fisheries Commission does hereby open the "Bay Gardene Oyster Seed Reservation." "Hackberry Bay (Du Chene) Oyster Seed Reservation" in accordance with Louisiana Law Title 56, Section 433, which opens said season one-half hour before sunrise on the first Wednesday following Labor Day, September 4, 1985 with the exception of Bay Gardene Oyster Seed Reservation. Said season on the other reservations shall remain open with the same regulations as the regular oyster season; however, the secretary shall be authorized and empowered to close the two areas if it is deemed necessary by biological investigations and sampling.

The "Bay Gardene Oyster Seed Reservation" will remain open for a ten day period (September 4 through September 13, 1985), close and then reopen November 1, 1985 for the remaining portion of the public oyster season.

Bayou Pierre will be opened from September 4 through September 30, 1985.

The secretary be and is hereby authorized and empowered to close either the Bay Gardene Oyster Seed Reservation or the Bay Junop Oyster Seed Reservation or both if it becomes necessary, and that he also be authorized to close shell plant areas if they materialize and when they are properly marked.

This is an emergency action. The reason for this emergency action is that the biological surveys to determine the amount, size, and condition of the oysters and oyster seed grounds have to be made continually until the week prior to the commission meeting in which this matter is the subject on the agenda.

J. Burton Angelle
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

EMERGENCY RULE ADOPTED BY THE LOUISIANA WILDLIFE AND FISHERIES COMMISSION AT ITS REGULAR MONTHLY MEETING HELD IN BATON ROUGE, LOUISIANA ON WEDNESDAY, JULY 3, 1985

The department biologists and the chief of the Seafood Division have recommended the fishing of oysters in Calcasieu Lake with the exception of the Calcasieu River and Ship Channel, East Fork, West Fork, and Oyster Bayou.

The Department of Health and Human Resources will examine the growing oysters of the aforementioned areas and approve the waters for fishing oysters if the health standards are met.

The Louisiana Wildlife and Fisheries Commission sets the Calcasieu Lake Oyster Season for 1985-86 in accordance with the following rules and regulations:

1. That the oyster season in Calcasieu Lake be fixed to extend one-half hour before sunrise on Monday, November 11, 1985 through one-half hour after sunset on Saturday, March 29, 1986 with the right being reserved to close said season sooner if biologically justifiable.

2. The open areas shall be confined to the areas of Calcasieu Lake with the exception of Calcasieu River and Ship Channel, East Fork, West Fork, and Oyster Bayou which shall be closed.

3. All oysters shall be put into sacks before leaving the oyster fishing area in Calcasieu Lake. Oysters not in sacks leaving the fishing area in Calcasieu Lake shall be confiscated and violator subject to penalty set forth in Title 56, Section 115.

4. The taking of oysters for home consumption shall be limited to three bushels (two sacks per boat per day).

5. The three-inch culling law shall be observed by all fishermen fishing the area and the culls shall be scattered around the perimeter of the reefs to provide for expansion of future harvesting.

6. That oyster fishing be limited only to the use of tongs and to daylight hours.

The secretary be and is hereby authorized and empowered to change the limit or close said season, if biologically sound.

This is an emergency action. The reason for this emergency action is that the biological surveys to determine the amount, size, and condition of the oysters and oyster seed grounds have to be made continually until the week prior to the commission meeting in which this matter is the subject on the agenda.

J. Burton Angelle
Secretary

Rules

RULE

Department of Agriculture Office of Agricultural and Environmental Sciences Seed Commission

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the notice of intent published in the May 20, 1985 issue of the *Louisiana Register* and R.S. 3:1433, the Department of Agriculture, Seed Commission, adopted the following amendment to the rules and regulations governing the approval of plant breeders.

LAC 7:8809(B) is hereby amended to read as follows:

"B. Examinations will be given by the state entomologist in his office in Baton Rouge, 10 days or later, at the convenience of the applicant, after the application has been approved by the commission."

Bob Odom
Commissioner

RULE

Department of Agriculture Office of Agricultural and Environmental Sciences Seed Commission

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the notice of intent published in the May 20, 1985 issue of the *Louisiana Register* and R.S. 3:1433, the Department of Agriculture, Seed Commission, repealed the rules and regulations for the Enforcement of the Louisiana Seed Law (LAC 7:8835 through LAC 7:8871) which were adopted in August, 1974, in its entirety.

Bob Odom
Commissioner

RULE

Department of Agriculture Office of Agricultural and Environmental Sciences Seed Commission

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the notice of intent published in the May 20, 1985 issue of the *Louisiana Register* and R.S. 3:1433, the Department of Agriculture, Seed Commission, repealed the Lespedeza Seed Certification standards (LAC 7:8873 through LAC 7:8889) which were promulgated in July, 1979, in its entirety.

Bob Odom
Commissioner

RULE

Department of Culture, Recreation and Tourism Office of Cultural Development Division of Historic Preservation

The Division of Historic Preservation adopted rules for the operation of the Review Committee for the National Register of Historic Places as follows.

Chapter 6

BYLAWS FOR THE LOUISIANA

NATIONAL REGISTER REVIEW COMMITTEE

§601 Statement of Purpose

The National Historic Preservation Act of 1966 (P. L. 89-665, amended) requires that all nominations to the *National Register of Historic Places* must first be reviewed and approved by a professional review committee. The members of the committee advise the state historic preservation officer in accordance with National Park Service regulations for the implementation of the National Historic Preservation Act of 1966 (36 CFR Part 60, published in *Federal Register* Volume 46, Number 220, November 16, 1981, pp. 56183-56213; 36 CFR Part 60.6, Subsection M, and 36 CFR Parts 60.11 and 60.12, published in *Federal Register* Volume 48, Number 198, October 12, 1983, pp. 46306-46308; and 36 CFR Part 61, published in *Federal Register* Volume 49, Number 73, April 13, 1984, pp. 14900-14901). Additional duties and functions of the committee are defined in R.S. 25:901-902 of the Louisiana Revised Statutes of 1950 (Act Number 661 of 1979 and Act 288 of 1980). These bylaws supersede any other rules for the operation of the committee which may previously have been in effect.

§603 Bylaws for the Committee

A. The committee members shall be appointed and shall serve as provided in 36 CFR Part 61 (published in *Federal Register* Volume 49, Number 73, April 13, 1984, pp. 14900-14901) and R.S. 25:901-902, as amended.

B. Chairman shall be selected annually at the fall meeting by the committee members.

C. The committee members shall also select a vice-chairman annually at the fall meeting. The vice-chairman shall serve as temporary chairman in the chairman's absence. The chairman, or in his absence, the temporary chairman, shall preside over all meetings of the committee.

D. The committee shall meet at least four times a year as provided by R.S. 25:901-902 and at such other times as the chairman or a majority of the members deems necessary.

E. The state historic preservation officer and deputy state historic preservation officer shall be non-voting members of the committee with all other privileges, and the deputy shall serve as secretary to the committee.

F. Committee members shall be reimbursed according to

the authorization established in R.S. 25:901-902, if funding permits.

G. All meetings of the committee shall be open to the public and shall be conducted in accordance with all appropriate state and federal laws. *Roberts Rules of Order* will be the final authority on matters of parliamentary procedure.

H. Any six members shall constitute a quorum, and a quorum shall be necessary to conduct committee business. The chairman or temporary chairman shall be included in establishing a quorum.

I. Members must vote in person at scheduled committee meetings.

J. All committee recommendations to the state historic preservation officer shall be viva voce. All motions shall carry by a majority of those present ignoring abstentions or blanks.

K. A member shall recuse himself from voting on any property in which he has a vested interest or an interest from which he or his family could derive economic benefit.

L. Members shall comply with all federal and state laws on ethics, conflicts of interest and dual office holding.

M. The committee may consider a citizen sponsored nomination which has not received staff review by a two-thirds vote provided notification requirements have been observed.

N. In cases where the state historic preservation officer and the committee disagree on the National Register eligibility of a particular property, the state historic preservation officer may send nomination papers to the keeper of the National Register for a final ruling, as per 36 CFR Part 60.6 (published in *Federal Register* Volume 46, Number 220, November 16, 1981, pp. 56189-56192), and 36 CFR Part 60.6, Subsection M, and Part 60.11 and 60.12 (published in *Federal Register* Volume 48, Number 198, October 12, 1983, pp. 46306-46308).

O. There shall be a sunset limit of three committee hearings for each nomination. This provision may be waived by a two-thirds vote of the members.

P. In instances where the state has refused to nominate a particular property to the National Register, the applicant may appeal to the keeper of the National Register in accordance with 36 CFR Part 60.6, Subsection M and Part 60.11 and 60.12 (published in *Federal Register* Volume 48, Number 198, October 12, 1983, pp. 46306-46308).

Robert B. DeBlieux
State Historic Preservation Officer

RULE

Department of Culture, Recreation and Tourism Office of State Museums

Title 25

Cultural Resources

Part III: Louisiana State Museum

Chapter 1. Public Access

Building Rental Policy

The Louisiana State Museum is responsible for the preservation of historic buildings placed in its care. In order to meet this responsibility the board of directors of the Louisiana State Museum has adopted the following policy for use of the museum facilities for functions not sponsored by the Louisiana State Museum. Request for usage of the Louisiana State Museum facilities will be entertained from:

A. Nonprofit organizations whose purposes are similar to the educational and historical museum purposes of the Louisiana State Museum.

B. Requests from official governmental agencies.

C. Other groups and individuals whose proposed usage

does not involve commercial or political promotion or fund raising and whose proposed usage is, in the board's opinion, not in conflict with the purpose of the Louisiana State Museum.

Request from eligible nonprofit corporations and governmental agencies will be considered only for functions numbering less than 500 and only during the museum's nonpublic hours.

The museum director is authorized to approve usage of the buildings in the policy established above. Requests for usage will be submitted to the board's Buildings and Grounds Committee that do not clearly come within the policy and the committee will make a recommendation to the board for final action.

Procedures:

1. All eligible requests must be submitted in writing at least two months prior to the anticipated function.

2. Requests not clearly within the above policy will be submitted to the Buildings and Grounds Committee, which will make a recommendation to the board for final action.

3. A base charge will be established to cover costs of security, custodial, and utility services required for the function. The museum may, at its discretion, establish added charges based on the nature of the function.

4. In addition to the service charge, applications from groups eligible under category "C" will be expected to donate a tax deductible gift to the museum's educational, acquisitions, and publication fund according to the following schedule:

Cabildo	\$4,000
Presbytere	\$3,000
U.S. Mint (Reception Room)	\$3,000
1850 House	\$1,000
Madame John's Legacy	\$1,000

D. In consideration of eligible requests, the museum board will deny the application if, in the board's opinion, the proposed usage would endanger the museum's buildings and collections.

In consideration of eligible requests, the Museum board may waive the deductible gift donation when the board determines that to do so would be in the best interests of the Museum.

E. In addition to the rates below, an additional fee of \$300 will be charged for additional costs involved in preparation and post cleaning, relaying carpets, replacing exhibition material.

If the museum is required to be closed to the public during normal public hours prior to, during, or after the function, a charge of \$50 per hour will be charged to compensate for loss of revenue.

Rental Charges

Presbytere/Cabildo/U.S. Mint/1850 House/
Madame John's Legacy

10 a.m. - 6 p.m.	
Business Meetings, Lectures, Slide Presentations	\$50
After 6 p.m.	
Business Meetings, Lectures, Slide Presentations	

Minimum - 1 Hour	Each Additional	
	1st Hour	Half Hour
1 - 200 guests	\$150	\$50
201 - 250 guests	175	60
251 - 300 guests	200	70
301 - 350 guests	225	80

Receptions	1st Hour		Additional Half Hours	
	1st Floor	2nd Floor	1st Floor	2nd Floor
1 - 200 guests	\$250	\$300	\$ 50	\$ 75
201 - 300 guests	300	350	75	100
301 - 450 guests	350	400	100	125
450 - 600 guests	400	450	125	150

This rule will void any conflicting, existing rule.

F. The museum does not provide catering service. Host organizations must make arrangements with caterer of their choice.

AUTHORITY NOTE: Promulgated in accordance with RS 25:344.

Ann Wise
Deputy Secretary

RULE

**Department of Culture, Recreation and Tourism
Office of State Museums**

Title 25

Cultural Resources

Part III: Louisiana State Museum

Chapter 1. Public Access

Hours of Operation

The Louisiana State Museum buildings will be open to the public from 10 a.m. to 6 p.m. Tuesday through Sunday. This includes the Cabildo, Presbytere, Old U.S. Mint, and the 1850 Historic House. The Historical Research Center is open 8:30 a.m. to 4:45 p.m., Monday through Friday. This is our current policy, and makes void any conflicting rule.

AUTHORITY NOTE: Promulgated by the assistant secretary, Louisiana State Museum, Department of Culture, Recreation and Tourism in accordance with RS 25:342-25:348.

Ann Wise
Deputy Secretary

RULE

**Department of Culture, Recreation and Tourism
Office of State Museums**

Title 25

Cultural Resources

Part III: Louisiana State Museum

Chapter 3. Accessions/Deaccessions

Accessions Procedures

A. Proffered object examined and evaluated by professional staff as to condition and pertinancy to the collection, securing outside expert opinion if necessary. Professional makes recommendation to the Accessions Committee.

B. The Accessions Committee comprised of members of board of directors, of the Louisiana State Museum, Friends of the Cabildo and knowledgeable people from the community at large meet monthly.

The committee receives the staff recommendations, examines and evaluates objects and makes recommendation to the Louisiana State Museum Board of Directors.

C. The Louisiana State Museum Board of Directors meet monthly and receive the committee recommendations and approves or disapproves accepting objects.

D. When approved by the board of directors, the donor is given a permanent receipt and the object is accessioned into collection and is permanently recorded. If not approved the object is returned to owner.

This rule will void any prior rule on the museum's accession procedure.

AUTHORITY NOTE: Promulgated in accordance with RS 9:2341 through 9:2347.

Ann Wise
Deputy Secretary

RULE

Department of Culture, Recreation and Tourism Office of the Secretary

The Office of State Parks rescinds all rules of the agency which are filed with the Department of State Register or published in the *Louisiana Register* prior to December 1, 1982. All current rules governing the activities of the Office of State Parks shall become effective on or after January 1, 1983.

The Office of Cultural Development, Division of the Arts rescinds all rules relating to the Louisiana Division of the Arts/State Arts Council, including the Louisiana Commission for Music and Performing Arts, which were filed with the Department of the State Register or published in the *Louisiana Register* prior to January 1, 1985. All current rules governing the activities of the Division of the Arts shall have become effective after January 1, 1985.

The Office of the State Library rescinds all rules listed under the heading "Library Development, II, Regional Library Systems" and attachment, entitled "Definitions of conditions for qualifying for a library system grant" that were put into effect prior to December 11, 1974, on file in the *Louisiana Register's* office. All rules regarding State Aid to Public Libraries grant published prior to March 20, 1980, are hereby rescinded.

Noelle LeBlanc
Secretary

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on April 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy, the rule listed below:
Rule 3.07.13

The board adopted a policy that all ABE/GED instructors working in vocational technical schools located in correctional facilities must be certified as a regular classroom teacher with an adult education endorsement.

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on April 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy, the rule listed below:
Rule 3.01.51.r

The board adopted the rewording of Standard 1.009.03 of Bulletin 741 to add a procedural block as follows: "The local educational governing authority shall provide for and offer in every school having a first grade or in a parish kindergarten center at least a half-day kindergarten program in accordance with standards set in this bulletin" with an implementation date of 1985-86.

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on April 20, 1985 and under the authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy, the rule listed below:
Rule 3.01.70hh

The board approved new language to Bulletin 746, page 8, regarding adding areas of special education certification to regular education as follows: "The holder of a valid Louisiana teaching certificate may have an area of special education certification (mild/moderate, severe/profound, hearing impaired, visually impaired, or noncategorical preschool handicapped) added to this certificate by completing (1) the state requirements under professional education (excluding student teaching) and specialized academic education for the additional area of certification and (2) a practicum in the area of certification (including at least 45 hours of observation and participation) if such practicum is not included in the specialized academic requirements."

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on April 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy, the rule listed below:
Rule 4.01.90.b

The board adopted the revisions to regulations for the Implementation of State-Funded Compensatory/Remedial Program Regular School Year (Addendum to Bulletin 1566 (1980)): Guidelines for Pupil Progression as follows:

Part VII-B, Program Evaluation and Reporting, Local Responsibilities, amended to read:

B. Participation in the state evaluation as described in Part VII-A shall satisfy the requirement for a local evaluation of the State Compensatory/Remedial Education Program.

1. A school system choosing to meet the requirement for a local evaluation through participation in the state evaluation shall so specify in its local Pupil Progression Plan.

2. For the 1984-85 school year only, a school system may choose to meet the requirement for a local evaluation through participation in the state evaluation by notifying the Bureau of Elementary Education within the department of this intent through a letter to be signed by the local superintendent of schools.

3. For the 1984-85 school year only, a school system that has received permission to use some part of its State Compensatory/Remedial Education Program funds for a local evaluation must complete its local evaluation as described in the 1984-85 Pupil Progression Plan or must revise its State Compensatory/Remedial Education Program budget to show the allocation of these funds to other allowable program costs. Such budget revisions shall be submitted to the Bureau of Elementary Education.

4. A school system may conduct a local evaluation of the State Compensatory/Remedial Education Program and may submit this evaluation report to the department. A local evaluation of the State Compensatory/Remedial Education Program that is submitted to the department shall be conducted under the responsibility of a person having a valid Louisiana certificate in pro-

gram evaluation and shall apply the state board-adopted standards for educational evaluations.

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on April 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy, the rule listed below:
Rule 6.00.53

The board adopted the revision of BESE Policy 6.00.53 on the pay scale for Foreign Languages in Elementary School Specialists (FLES) as follows:

FLES Specialist (Foreign Languages in Elementary Schools)

Teachers who have successfully completed an approved inservice training program and who are certified by the director of higher education and teacher certification to teach a foreign language in the elementary grades (1-8), are thereafter to be paid at the rate of 80 percent of the next higher category of the Minimum Salary Schedule as set forth in R.S. 17:241. This salary increment is to be paid from Minimum Foundation Funds and limited to those FLES Specialists teaching a foreign language part time or full time, in accordance with R.S. 17:273 for teaching in an approved alternative program, e.g. bilingual education. This policy becomes effective beginning with the 1985-86 school session and would include those certified SLS teachers presently receiving the SLS pay increment; however, undergraduate students who received all level certification in foreign languages and are so certified are also eligible for the FLES salary increment.

Definition Of Terms:

FLES Specialist—a regularly certified elementary classroom teacher or a certified secondary teacher of foreign languages who has successfully completed an approved inservice teacher training program and has been certified by the director of higher education and teacher certification to teach a foreign language in elementary grades (1-8).

FLES Specialist, Full Time—a certified FLES specialist itinerant in one or more schools with a full teaching schedule of elementary foreign classes.

FLES Specialist, Part Time—a regularly assigned classroom teacher holding FLES Specialist Certification who teaches one or more classes of a foreign language in addition to his/her regular assignment.

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on April 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy, the rule listed below:
Rule 3.05.01

The board adopted the Migrant Education State Plan for Fiscal Year 1986. (Copies of the plan may be reviewed in the office of the Board of Elementary and Secondary Education, Room 104, 626 N. Fourth Street, Baton Rouge.)

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on April 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 455 of the Regular Session, adopted as policy, the rule listed below:
Rule 3.03.08

The board accepted the revised administrative rules and minimum requirements relating to the Practical Nursing Program in the vocational technical system as follows:

Section IV

Program Projection

1. Faculty and Staff

1-1. Faculty

a. Shall consist of a minimum of two nurse members one of who shall be designated as program coordinator

b. Educational qualifications.

1. Licensure—Each nurse faculty member shall hold a current license to practice as a registered nurse in the State of Louisiana.

2. Nurse coordinator—Shall be a graduate of a three year diploma nursing program or a graduate of a baccalaureate nursing program with a minimum of three of the past six years experience in nursing education.

3. Nurse instructor—Shall be a graduate of a three-year diploma nursing program or a graduate of a baccalaureate nursing program with a minimum of two of the past four years experience in staff nursing or nursing education.

5. Curriculum Requirements

3. Length of program—a program shall cover a minimum number of hours of scheduled instruction to range between 1500-1600 hours.

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on April 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy, the rule listed below:
Rule 3.01.51.s

The board adopted the Department of Education's recommendations on the 360-minute instructional day schedules for grades 1, 2, and 3 and grades 4, 5, and 6, effective for the 1985-86 school year.

James V. Soileau
Executive Director

RULE

Department of Environmental Quality Office of Solid and Hazardous Waste Hazardous Waste Division

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq., Section 1065B and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Environmental Quality adopted revisions to Chapter 20 of the Louisiana Hazardous Waste Regulations. Prior to final adoption of these revisions, the pro-

posed changes to regulations were forwarded to and found acceptable by the Joint Committees on Natural Resources. The effective date of this rule will be August 1, 1985. The secretary initiated promulgation procedures to adopt this rule December 20, 1984.

The revisions to the Louisiana Hazardous Waste Regulations (LHWR) generally amend Chapter 20 of LHWR to conform to current language in the Louisiana Environmental Quality Act effective February and July of 1984. These changes delete reference to the "Louisiana Environmental Control Commission" and "assistant secretary, Office of Environmental Affairs" and adds references to "secretary, Department of Environmental Quality." Additional language instructs the regulated community as to the intent of substantive portions of the regulations.

Persons requesting additional information concerning these changes may contact Rick Miller, Department of Environmental Quality, Hazardous Waste Division at (504) 342-1227.

Patricia L. Norton
Secretary

RULE

Department of Health and Human Resources Board of Embalmers and Funeral Directors

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the Louisiana State Board of Embalmers and Funeral Directors in accordance with the authority granted under R.S. 37:840 and pursuant to the notice of intent published May 20, 1985 adopted the following amendments to rules and regulations on June 7, 1985:

Rule 1—Application for license

Section 2. Application for license shall be sworn to by applicant before a notary public and be accompanied by a fee of \$150.

Section 3. Applications shall be filed with the secretary of the board after the completion and successful passing of the examination.

Rule 2—Examinations

Section 1. Examination will be held at the domicile of the board at times as the board may deem necessary and expedient.

Section 2. Applicants for a funeral director's license shall be given a written and/or oral examination on subjects approved by the board. These subjects include but are not limited to the following:

- A. Mortuary science
- B. Professional ethics
- C. Public health rules and regulations
- D. Funeral conduct
- E. Veterans benefits
- F. Social Security benefits
- G. Transportation rules and regulations
- H. Any such other subjects as the board may deem necessary

Section 4. Whenever an applicant shall fail to be present for examination at the time and place set by the board, said applicant shall present a reasonable excuse for failure to attend and, by doing so, said applicant may attend the next examination held by the board without payment of further examination fee.

Section 5. Delete

Section 5 (formerly 6). Any applicant for a funeral director's or embalmer/funeral director's license whose application has been accepted by the board, and who shall fail in an examination shall not be entitled to the return of the examination fee. In order to qualify for subsequent examinations, applicant must reapply as provided in R.S. 37:842. In addition, the board, at its discretion,

may stipulate certain requirements that deal with preparation and study for the re-examination.

Section 7. Delete

Section 6 (formerly 8). Content remains the same.

Rule 3—Internship

Section 3. Each intern shall make application to the board on prescribed forms, accompanied by a fee of \$60 and if found acceptable shall be registered as such and given an identification card. Registration is for one year only. At the end of this internship period, applicant must appear at the next regular board examination provided the educational requirements have been met. The intern may appeal to the board for an extension of his internship provided, however, that he makes application before the board for such extension and that he appears at a regular meeting to show cause for his extension. Re-application shall be an additional \$60. The board may, at its own discretion, extend an internship to any period not to exceed one year. Each intern is required to file a complete report (each category must be marked as worked on or not worked on) for each month claimed served, which report must be filed monthly in the board's office before an application is considered completed and before the applicant is eligible for examination. The report is due on the tenth day of the month and delinquent on the fifteenth day. Delinquent reports shall result in the loss of credit for that month. In order for the intern file to be completed the inspector of the board must submit two personally signed inspection reports during internship period.

Rule 4—Funeral Establishments

Section 2. The license is effective for a fixed place, or establishment, and for a specific name. Whenever the location or name of the licensed establishment is changed, a new license shall be obtained and a renewal fee of \$300 paid. All changes of name and/or location must be reported to the board's secretary without delay.

The board will recognize a fixed business office to maintain current funeral records (as provided within Rule 4 and Section 831, et seq., to include current funeral contracts, purchase agreements, current embalming log, and current pre-need records) at a location other than the fixed location of the funeral establishment which shall be considered as an extension of the funeral establishment, and the current funeral records maintained within this extension shall be subject to the inspection of the board. Application for said extension to the funeral establishment shall be made upon the form provided by the board and shall be accompanied by a fee of \$300. Any changes in the location of this extension must be reported to the board immediately.

Section 3. All establishments must have a licensed funeral director in charge. The funeral director must be available to perform all of the routine functions of the licensed establishment as provided within the provisions of Louisiana Revised Statutes, Title 37, Chapter 10, Section 831 et seq., and, the funeral director must personally carry out his responsibilities as defined within Paragraph 23 of Section 831 and/or as provided within the statute.

Rule 7—License renewal and reinstatement

Section 1. All individual licenses issued by the board shall expire on the first day of December of each year and must be renewed on or before the thirty-first day of December. All establishment licenses and pre-need affidavits shall also expire on the first day of December and must be renewed on or before the thirty-first day of December following said expiration. Applications for renewal of licenses must be made to the secretary of the board, upon forms furnished by said board, and must be accompanied by a renewal fee of \$25 for individual licenses for embalmers and/or funeral directors and not more than \$300 for funeral establishments. There is no fee for the Annual Report of Pre-paid Funeral Service or Merchandise.

Section 2. When a funeral director or embalmer has failed to renew his license, same may be reinstated provided application is made to the board along with regular application fee of \$150. If the funeral director or embalmer has failed to renew within the specified time, he must present his request in person to the board, which may, in its discretion, renew or refuse to renew the lapsed license. In any event, no license will be reinstated without a payment of all fees delinquent from date of lapse to date of reinstatement.

* * *

Section 5. Delete

Rule 8—Duplicate Certificates

Any person holding a certificate issued by this board and desiring a duplicate thereof, may obtain same from the secretary of the board upon application accompanied by a fee of \$40 and an affidavit to the effect that same has been misplaced, lost, destroyed or stolen.

Rule 10—Reciprocal license requirements

Section 1. Any person desiring a reciprocal Louisiana embalmer and/or funeral director license shall:

Before practicing make application, on forms furnished by the board, for a "Special Work Permit" to practice the science of embalming and funeral directing for a period of six months. Said application shall be accompanied by a permit fee of \$60, which is not refundable. If applicant meets all requirements, the secretary shall issue a work permit. The board may, at its discretion, extend the Special Work Permit period.

Rule 13—Transportation

Section 1. In accordance with the definition as worded in Section 831 of R.S. Title 37 Chapter 10 the term "funeral directing" shall mean the operation of a funeral home, or, by way of illustration and not limitation, any service whatsoever connected with the management of funerals, or the supervision of hearses or funeral cars, the purchase of caskets or other funeral merchandise, and retail sale and display thereof, the cleaning or dressing of dead human bodies for burial, and the performance or supervision of any service or act connected with the management of funerals from time of death until the body or bodies are delivered to the cemetery, crematorium, or other agent for the purpose of disposition. In order to comply with the proper handling of the dead human body it will be necessary and required that whenever a dead human body is transported for final disposition that it be in a container that eliminates direct contact by those not licensed to handle the dead and to offer protection to those who might come accidentally in contact with said body.

Rule 17—Unlawful practice

It shall be unlawful for a firm, partnership, corporation, an association of individuals, or anyone other than those individuals licensed under Title 37, Chapter 10, Articles 831 et seq., to engage in funeral directing (as defined within Article 831 (23)) which is defined as the operation of a funeral home, or, by way of illustration and not limitation, any service whatsoever connected with the management of funerals, or the supervision of hearses or funeral cars, the purchase of caskets or other funeral merchandise, and retail sales and display thereof, the cleaning or dressing of dead human bodies for burial, and the performance or supervision of any service or act connected with the management of funerals from time of death until the body or bodies are delivered to the cemetery, crematorium, or other agent for the purpose of disposition.

Rule 18—Penalty

Whoever violates the provisions of these rules and regulations shall be fined not less than \$500 nor more than \$2,500 for each offense plus costs of the court reporter and the attorney for the board, or by imprisonment for not less than 30 days nor more

than 180 days for each offense, or both such fine and imprisonment.

If a firm or association violated the provisions of these rules and regulations, all members of the firm or association who knowingly violate said provisions shall be subject to the penalty. If a corporation violates said provisions, the members of the board of directors and the officers of the corporation who knowingly violate said provisions shall be subject to the penalty.

Rule 19—Amending sections

Section 2. The board must follow the procedure outlined in the Administrative Procedure Act to adopt, amend or repeal any of the existing rules.

Section 3. (formerly Section 2). All rules and regulations previously adopted by this board are hereby repealed.

Lloyd E. Eagan
Secretary

RULE

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, hereby adopts the following rule in the Title XIX Medical Assistance Program.

Rule

The purpose of this rule is to clarify policy in the Transportation Program as it relates to the provision of air transportation on an emergency basis. The policy clarification in Attachment 4.19-B, Item 18a will read "The rate of reimbursement for land-based ambulances through Title XIX funds shall not exceed the rate for the geographical area as established by Medicare. For air transportation, payment shall be at the providers' usual rate as established by the Office of Family Security minus the amount which any third party coverage will pay."

Implementation is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this proposed amendment remains in effect.

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

RULE

**Department of Health and Human Resources
Office of Family Security**

EDITOR'S NOTE: This rule is being republished to add "percentages for inflating rates" to the second sentence of the rule as published in the Louisiana Register, Volume 11, Number 6, Page 637.

The Department of Health and Human Resources, Office of Family Security, is adopting a freeze of inpatient hospital rates, established by the Medical Assistance Program, for cost per discharge limitations effective July 1, 1985, for a one year period. As agreed by the agency, providers, and the Joint Committee on Health and Welfare, this freeze is subject to review at the end of the first quarter of fiscal year 85/86. If the agency's projected costs are lower than anticipated and funds are available, the freeze in rates will be reduced or eliminated.

Rule

Effective for hospital fiscal years beginning on or after July 1, 1985, and subject to review and amendment by the Joint Committee on Health and Welfare at the end of the first quarter of Fiscal Year 85/86, target rates for cost per discharge limitations for

hospital inpatient services shall be frozen for one year cost reporting period. The target rate percentages for inflating rates for subsequent fiscal years shall not be applied. Authorized pass-through costs shall remain allowable under current program policy.

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

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, adopted the following rule.

Rule

Effective August 1, 1985, the Office of Family Security will change the Medically Needy Program policy to comply with the Title 19 requirement that countable resources for a month be based on the countable resource balance as of 12:01 a.m. on the first day of the month. This change in policy means that an applicant can no longer spend a resource on a medical expense and spend-down to eligibility status during a month.

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

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

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to implement the following rule.

Rule

Effective August 1, 1985, the Office of Family Security shall amend the Title 19 State Plan to change the Medically Needy Income Eligibility Standards (MNIES) for one person, not to exceed 133 $\frac{1}{3}$ percent of the Aid to Families with Dependent Children (AFDC) cash payment for one person. For one person in an urban area, the new monthly MNIES has decreased from \$167 to \$100 and the new quarterly MNIES has decreased from \$500 to \$300. For one person in a rural area, the new monthly MNIES has decreased from \$150 to \$92 and the new quarterly MNIES has decreased from \$450 to \$276.

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

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

RULE

Department of Health and Human Resources Office of Family Security

In accordance with the Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Human Resources, Office of Family Security shall allow the Department of Health and Human Resources, Office of Management and Finance, Appeals Section to conduct fair hearings and administrative disqualification hear-

ings involving Office of Family Security programs using remote telephonic communications.

Any hearing which is required or permitted hereunder may be conducted utilizing remote telephonic communications if the record reflects that all parties have consented to the conduction of the hearing by use of such communications and that such procedure will not jeopardize the rights of any party to the hearing.

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

RULE

Department of Health and Human Resources Office of Human Development

The Department of Health and Human Resources, Office of Human Development, pursuant to the notice of intent in the Louisiana Register of May 20, 1985, adopts the following rule relative to new and revised policy for the Title XX Vendor Day Care Program.

Rule

The policy sets forth the following:
the philosophy and objectives of the Title XX Vendor Day Care Program;
the eligibility of families for day care services;
provisions concerning provider agreements (contracts) with providers;
specific child caring guidelines;
agency corrective action steps for deficient facilities;
termination and non-renewal of agreements and the appeals process;
procedures for managing alleged abuse and/or neglect in day care facilities.

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

RULE

Department of Health and Human Resources Office of the Secretary

Effective July 20, 1985, under the authority of the Uniform Controlled Dangerous Substances Act, R.S. 40:965 and 40:972, the secretary of the Department of Health and Human Resources is adopting the following rule pertaining to Controlled Dangerous Substances Regulations of the Department of Health and Human Resources, Division of Narcotics and Dangerous Drugs.

Section 19. List of Excepted Drugs and Preparations Which Contain a Depressant or Stimulant Substance Listed in Schedules III, IV or V from the Application of this Part According to Section 965 of the Act.

Pursuant to R.S. 40:965, the list of excepted drugs and preparations which contain any depressant or stimulant substance listed in Subsections A, B, C, or D of Schedule III or in Schedule IV or V from the application of all or any part of this Part is the list of exempt substances as found in the current *Code of Federal Regulations*, Title 21, Section 1308.32.

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

RULE

Department of Insurance Office of the Commissioner

The Department of Insurance amends the following regulation, effective date July 20, 1985.

Amendment to Regulation 32 Coordination of Benefits (C.O.B.) Amends Section 4C4, Replaces 4C4 AB and C

(4) For the purposes of item (3) of this Section C, the rules establishing the order of benefit determination are:

(a) The benefits of a plan which covers the person on whose expenses claim is based other than as a dependent shall be determined before the benefits of a plan which covers such person as a dependent;

(b) (i) Except for cases of a person for whom claim is made as a dependent child whose parents are separated or divorced, the benefits of a plan which covers the person on whose expenses claim is based as a dependent of a person whose date of birth, excluding year of birth, occurs earlier in a calendar year, shall be determined before the benefits of a plan which covers such person as a dependent of a person whose date of birth, excluding year of birth, occurs later in a calendar year. If either plan does not have the provisions of this Paragraph (b) (i) regarding dependents, which results either in each plan determining its benefits before the other or in each plan determining its benefits after the other, the provisions of this Paragraph (b) (i) shall not apply, and the rule set forth in the plan which does not have the provisions of this Paragraph (b) (i) shall determine the order of benefits.

(ii) In the case of a person for whom claim is made as a dependent child whose parents are separated or divorced and the parent with custody of the child has not remarried, the benefits of a plan which covers the child as a dependent of the parent with custody of the child will be determined before the benefits of a plan which covers the child as a dependent of the parent without custody.

(iii) In the case of a person for whom claim is made as a dependent child whose parents are divorced and the parent with custody of the child has remarried, the benefits of a plan which covers the child as a dependent of the parent with custody shall be determined before the benefits of a plan which covers that child as a dependent of the stepparent will be determined before the benefits of a plan which covers that child as a dependent of the parents without custody.

(iv) In the case of a person for whom claim is made as a dependent child whose parents are separated or divorced, where there is a court decree which would otherwise establish financial responsibility for the medical, dental or other health care expenses with respect to the child, then, notwithstanding Paragraphs (ii) and (iii) above, the benefits of a plan which covers the child as a dependent of the parent with such financial responsibility shall be determined before the benefits of any other plan which covers the child as a dependent child.

(c) When rules (a) and (b) do not establish an order of benefit determination, the benefits of a plan which has covered the person on whose expenses claim is based for the longer period of time shall be determined before the benefits of a plan which has covered such person the shorter period of time, provided that:

(i) The benefits of a plan covering the person on whose expenses claim is based as a laid-off or retired employee, or dependent of such person, shall be determined after the benefits of any other plan covering such person as an employee, other than a laid-off or retired employee, or dependent of such person; and

(ii) If either plan does not have a provision regarding laid-off or retired employees, which results in each plan determining its benefits after the other, then the provisions of (i) above shall not apply.

Sherman A. Bernard
Commissioner

RULE

Department of Insurance Office of the Commissioner

The Department of Insurance adopts the following:

UNIVERSAL LIFE INSURANCE MODEL REGULATION

Section 1. Authority

This regulation is promulgated under the authority of Title 22 Section 2 and Title 36 Section 682 of the insurance laws of the State of Louisiana and is effective July 20, 1985.

Section 2. Purpose

The purpose of this regulation is to supplement existing regulations on life insurance policies in order to accommodate the development and issuance of universal life insurance plans.

Section 3. Definitions

As used in this regulation:

(1) *Universal life insurance policy* means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality and expense charges are made to the policy. A universal life insurance policy may provide for other credits and charges, such as charges for the cost of benefits provided by rider.

(2) *Flexible premium universal life insurance policy* means a universal life insurance policy which permits the policyowner to vary, independently of each other, the amount or timing of one or more premium payments or the amount of insurance.

(3) *Fixed premium universal life insurance policy* means a universal life insurance policy other than a flexible premium universal life insurance policy.

(4) *Interested-indexed universal life insurance policy* means any universal life insurance policy where the interest credits are linked to an external referent.

(5) *Net cash surrender value* means the maximum amount payable to the policyowner upon surrender.

(6) *Cash surrender value* means the net cash surrender value plus any amounts outstanding as policy loans.

(7) *Policy value* means the amount to which separately identified interest credits and mortality, expense, or other charges are made under a universal life insurance policy.

(8) *May* is permissive.

(9) *Shall* is mandatory.

(10) *Commissioner* means the insurance commissioner of this state.

Section 4. Scope

This regulation encompasses all individual universal life insurance policies except those policies defined under Article II, Section 19 of the NAIC Model Variable Life Insurance Regulation.

Section 5. Valuation

A. Requirements

The minimum valuation standard for universal life insurance policies shall be the commissioner's reserve valuation method, as described below for such policies, and the tables and interest rates specified below. The terminal reserve for the basic policy and any benefits and/or riders for which premiums are not paid separately as of any policy anniversary shall be equal to the net level premium reserves less (C) and less (D), where: Reserves by the net level premium method shall be equal to $(A) - (B) \cdot r$ where (A), (B) and "r" are as defined below:

(A) Is the present value of all future guaranteed benefits at the date of valuation.

(B) Is the quantity $\frac{PVFB}{\ddot{a}_x} \ddot{a}_{x+t}$ where PVFB is the present

value of all benefits guaranteed at issue assuming future guaranteed maturity premiums are paid by the policyowner and taking into account all guarantees contained in the policy or declared by the insurer.

\ddot{a}_x and \ddot{a}_{x+t} are present values of an annuity of one per year payable on policy anniversaries beginning at age x and $x+t$, respectively, and continuing until the highest attained age at which a premium may be paid under the policy. The letter "x" is defined as the issue age and the letter "t" is defined as the duration of the policy.

The guaranteed maturity premium for flexible premium universal life insurance policies shall be that level gross premium, paid at issue and periodically thereafter over the period during which premiums are allowed to be paid, which will mature the policy on the latest maturity date, if any, permitted under the policy (otherwise at the highest age in the valuation mortality table), for an amount which is in accordance with the policy structure.¹ The guaranteed maturity premium for fixed premium universal life insurance policies shall be the premium defined in the policy which at issue provides the minimum policy guarantees.²

The letter "r" is equal to one, unless the policy is a flexible premium policy and the policy value is less than the guaranteed maturity fund, in which case "r" is the ratio of the policy value to the guaranteed maturity fund.

The guaranteed maturity fund at any duration is the amount which, together with future guaranteed maturity premiums, will mature the policy based on all policy guarantees at issue.

(C) is the quantity $(a) - (b) \ddot{a}_{x+t}$, where $(a) - (b)$ is as described in [Section Four of the Standard Valuation Law, as amended in 1980] for the plan of insurance defined at issue by the guaranteed maturity premiums and all guarantees contained in the policy or declared by the insurer.

\ddot{a}_{x+t} and \ddot{a}_x are defined in (B) above.

(D) is the sum of any additional quantities analogous to (C) which arise because of structural changes³ in the policy, with each such quantity being determined on a basis consistent with that of (C) using the maturity date in effect at the time of the change.

The guaranteed maturity premium, the guaranteed maturity fund and (B) above shall be recalculated to reflect any structural changes in the policy. This recalculation shall be done in a manner consistent with the descriptions above.

Future guaranteed benefits are determined by (1) projecting the greater of the guaranteed maturity fund and the policy value, taking into account future guaranteed maturity premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (2) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the policy value.

All present values shall be determined using (i) an interest rate (or rates) specified by the [Standard Valuation Law, as

1. The maturity amount shall be the initial death benefit where the death benefit is level over the lifetime of the policy except for the existence of a minimum-death-benefit corridor, or, shall be the specified amount where the death benefit equals a specified amount plus the policy value or cash surrender value except for the existence of a minimum-death-benefit corridor.

2. The guaranteed maturity premium for both flexible and fixed premium policies shall be adjusted for death benefit corridors provided by the policy. The guaranteed maturity premium may be less than the premium necessary to pay all charges. This can especially happen in the first year for policies with large first year expense charges.

3. Structural changes are those changes which are separate from the automatic workings of the policy. Such changes usually would be initiated by the policyowner and include changes in the guaranteed benefits, changes in latest maturity date, or changes in allowable premium payment period.

amended in 1980] for policies issued in the same year; (ii) the mortality rates specified by the [Standard Valuation Law, as amended in 1980] for policies issued in the same year or contained in such other table as may be approved by the commissioner for this purpose; and (iii) any other tables needed to value supplementary benefits provided by a rider which is being valued together with the policy.

B. Alternative Minimum Reserves

If, in any policy year, the guaranteed maturity premium on any universal life insurance policy is less than the valuation net premium for such policy, calculated by the valuation method actually used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such contract shall be the greater of (1) or (2).

(1) The reserve calculated according to the method, the mortality table, and the rate of interest actually used.

(2) The reserve calculated according to the method actually used but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the guaranteed maturity premium in each policy year for which the valuation net premium exceeds the guaranteed maturity premium.

For universal life insurance reserves on a net level premium basis,

the valuation net premium is $\frac{PVFB}{\ddot{a}_x}$

and for reserves on a commissioner's reserve valuation method, the valuation net premium is

$$\frac{PVFB}{\ddot{a}_x} + \frac{(a) - (b)}{\ddot{a}_x}$$

Valuation method, the valuation net premium is

$$\frac{PVFB}{\ddot{a}_x} + \frac{(a) - (b)}{\ddot{a}_x}$$

Section 6. Nonforfeiture

A. Minimum Cash Surrender Values for Flexible Premium Universal Life Insurance Policies

Minimum cash surrender values for flexible premium universal life insurance policies shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to the accumulation to that date as of which interest is credited to the policy shall be equal to the accumulation to that date of the premiums paid minus the accumulations to that date of (i) the benefit charges, (ii) the averaged administrative expense charges for the first policy year and any insurance increase years, (iii) actual administrative expense charges for other years, (iv) initial and additional acquisition expense charges not exceeding the initial or additional expense allowances, respectively, (v) any service charges actually made (excluding charges for cash surrender or election of a paid-up nonforfeiture benefit) and (vi) any deductions made for partial withdrawals; all accumulations being at the actual rate or rates of interest at which interest credits have been made unconditionally to the policy (or have been made conditionally, but for which the conditions have since been met), and minus any unamortized unused initial and additional expense allowances.

Interest on the premiums and on all charges referred to in items (i)-(vi) above shall be accumulated from and to such dates

as are consistent with the manner in which interest is credited in determining the policy value.

The benefit charges shall include the charges made for mortality and any charges made for riders or supplementary benefits for which premiums are not paid separately. If benefit charges are substantially level by duration and develop low or no cash values, then the commissioner shall have the right to require higher cash values unless the insurer provides adequate justification that the cash values are appropriate in relation to the policy's other characteristics.⁴

The administrative expense charges shall include charges per premium payment, charges per dollar of premium paid, periodic charges per thousand dollars of insurance, periodic per policy charges, and any other charges permitted by the policy to be imposed without regard to the policyowner's request for services.

The averaged administrative expense charges for any year shall be those which would have been imposed in that year if the charge rate or rates for each transaction or period within the year had been equal to the arithmetic average of the corresponding charge rates which the policy states will be imposed in policy years two through twenty in determining the policy value.

The initial acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in the first policy year over the averaged administrative expense charges for that year. Additional acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in an insurance-increase year over the averaged administrative expense charges for that year. An insurance-increase year shall be the year beginning on the date of increase in the amount of insurance by policyowner request (or by the terms of the policy).

Service charges shall include charges permitted by the policy to be imposed as the result of a policyowner's request for a service by the insurer (such as the furnishing of future benefit illustrations) or of special transactions.

The initial expense allowance shall be the allowance provided by [items (ii), (iii) and (iv) of Section 5] or by [items (ii) and (iii) of Section 5-c(1)], as applicable, of the [Standard Nonforfeiture Law for life insurance, as amended in 1980] for a fixed premium, fixed benefit endowment policy with a face amount equal to the initial face amount of the flexible premium universal life insurance policy, with level premiums paid annually until the highest attained age at which a premium may be paid under the flexible premium universal life insurance policy, and maturing on the latest maturity date permitted under the policy, if any, otherwise at the highest age in the valuation mortality table. The unused initial expense allowance shall be the excess, if any, of the initial expense allowance over the initial acquisition expense charges as defined above.

If the amount of insurance is subsequently increased upon request of the policyowner (or by the terms of the policy), an additional expense allowance and an unused additional expense allowance shall be determined on a basis consistent with the above and with [Section 5-c(5) of the Standard Nonforfeiture Law for Life Insurance, as amended in 1980], using the face amount and the latest maturity date permitted at the time under the policy.

The unamortized unused initial expense allowance during the policy year beginning on the policy anniversary at age $x + t$

4. Because this product is still developing, it is recommended that benefit charges not be restricted and regulatory treatment of cash values be limited to that contained in this Section for several reasons. First, further restrictions would limit the development of the product. Second, added restrictions would discourage insurers from reducing non-guaranteed current benefit charges because such reductions could require reduced future benefit charges that could be financially unsound for the insurer. Third, market pressures will encourage insurers to limit benefit charges.

(where "x" is the same issue age) shall be the unused initial expense allowance multiplied by

$$\frac{\ddot{a}_{x+t}}{\ddot{a}_x} \text{ where } \ddot{a}_{x+t} \text{ and } \ddot{a}_x$$

are present values of an annuity of one per year payable on policy anniversaries beginning at ages $x + t$ and x , respectively, and continuing until the highest attained age at which a premium may be paid under the policy, both on the mortality and interest bases guaranteed in the policy. An unamortized unused additional expense allowance shall be the unused additional expense allowance multiplied by a similar ratio of annuities, with a_x replaced by an annuity beginning on the date as of which the additional expense allowance was determined.

B. Minimum Cash Surrender Values for Fixed Premium Universal Life Insurance Policies

For fixed premium universal life insurance policies, the minimum cash surrender values shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to $(A) - (B) - (C) - (D)$, where:

(A) is the present value of all future guaranteed benefits.

(B) is the present value of future adjusted premiums. The adjusted premiums are calculated as described in [Sections 5 and 5-a or in paragraph (1) of Section 5-c], as applicable, of [the Standard Nonforfeiture Law for life insurance, as amended in 1980]. If Section 5 - c, Paragraph (1) is applicable, the nonforfeiture net level premium is equal to the quantity

PVFB

\ddot{a}_x , where PVFB is the present value of all benefits guaranteed at issue assuming future premiums are paid by the policyowner and all guarantees contained in the policy or declared by the insurer.

\ddot{a}_x is the present value of an annuity of one per year payable on policy anniversaries beginning at age x and continuing until the highest attained age at which a premium may be paid under the policy.

(C) is the present value of any quantities analogous to the nonforfeiture net level premium which arise because of guarantees declared by the insurer after the issue date of the policy. \ddot{a}_x shall be replaced by an annuity beginning on the date as of which the declaration became effective and payable until the end of the period covered by the declaration.

(D) is the sum of any quantities analogous to (B) which arise because of structural changes⁵ in the policy.

Future guaranteed benefits are determined by (1) projecting the policy value taking into account future premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (2) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the policy value.

All present values shall be determined using (i) an interest rate (or rates) specified by [the Standard Nonforfeiture Law for Life Insurance, as amended in 1980] for policies issued in the same year and (ii) the mortality rates specified by [the Standard Nonforfeiture Law for Life Insurance, as amended in 1980] for policies issued in the same year or contained in such other table as may be approved by the commissioner for this purpose.

5. See footnote 3.

C. Minimum Paid-Up Nonforfeiture Benefits

If a universal life insurance policy provides for the optional election of a paid-up nonforfeiture benefit, it shall be such that its present value shall be at least equal to the cash surrender value provided for by the policy on the effective date of the election. The present value shall be based on mortality and interest standards at least as favorable to the policyowner as (1) in the case of a flexible premium universal life insurance policy, the mortality and interest basis guaranteed in the policy for determining the policy value, or (2) in the case of a fixed premium policy the mortality and interest standards permitted for paid-up nonforfeiture benefits by [the Standard Nonforfeiture Law for Life Insurance, as amended in 1980]. In lieu of the paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits, or, if applicable, a greater amount or earlier payment of endowment benefits.

Section 7. Mandatory Policy Provisions

The policy shall provide the following:

A. Periodic Disclosure to Policyowner

The policy shall provide that the policyowner will be sent, without charge, at least annually, a report which will serve to keep such policyowner advised as to the status of the policy. The end of the current report period must be not more than three months previous to the date of the mailing of the report. Specific requirements of this report are detailed in Section 9.

B. Illustrative Reports

The policy shall provide for an illustrative report which will be sent to the policyowner upon request. Minimum requirements of such report are the same as those set forth in Section 8. The insurer may charge the policyowner a reasonable fee for providing the report.

C. Policy Guarantees

The policy shall provide guarantees of minimum interest credits and maximum mortality and expense charges. All values and data shown in the policy shall be based on guarantees. No figures based on nonguarantees shall be included in the policy.

D. Calculation of Cash Surrender Values

The policy shall contain at least a general description of the calculation of cash surrender values including the following information:

1. The guaranteed maximum expense charges and loads.
2. Any limitation on the crediting of additional interest. Interest credits shall not remain conditional for a period longer than 24 months.
3. The guaranteed minimum rate or rates of interest.
4. The guaranteed maximum mortality charges.
5. Any other guaranteed charges.
6. Any surrender or partial withdrawal charges.

E. Changes in Basic Coverage

If the policyowner has the right to change the basic coverage, any limitation on the amount or timing of such change shall be stated in the policy. If the policyowner has the right to increase the basic coverage, the policy shall state whether a new period of contestability and/or suicide is applicable to the additional coverage.

F. Grace Period and Lapse

The policy shall provide for written notice to be sent to the policyowner's last known address at least thirty days prior to termination of coverage. A flexible premium policy shall provide for a grace period of at least thirty days (or as required by state statute) after lapse. Unless otherwise defined in the policy, lapse shall occur on that date on which the net cash surrender value first equals zero.

G. Misstatement of Age or Sex

If there is a misstatement of age or sex in the policy, the amount of death benefit shall be that which would be purchased by the most recent mortality charge at the correct age or sex. The commissioner may approve other methods which are deemed satisfactory.

H. Maturity Date

If a policy provides for a "maturity date", "end date", or similar date, then the policy shall also contain a statement, in close proximity to that date, that it is possible that coverage may not continue to the maturity date even if scheduled premiums are paid in a timely manner, if such is the case.

Section 8. Disclosure Requirements

In connection with any advertising, solicitation, negotiation, or procurement of a universal life insurance policy:

A. Any statement of policy cost factors or benefits shall contain:

1. The corresponding guaranteed policy cost factors or benefits, clearly identified.

2. A statement explaining the nonguaranteed nature of any current interest rates, charges, or other fees applied to the policy, including the insurer's rights to alter any of these factors.

3. Any limitations on the crediting of interest, including identification of those portions of the policy to which a specified interest rate shall be credited.

B. Any illustration of the policy value shall be accompanied by the corresponding net cash surrender value.

C. Any statement regarding the crediting of a specific current interest rate shall also contain the frequency and timing by which such rate is determined.

D. If any statement refers to the policy being interest-indexed, the index shall be described. In addition, a description shall be given of the frequency and timing of determining the interest rate and of any adjustments made to the index in arriving at the interest rate credited under the policy.

E. Any illustrated benefits based upon nonguaranteed interest, mortality, or expense factors shall be accompanied by a statement indicating that these benefits are not guaranteed.

F. If the guaranteed cost factors or initial policy cost factor assumptions would result in policy values becoming exhausted prior to the policy's maturity date, such fact shall be disclosed, including notice that coverage will terminate under such circumstances.

Section 9. Periodic Disclosure to Policyowner

A. Requirements

The policy shall provide that the policyowner will be sent, without charge, at least annually, a report which will serve to keep such policyowner advised of the status of the policy. The end of the current report period shall be not more than three months previous to the date of the mailing of the report. Such report shall include the following:

1. The beginning and end of the current report period.

2. The policy value at the end of the previous report period and at the end of the current report period.

3. The total amounts which have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders).

4. The current death benefit at the end of the current report period on each life covered by the policy.

5. The net cash surrender value of the policy as of the end of the current report period.

6. The amount of outstanding loans, if any, as of the end of the current report period.

7. For fixed premium policies—If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such

that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report.

8. For flexible premium policies—If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

Section 10. Interest-Indexed Universal Life Insurance Policies

A. Initial Filing Requirements

The following information shall be submitted in connection with any filing of interest-indexed universal life insurance policies ("interest-indexed policies"). All such information received shall be treated confidentially to the extent permitted by law.

1. A description of how the interest credits are determined, including

- a. a description of the index;
- b. the relationship between the value of the index and the actual interest rate to be credited;
- c. the frequency and timing of determining the interest rate;
- d. the allocation of interest credits, if more than one rate of interest applies to different portions of the policy value.

2. The insurer's investment policy, which includes a description of the following:

- a. how the insurer addressed the reinvestment risks;
- b. how the insurer plans to address the risk of capital loss on cash outflows;
- c. how the insurer plans to address the risk that appropriate investments may not be available or not available in sufficient quantities;
- d. how the insurer plans to address the risk that the indexed interest rate may fall below the minimum contractual interest rate guaranteed in the policy;
- e. the amount and type of assets currently held for interest indexed policies;
- f. the amount and type of assets expected to be acquired in the future.

3. If policies are linked to an index for a specified period less than to the maturity date of the policy, a description of the method used (or currently contemplated) to determine interest credits upon the expiration of such period.

4. A description of any interest guarantee in addition to or in lieu of the index.

5. A description of any maximum premium limitations and the condition under which they apply.

B. Additional Filing Requirements

1. Annually, every insurer shall submit a Statement of Actuarial Opinion by the insurer's actuary similar to the example contained in Section 10(C).

2. Annually, every insurer shall submit a description of the amount and type of assets currently held by the insurer with respect to its interest-indexed policies.

3. Prior to implementation, every domestic insurer shall submit a description of any material change in the insurer's investment strategy or method of determining the interest credits. A change is considered to be material if it would affect the form or definition of the index (i.e., any change in the information supplied in Section A above) or if it would significantly change the amount or type of assets held for interest-indexed policies.

C. Statement of Actuarial Opinion for Interest-Indexed Universal Life Insurance Policies

I, _____,
(Name)
am _____
(position or relationship to Insurer)

for the XYZ Life Insurance Company (The Insurer) in the state of

(State of Domicile of Insurer)

I am a member of the American Academy of Actuaries (or if not, state other qualifications to sign annual statement actuarial opinions).

I have examined the interest-indexed universal life insurance policies of the Insurer in force as of December 31, 19xx, encompassing _____ number of policies and \$ _____ of insurance in force.

I have considered the provisions of the policies. I have considered any reinsurance agreements pertaining to such policies, the characteristics of the identified assets and the investment policy adopted by the insurer as they affect future insurance and investment cash flows under such policies and related assets. My examination included such tests and calculations as I considered necessary to form an opinion concerning the insurance and investment cash flows arising from the policies and related assets.

I relied on the investment policy of the insurer and on projected investment cash flows as provided by _____, chief investment officer of the insurer.⁶

The tests were conducted under various assumptions as to future interest rates, and particular attention was given to those provisions and characteristics that might cause future insurance and investment cash flows to vary with changes in the level of prevailing interest rates. In my opinion, the anticipated insurance and investment cash flows referred to above make good and sufficient provision for the contractual obligations of the insurer under these insurance policies.

Signature of Actuary

Sherman A. Bernard
Commissioner

RULE

Department of Insurance Office of the Commissioner

The Department of Insurance adopts the following regulation.

VARIABLE LIFE INSURANCE MODEL REGULATION ARTICLE I: AUTHORITY AND PURPOSE

Section I. Authority and Purpose.

The following regulations applicable to variable life insurance policies are promulgated under the authority of Title 22, Section 2, of the Insurance Laws of Louisiana and Title 36 Section 682 and are effective July 20, 1985.

The purpose is to implement special guidelines regarding insurers underwriting, reserve requirements, soliciting and issuing variable life insurance contracts. Due to flexibility of product more regulatory control must be maintained. Also there are tax advantages for life companies.

ARTICLE II: DEFINITIONS

As used in this regulation:

Section 1. Affiliate.

"Affiliate" of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its separate accounts for which a specific fee or commission is charged; or any director, officer,

⁶ If the actuary does not choose to rely on an investment officer for the projected investment cash flows, this statement should be modified to show the extent of the actuary's reliance.

partner, or employee of any such insurers, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.

Section 2. Agent.

"Agent" means any person, corporation, partnership, or other legal entity which is licensed by this state as a life insurance agent.

Section 3. Assumed Investment Rate.

"Assumed investment rate" means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses, and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

Section 4. Benefit Base.

"Benefit base" means the amount, to which the net investment return is applied.

Section 5. Commissioner.

"Commissioner" means the insurance commissioner of this state.

Section 6. Control.

"Control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than 10 percent of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the commissioner that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

Section 7. Flexible Premium Policy.

"Flexible premium policy" means any variable life insurance policy other than a scheduled premium policy as specified in Section 15 of this Article II.

Section 8. General Account.

"General account" means all assets of the insurer other than assets in separate accounts established pursuant to Section 1500 of the insurance laws of this state, or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.

Section 9. Incidental Insurance Benefit.

"Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income, or term riders.

Section 10. May.

"May" is permissive.

Section 11. Minimum Death Benefit.

"Minimum death benefit" means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

Section 12. Net Investment Return.

"Net investment return" means the rate of investment return in a separate account to be applied to the benefit base.

Section 13. Person.

"Person" means an individual, corporation, partnership, association, trust, or fund.

Section 14. Policy Processing Day.

"Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

Section 15. Scheduled Premium Policy.

"Scheduled premium policy" means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

Section 16. Separate Account.

"Separate account" means a separate account established pursuant to Section 1500 of the insurance laws of this state or pursuant to the corresponding Section of the insurance laws of the state of domicile of a foreign or alien insurer.

Section 17. Shall.

"Shall" is mandatory.

Section 18. Variable Death Benefit.

"Variable death benefit" means the amount of the death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of any minimum death benefit.

Section 19. Variable Life Insurance Policy.

"Variable life insurance policy" means any individual policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to Section 1500 of the insurance laws of this state or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

ARTICLE III: QUALIFICATION OF INSURER
TO ISSUE VARIABLE LIFE INSURANCE

The following requirements are applicable to all insurers either seeking authority to issue variable life insurance in this state or having authority to issue variable life insurance in this state.

Section 1. Licensing and Approval to Do Business in This State.

An insurer shall not deliver or issue for delivery in this state any variable life insurance policy unless:

a. The insurer is licensed or organized to do a life insurance business in this state;

b. The insurer has obtained the written approval of the commissioner for the issuance of variable life insurance policies in this state. The commissioner shall grant such written approval only after he has found that:

(1) the plan of operation for the issuance of variable life insurance policies is not unsound;

(2) the general character, reputation, and experience of the management and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer are such as to reasonably assure competent operation of the variable life insurance business of the insurer in this state; and

(3) the present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is not likely to render its operation hazardous to the public or its policyholders in this state. The commissioner shall consider, among other things:

(A) the history of operation and financial condition of the insurer;

(B) the qualifications, fitness, character, responsibility, reputation, and experience of the officers and directors and other management of the insurer and those persons or firms proposed

to supply consulting, investment, administrative, or custodial services to the insurer;

(C) the applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable life insurance policies. The state of entry of an alien insurer shall be deemed its state of domicile for this purpose; and

(D) if the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such other company and the degree to which the requesting insurer, as well as the other company, meet these standards.

Section 2. Filing for Approval to do Business in This State.

The commissioner may, at his discretion, require that an insurer, before it delivers or issues for delivery any variable life insurance policy in this state, file with this department the following information for the consideration of the commissioner in making the determination required by Section 1, Subsection b of this Article:

a. copies of and a general description of the variable life insurance policies it intends to issue;

b. a general description of the methods of operation of the variable life insurance business of the insurer, including methods of distribution of policies and the names of those persons or firms proposed to supply consulting, investment, administrative, custodial or distribution services to the insurer;

c. with respect to any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the issuer intends to follow for the investment of the assets held in such separate account, and a statement of procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate account;

d. a description of any investment advisory services contemplated as required by Section 10 of Article VI;

e. a copy of the statutes and regulations of the state of domicile of the insurer under which it is authorized to issue variable life insurance policies; and

f. biographical data with respect to officers and directors of the insurer on the National Association of Insurance Commissioners Uniform Biographical Data Form; and

g. a statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy.

Section 3. Standards of Suitability.

Every insurer seeking approval to enter into the variable life insurance business in this state shall establish and maintain a written statement specifying the Standards of Suitability to be used by the insurer. Such Standards of Suitability shall specify that no recommendations shall be made to an applicant to purchase a variable life insurance policy and that no variable life insurance policy shall be issued in the absence of reasonable grounds to believe that the purchase of such policy is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or to the agent making the recommendation.

Section 4. Use of Sales Materials.

An insurer authorized to transact variable life insurance business in this state shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its variable life insurance business in this state which is false, misleading, deceptive, or inaccurate.

Section 5. Requirements Applicable to Contractual Services.

Any material contract between an insurer and suppliers of

consulting, investment, administrative, sales, marketing, custodial, or other services with respect to variable life insurance operations shall be in writing and provide that the supplier of such services shall furnish the commissioner with any information or reports in connection with such services which the commissioner may request in order to ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with these regulations and any other applicable law or regulations.

Section 6. Reports to the Commissioner.

Any insurer authorized to transact the business of variable life insurance in this state shall submit to the commissioner, in addition to any other materials which may be required by this regulation or any other applicable laws or regulations:

a. an annual statement of the business of its separate account or accounts in such form as may be prescribed by the National Association of Insurance Commissioners; and

b. prior to the use in this state any information furnished to applicants as provided for in Article VII; and

c. prior to the use in this state the form of any of the reports to policyholders as provided for in Article IX; and

d. such additional information concerning its variable life insurance operations or its separate accounts as the commissioner shall deem necessary.

Any material submitted to the commissioner under this Section shall be disapproved if it is found to be false, misleading, deceptive, or inaccurate in any material respect and, if previously distributed, the commissioner shall require the distribution of amended material.

Section 7. Authority of Commissioner to Disapprove.

Any material required to be filed with and approved by the commissioner shall be subject to disapproval if at any time is found by him not to comply with the standards established by this regulation.

ARTICLE IV: INSURANCE POLICY REQUIREMENTS

Policy Qualification. The commissioner shall not approve any variable life insurance form filed pursuant to this regulation unless it conforms to the requirements of this Article.

Section 1. Filing of Variable Life Insurance Policies.

All variable life insurance policies, and all riders, endorsements, applications and other documents which are to be attached to and made a part of the policy and which relate to the variable nature of the policy, shall be filed with the commissioner and approved by him prior to delivery or issuance for delivery in this state.

a. The procedures and requirements for such filing and approval shall be, to the extent appropriate and not inconsistent with this regulation, the same as those otherwise applicable to other life insurance policies.

b. The commissioner may approve variable life insurance policies and related forms with provisions the commissioner deems to be not less favorable to the policyholder and the beneficiary than those required by this regulation.

Section 2. Mandatory Policy Benefit and Design Requirements.

Variable life insurance policies delivered or issued for delivery in this state shall comply with the following minimum requirements.

a. Mortality and expense risks shall be borne by the insurer. The mortality and expense charges shall be subject to the maximums stated in the contract.

b. For scheduled premium policies, a minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid (subject to the provisions of Section 4 of this Article);

c. The policy shall reflect the investment experience of one or more separate accounts established and maintained by the in-

surer. The insurer must demonstrate that the variable life insurance policy is actuarially sound.

d. Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base.

e. Any changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

f. The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other non-forfeiture benefits, as described either in the policy or in a statement filed with the commissioner of the state in which the policy is delivered, or issued for delivery, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values and other non-forfeiture benefits must be at least equal to the minimum values required by Section 168 of the insurance laws of this state for a general account policy with such premiums and benefits. The assumed investment rate shall not exceed the maximum interest rate permitted under the Standard Non-Forfeiture Law of this state. If the policy does not contain an assumed investment rate this demonstration shall be based on the maximum interest rate permitted under the Standard Nonforfeiture Law. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

g. The computation of values required for each variable life insurance policy may be based upon such reasonable and necessary approximations as are acceptable to the commissioner.

Section 3. Mandatory Policy Provisions.

Every variable life insurance policy filed for approval in this state shall contain at least the following:

a. The cover page or pages corresponding to the cover pages of each such policy shall contain:

(1) A prominent statement in either contrasting color or in boldface type that the amount or duration of death benefits may be variable or fixed under specified conditions.

(2) A prominent statement in either contrasting color or in boldface type that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees.

(3) A statement describing any minimum death benefit required pursuant to Section 2b of this Article IV.

(4) The method, or a reference to the policy provision which describes the method, for determining the amount of insurance payable at death.

(5) To the extent permitted by state law, a captioned provision that the policyholder may return the variable life insurance policy within 10 days of receipt of the policy by the policyholder, and receive a refund equal to the sum of (A) the difference between the premiums paid including any policy fees or other charges and the amounts allocated to any separate accounts under the policy and (B) the value of the amounts allocated to any separate accounts under the policy, on the date the returned policy is received by the insurer or its agent. Until such time as state law authorizes the return of payments as calculated in the preceding sentence, the amount of the refund shall be the total of all premium payments for such policy.

(6) Such other items as are currently required for fixed benefit life insurance policies and which are not inconsistent with this regulation.

b. (1) For scheduled premium policies, a provision for a grace period of not less than 31 days from the premium due date which shall provide that where the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date.

(2) For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay such charges in accordance with the terms of the policy. Such grace period shall end on a date not less than 61 days after the mailing date of the report to policyholders required by Section 3 of Article IX.

The death benefit payable during the grace period will equal the death benefit in effect immediately prior to such period less any overdue charges. If the policy processing days occur monthly, the insurer may require the payment of not more than three times the charges which were due on the policy processing day on which the amounts available under the policy were insufficient to pay all charges authorized by the policy that are necessary to keep such policy in force until the next policy processing day.

c. For scheduled premium policies, a provision that the policy will be reinstated at any time within two years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

(1) All overdue premiums with interest at a rate not exceeding six percent per annum compounded annually and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate as provided in Section 170.1.

(2) 110 percent of the increase in cash value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding six percent per annum compounded annually.

d. A full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy.

e. A provision designating the separate account to be used and stating that:

(1) The assets of such separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account.

(2) The assets of such separate account shall be valued at least as often as any policy benefits vary but at least monthly.

f. A provision specifying what documents constitute the entire insurance contract under state law.

g. A designation of the officers who are empowered to make an agreement or representation on behalf of the insurer and an indication that statements by the insured, or on his behalf, shall be considered as representations and not warranties.

h. An identification of the owner of the insurance contract.

i. A provision setting forth conditions or requirements as to the designation, or change of designation, of a beneficiary and a

provision for disbursement of benefits in the absence of a beneficiary designation.

j. A statement of any conditions or requirements concerning the assignment of the policy.

k. A description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured.

l. A provision that the policy shall be incontestable by the insurer after it has been in force for two years during the lifetime of the insured, provided, however, that any increase in the amount of the policy's death benefits subsequent to the policy issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, shall be incontestable after any such increase has been in force, during the lifetime of the insured, for two years from the date of issue of such increase.

m. A provision stating that the investment policy of the separate account shall not be changed without the approval of the insurance commissioner of the state of domicile of the insurer, and that the approval process is on file with the commissioner of this state.

n. A provision that payment of variable death benefits in excess of any minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums) or partial surrenders may be deferred:

(1) For up to six months from the date of request, if such payments are based on policy values which do not depend on the investment performance of the separate account, or

(2) otherwise, for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical.

o. If settlement options are provided, at least one such option shall be provided on a fixed basis only.

p. A description of the basis for computing the cash value and the surrender value under the policy shall be included.

q. Premiums or charges for incidental insurance benefits shall be stated separately.

r. Any other policy provision required by this regulation.

s. Such other items as are currently required for fixed benefit life insurance policies and are not inconsistent with this regulation.

t. A provision for non-forfeiture insurance benefits. The insurer may establish a reasonable minimum cash value below which any non-forfeiture insurance options will not be available.

Section 4. Policy Loan Provisions.

Every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in this state shall contain provisions which are not less favorable to the policyholder than the following:

A provision for policy loans after the policy has been in force for two full years which provides the following:

(1) At least 75 percent of the policy's cash surrender value may be borrowed.

(2) The amount borrowed shall bear interest at a rate not to exceed that permitted by state insurance law.

(3) Any indebtedness shall be deducted from the proceeds payable on death.

(4) Any indebtedness shall be deducted from the cash surrender value upon surrender or in determining any non-forfeiture benefit.

(5) For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within 31 days after the date of mailing of such notice.

For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following processing day exceed the amounts available under the policy to pay such charges, a report must be sent to the policyholder containing the information specified by Section 3 of Article IX.

(6) The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110 percent of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request.

(7) The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision.

(8) No policy loan provision is required if the policy is under extended insurance non-forfeiture option.

(9) The policy loan provisions shall be constructed so that variable life insurance policyholders who have not exercised such provisions are not disadvantaged by the exercise thereof.

(10) Amounts paid to the policyholders upon the exercise of any policy loan provision shall be withdrawn from the separate account and shall be returned to the separate account upon repayment except that a stock insurer may provide the amounts for policy loans from the general account.

Section 5. Other Policy Provisions.

The following provision may in substance be included in a variable life insurance policy or related form delivered or issued for delivery in this state:

a. An exclusion for suicide within two years of the issue date of the policy; provided, however, that to the extent of the increased death benefits only, the policy may provide an exclusion for suicide within two years of any increase in death benefits which results from an application of the owner subsequent to the policy issue date;

b. incidental insurance benefits may be offered on a fixed or variable basis;

c. policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer the following dividend options:

(1) the amount of the dividend may be credited against premium payments;

(2) the amount of the dividend may be applied to provide amounts of additional fixed or variable benefit life insurance;

(3) the amount of the dividend may be deposited in the general account at a specified minimum rate of interest;

(4) the amount of the dividend may be applied to provide paid-up amounts of fixed benefit one-year term insurance;

(5) the amount of the dividend may be deposited as a variable deposit in a separate account.

d. A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans under Section 4 of this Article, except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed;

e. A provision allowing the policyholder to make partial withdrawals;

f. Any other policy provision approved by the commissioner.

ARTICLE V: RESERVE LIABILITIES FOR VARIABLE LIFE INSURANCE

1. Reserve liabilities for variable life insurance policies shall

be established under the Standard Valuation Law in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

2. For scheduled premium policies, reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall be not less than the greater of the following minimum reserves:

a. The aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate; or

b. The aggregate total of the "attained age level" reserves on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall equal the "residue," as described in Paragraph (1), of the prior year's "attained age level" reserve on the contract, with any such "residue," increased or decreased by a payment computed on an attained age basis as described in Paragraph (2) below.

(1) The "residue" of the prior year's "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

(2) The payment referred to in Subsection 2b of this Article shall be computed so that the present value of a level payment of that amount each year over the future premium paying period of the contract is equal to (A) minus (B) minus (C), where (A) is the present value of the future guaranteed minimum death benefits, (B) is the present value of the future death benefits that would be payable in the absence of such guarantee, and (C) is any "residue," as described in Paragraph (1), of the prior year's "attained age level" reserve on such variable life insurance contract. If the contract is paid-up, the payment shall equal (A) minus (B) minus (C). The amounts of future death benefits referred to in (B) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest rate but in no event may exceed the maximum interest rate permitted for the valuation of life contracts.

c. The valuation interest rate and mortality table used in computing the two minimum reserves described in (a) and (b) above shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

3. For flexible premium policies, reserve liabilities for any guaranteed minimum death benefit shall be maintained in the general account of the insurer and shall be not less than the aggregate total of the term costs, if any, covering the period provided for in the guarantee not otherwise provided for by the reserves held in the separate account assuming an immediate one-third depreciation in the current value of the assets of the separate account

followed by a net investment return equal to the valuation interest rate.

The valuation interest rate and mortality table used in computing this additional reserve, if any, shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

4. Reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits shall be maintained in the general account and reserve liabilities for all variable aspects of the variable incidental insurance benefits shall be maintained in a separate account, in amounts determined in accordance with the actuarial procedures appropriate to such benefit.

ARTICLE VI: SEPARATE ACCOUNTS

The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer.

Section 1. Establishment and Administration of Separate Accounts.

Any domestic insurer issuing variable life insurance shall establish one or more separate accounts pursuant to Section 1500 of the insurance laws of this state.

a. If no law or other regulation provides for the custody of separate account assets and if such insurer is not the custodian of such separate account assets, all contracts for custody of such assets shall be in writing and the commissioner shall have authority to review and approve of both the terms of any such contract and the proposed custodian prior to the transfer of custody.

b. Such insurer shall not without the prior written approval of the commissioner employ in any material connection with the handling of separate account asset any person who:

(1) within the last 10 years has been convicted of any felony or a misdemeanor arising out of such person's conduct involving embezzlement, fraudulent conversion, or misappropriation of funds or securities or involving violation of Sections 1341, 1342, or 1343 of Title 18, United States Code; or

(2) within the last 10 years has been found by any state regulatory authority to have violated or has acknowledged violation of any provision of any state insurance law involving fraud, deceit, or knowing misrepresentation; or

(3) within the last 10 years has been found by federal or state regulatory authorities to have violated or has acknowledged violation of any provision of federal or state securities laws involving fraud, deceit, or knowing misrepresentation.

c. All persons with access to the cash, securities, or other assets of the separate account shall be under bond in the amount of not less than a value indexed to the NAIC fidelity bonding recommendations regarding personnel handling general account assets.

d. The assets of such separate accounts shall be valued at least as often as variable benefits are determined but in any event at least monthly.

Section 2. Amounts in the Separate Account.

The insurer shall maintain in each separate account assets with a value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

Section 3. Investments by the Separate Account.

a. No sale, exchange, or other transfer of assets may be made by an insurer or any of its affiliates between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(1) in case of a transfer into a separate account, such

transfer is made solely to establish the account or to support the operation of the policies with respect to the separate account to which the transfer is made; and

(2) such transfer, whether into or from a separate account, is made by a transfer of cash; but other assets may be transferred if approved by the commissioner in advance.

b. The separate account shall have sufficient net investment income and readily marketable assets to meet anticipated withdrawals under policies funded by the account.

Section 4. Limitations on Ownership.

a. A separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the value of such investment, together with prior investments of such account in such security valued as required by these regulations, would exceed 10 percent of the value of the assets of the separate account. The commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state.

b. No separate account shall purchase or otherwise acquire the voting securities of any issuer if as a result of such acquisition the insurer and its separate accounts, in the aggregate, will own more than 10 percent of the total issued and outstanding voting securities of such issuer. The commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state or jeopardize the independent operation of the issuer of such securities.

c. The percentage limitation specified in Subsection (a) of this Section shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the Investment Company Act of 1940 or other pools of investment assets if the investments and investment policies of such investment companies or asset pools comply substantially with the provisions of Section 3 of this Article and other applicable portions of this regulation.

Section 5. Valuation of Separate Account Assets.

Investments of the separate account shall be valued at their market value on the date of valuation, or at amortized cost if it approximates market value.

Section 6. Separate Account Investment Policy.

The investment policy of a separate account operated by a domestic insurer filed under Section 2c of Article III shall not be changed without first filing such change with the insurance commissioner.

(1) Any change filed pursuant to this Section shall be effective 60 days after the date it was filed with the commissioner, unless the commissioner notifies the insurer before the end of such 60-day period of his disapproval of the proposed change. At any time the commissioner may, after notice and public hearing, disapprove any change that has become effective pursuant to this Section.

(2) The commissioner may disapprove the change if he determined that the change would be detrimental to the interests of the policyholders participating in such separate account.

Section 7. Charges Against Separate Account.

The insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate account, including, but not limited to, the following:

(1) taxes or reserves for taxes attributable to investment gains and income of the separate account;

(2) actual cost of reasonable brokerage fees and similar di-

rect acquisition and sale costs incurred in the purchase or sale of separate account assets;

(3) actuarially determined costs of insurance (tabular costs) and the release of separate account liabilities;

(4) charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account;

(5) a charge, at a rate specified in the policy, for mortality and expense guarantees;

(6) any amounts in excess of those required to be held in the separate accounts;

(7) charges for incidental insurance benefits.

Section 8. Standards of Conduct.

Every insurer seeking approval to enter into the variable life insurance business in this state shall adopt by formal action of its board of directors a written statement specifying the standards of conduct of the insurer, its officers, directors, employees, and affiliates with respect to the purchase or sale of investments of separate accounts. Such standards of conduct shall be binding on the insurer and those to whom it refers. A code or codes of ethics meeting the requirements of Section 17j under the Investment Company Act of 1940 and applicable rules and regulations thereunder shall satisfy the provisions of this Section.

Section 9. Conflicts of Interest.

Rules under any provision of the insurance laws of this state or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee or other similar body.

Section 10. Investment Advisory Services to a Separate Account.

An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate accounts maintained for variable life insurance policies unless:

(1) the person providing such advice is registered as an investment adviser under the Investment Advisers Act of 1940; or

(2) the person providing such advice is an investment manager under the Employee Retirement Income Security Act of 1974 with respect to the assets of each employee benefit plan allocated to the separate account; or

(3) the insurer has filed with the commissioner and continues to file annually the following information and statements concerning the proposed adviser:

(a) the name and form of organization, state of organization, and its principal place of business;

(b) the names and addresses of its partners, officers, directors, and persons performing similar functions or, if such an investment adviser be an individual, of such individual;

(c) a written standard of conduct complying in substance with the requirements of Section B of this Article which has been adopted by the investment adviser and is applicable to the investment adviser, his officers, directors, and affiliates.

(d) a statement provided by the proposed adviser as to whether the adviser or any person associated therewith:

(i) has been convicted within 10 years of any felony or misdemeanor arising out of such person's conduct as an employee, salesman, officer or director or an insurance company, a banker, an insurance agent, a securities broker, or an investment adviser involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, or involving the violation of Section 1341, 1342, or 1343 of Title 18 of United States Code;

(ii) has been permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment com-

pany, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity;

(iii) has been found by federal or state regulatory authorities to have willfully violated or have acknowledged willful violation of any provision of federal or state securities laws or state insurance laws or of any rule or regulation under any such laws; or

(iv) has been censured, denied an investment adviser registration, had a registration as an investment adviser revoked or suspended, or been barred or suspended from being associated with an investment adviser by order of federal or state regulatory authorities; and

(4) such investment advisory contract shall be in writing and provide that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than 60 days' written notice to the investment adviser.

The commissioner may, after notice and opportunity for hearing, by order require such investment advisory contract to be terminated if he deems continued operation thereunder to be hazardous to the public or the insurer's policyholders.

ARTICLE VII: INFORMATION FURNISHED TO APPLICANTS

An insurer delivering or issuing for delivery in this state any variable life insurance policies shall deliver to the applicant for the policy, and obtain a written acknowledgement of receipt from such applicant coincident with or prior to the execution of the application, the following information. The requirements of this Article shall be deemed to have been satisfied to the extent that a disclosure containing information required by this Article is delivered, either in the form of (1) a prospectus included in the requirements of the Securities Act of 1933 and which was declared effective by the Securities and Exchange Commission; or (2) all information and reports required by the Employee Retirement Income Security Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to Section 3(a)(2) thereof.

1. A summary explanation, in non-technical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. Such explanation must include notices of the provision required by Article IV, Sections 3a(5) and 3f;

2. a statement of the investment policy of the separate account, including:

(a) a description of the investment objectives intended for the separate account and the principal types of investments intended to be made; and

(b) Any restriction or limitations on the manner in which the operations of the separate account are intended to be conducted.

3. a statement of the net investment return of the separate account for each of the last 10 years or such lesser period as the separate account has been in existence;

4. a statement of the charges levied against the separate account during the previous year;

5. a summary of the method to be used in valuing assets held by the separate account;

6. a summary of the federal income tax aspects of the policy applicable to the insured, the policyholder and the beneficiary;

7. illustrations of benefits payable under the variable life insurance contract. Such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or attempted predictions of future investment experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels

of benefits if it is made clear that such assumed rates are hypothetical only.

ARTICLE VIII: APPLICATIONS

The application for a variable life insurance policy shall contain:

1. a prominent statement that the death benefit may be variable or fixed under specified conditions;

2. a prominent statement that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees);

3. questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant.

ARTICLE IX: REPORTS TO POLICYHOLDERS

Any insurer delivering or issuing for delivery in this state any variable life insurance policies shall mail to each variable life insurance policyholder at his or her last known address the following reports:

1. Within 30 days after each anniversary of the policy, a statement or statements of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, any optional payments allowed pursuant to Section 4 of Article IV under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within 30 days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than 60 days prior to the mailing of such notice. This statement shall state that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this Section. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement, the statement shall be modified to so indicate. For flexible premium policies, the report must contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made (less deductions for expense charges), withdrawals, investment experience, insurance charges and any other charges made against the cash value. In addition, the report must show the projected cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming that: (i) planned periodic premiums, if any, are paid as scheduled; (ii) guaranteed costs of insurance are deducted; and (iii) the net investment return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message must be included that states that the policy may be in danger of terminating without value in the next 12 months unless additional premium is paid.

2. Annually, a statement or statements including:

a. a summary of the financial statement of the separate account based on the annual statement last filed with the commissioner;

b. the net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of not less than five years when available;

c. a list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the commissioner;

d. any charges levied against the separate account during the previous year.

e. a statement of any change, since the last report, in the

investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account or in the investment adviser of the separate account.

3. For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day. The report must indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of such amount.

ARTICLE X: FOREIGN COMPANIES

If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially similar to that provided by these regulations, the commissioner to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with these regulations.

ARTICLE XI: QUALIFICATIONS OF AGENTS FOR THE SALE OF VARIABLE LIFE INSURANCE

1. Qualification to Sell Variable Life Insurance

a. No person may sell or offer for sale in this state any variable life insurance policy unless such person is an agent and has filed with the commissioner, in a form satisfactory to the commissioner, evidence that such person holds any license or authorization which may be required for the solicitation or sale of variable life insurance.

b. Any examination administered by the department for the purpose of determining the eligibility of any person for licensing as an agent shall, after the effective date of this regulation, include such questions concerning the history, purpose, regulation, and sale of variable life insurance as the commissioner deems appropriate.

2. Reports of Disciplinary Actions: Any person qualified in this state under this Article to sell or offer to sell variable life insurance shall immediately report to the commissioner:

a. any suspension or revocation of his agent's license in any other state or territory of the United States;

b. the imposition of any disciplinary sanction, including suspension or expulsion from membership, suspension, or revocation of or denial of registration, imposed upon him by any national securities exchange, or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or variable life insurance;

c. any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

3. Refusal to Qualify Agent to Sell Variable Life Insurance: Suspension, Revocation, or Nonrenewal of Qualification: The commissioner may reject any application or suspend or revoke or refuse to renew any agent's qualification under this Article to sell or offer to sell variable life insurance upon any ground that would bar such applicant or such agent from being licensed to sell other life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of an agent's license shall also govern any proceeding for suspension or revocation of an agent's qualification to sell or offer to sell variable life insurance.

ARTICLE XII: SEVERABILITY ARTICLE

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

vision to other persons or circumstances shall be not affected thereby.

Sherman A. Bernard
Commissioner

RULE

Department of Natural Resources Office of Conservation

Statement of Purpose

The Louisiana Underwater Obstructions Act ("UOA"), R.S. 30:4D.-30:4H., as amended, directs the assistant secretary for conservation of the Department of Natural Resources to adopt regulations to remedy and prevent obstructions to fishing, shrimp-ing and other navigation resulting from oil and gas production and transportation activities on state-owned waterbottoms within the coastal zone. These regulations are the product of over two years of study of the underwater obstructions problem by the Office of Conservation, during which the office consulted regularly with fishermen and shrimpers and with representatives of the oil and gas industry. In addition, the commissioner of conservation has held a public hearing on proposed regulations on June 6, 1985.

The UOA has two broad purposes. First, the legislature sought to reduce interference by oil and gas-related obstructions with other uses of state waters important to the present and future well-being of the state, including fishing, shrimping and navigation. The legislature intended to strike a reasonable balance between such uses and the use of state-owned lands underlying those waters for oil and gas production. Second, the legislature sought to alleviate the serious problem of long-term pollution of such state-owned lands and waters by solid waste in the form of large quantities of abandoned or discarded pipe and related materials.

The legislature acted in two distinct capacities in enacting the UOA. The statute is an exercise of the state's traditional police power to regulate the conduct of persons within its jurisdiction so as to promote the welfare of the community. The statute is also an exercise of the state's rights as a landowner to specify the uses to which state-owned lands may be put and standards and limitations applicable thereto. The legislature has acted in both capacities in seeking to regulate competing uses of the state's lands and waters and to prevent pollution thereof.

The regulations have been written to achieve these purposes in an effective, but reasonable, manner. On the one hand, they establish a comprehensive program requiring permits for new facilities, inspection and reporting of suspected obstructions, removal of most abandoned shallow-water facilities, and remedial action. On the other hand, the office has avoided regulation for the sake of regulation. For example, requirements for burial of new lines and for cleanup of abandoned facilities apply only in waters less than 20 feet deep. This cut-off was selected after study of Office of Conservation data indicating that approximately 90 percent of incidents of interference from obstructions have occurred in waters less than 20 feet deep. Similarly, these regulations authorize the assistant secretary to grant variances from any requirement where compliance would be technically infeasible or impractical or unreasonably burdensome or would subject a person to conflicting legal obligations. In these and other respects the office has sought to eliminate needless or unreasonably costly burdens from the regulatory program.

REGULATION 17: LOUISIANA UNDERWATER OBSTRUCTIONS REGULATIONS

Rule 1. Definitions

The words defined herein shall have the following meanings when used in these rules. All other words so used and not defined shall have their usual meanings (except insofar as specifically

defined in Title 30 of Louisiana Revised Statutes of 1950) unless their context clearly requires otherwise.

Section 1. "Assistant secretary" means the assistant secretary for conservation of the Department of Natural Resources.

Section 2. "Associated material" means equipment, machinery or other material typically used in marine oil and gas production, transportation and/or transmission activities, including without limitation sunken vessels, boats and barges, but not including any associated structure as defined herein.

Section 3. "Associated structure" means any artificial structure that is, or previously was, integrally attached to a pipeline or to a field transmission, flow or gathering line, including without limitation, fittings, tie-overs, cross-overs, appliances and equipment.

Section 4. "Facility" means any pipeline, field transmission, flow or gathering line, or segment thereof; any well; any production facility; or any associated structure situated on state waterbottoms.

Section 5. "Field transmission, flow, or gathering line" means all segments of pipe situated, or in the case of pipe not in current use, formerly situated, upstream of the outlet flange of the production facility where produced hydrocarbons are first separated, dehydrated or otherwise processed, whichever facility is farthest downstream. If the assistant secretary determines, in accordance with industry usage, that the purpose of a particular line is primarily transportation rather than gathering such line shall be considered a pipeline.

Section 6. "Obstruction" means any submerged facility or associated material, or portion thereof, which interferes or may interfere with fishing, shrimping or navigation.

Section 7. "Person responsible," when used in reference to a facility, means any person who owns or operates that facility in whole or in part.

Section 8. "Pipeline" means all segments of pipe other than any field transmission, flow or gathering line.

Section 9. "Production facility" means a facility where hydrocarbons are produced, separated, dehydrated, or otherwise processed.

Section 10. "State waterbottoms" means the state-owned lands lying beneath all water bodies that are navigable in fact within the Louisiana Coastal Zone as defined in R.S. 49:213.3(4).

Section 11. Water depths shall be as measured from the mean low water.

Rule 2. Applicability

Section 1. Except as otherwise provided herein, these rules apply to all facilities, existing or hereafter constructed.

Section 2. No provision of these rules shall require any person to do anything that would constitute a violation by that person of any law of the United States or of any regulation promulgated by any agency of the United States Government.

Section 3. If any provision or item of these rules, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of these rules which can be given effect without the invalid provisions, items or applications, and to this end the provisions, items and applications of these rules are hereby declared severable.

Rule 3. Variances

Section 1. The assistant secretary shall by written order grant a variance from any requirement of these rules in any case where he is shown that: (a) compliance with the requirement would constitute a violation of federal law or regulation; (b) compliance is technically infeasible or impractical; or (c) compliance would impose unreasonable or unnecessary burdens on the person seeking the variance.

Section 2. Any person seeking a variance shall provide a complete statement of the grounds therefor, including all supporting documentation. If the information provided is sufficient to justify the claim, the assistant secretary shall grant either an unconditional variance or a variance conditioned upon the person taking specific actions to prevent or minimize interference with fishing, shrimping or other navigation.

Rule 4. Requirements for New Facilities

Section 1. No person shall commence construction of any facility (other than a field transmission, flow or gathering line located on a state lease or right-of-way) on state waterbottoms after the effective date of these regulations unless the assistant secretary has issued a permit authorizing such construction pursuant to R.S. 30:4 and these rules. For purposes of this rule, construction includes any modification of an existing pipeline by the laying of new pipe, other than the replacement of defective pipe by pipe of the same diameter.

Section 2. Any order, permit, lease, right-of-way or other authorization issued or granted by the State of Louisiana which specifically authorizes construction of a facility, including without limitation a permit issued under the Coastal Zone Management Act, shall satisfy the requirement for a permit under this rule and under R.S. 30:4; provided, however, that all requirements of these regulations, including permit conditions under Rule 4, Section 5, which are or may become applicable to the facility shall be deemed to be incorporated in such authorization.

Section 3. If a facility required to have a permit under this rule is not deemed to have a permit under Section 2 then the person responsible shall apply for a permit hereunder and submit in its application (a) a map, diagram, plan or drawing showing the size, extent, location and water depth of the proposed facility, and (b) such additional information as the assistant secretary may reasonably require; provided, however, that with respect to information already provided in a previous application to the state or United States for a right-of-way, lease, or other permit or authorization for the proposed facility the applicant may submit a copy of such previous application.

Section 4. Within 60 days after receiving an application for a permit hereunder, the assistant secretary shall either issue or deny the permit.

Section 5. A permit issued hereunder shall include appropriate conditions requiring (a) that the facility be constructed and maintained so as to prevent obstructions to the maximum extent practicable and (b) that portions of a pipeline located in waters of a depth of less than 20 feet be buried to a minimum depth of three feet. This requirement shall not apply to any portion of such line that is connected to a production facility in current use and located within 500 feet of that facility. Burial shall not be required where the assistant secretary determines in accordance with Rule 3 that a variance be granted.

Section 6. Within 90 days after completion of construction of a facility, a person responsible for the facility shall submit to the assistant secretary (a) a map, diagram, plan or drawing showing the size, extent and location of the facility as built or (b) a written statement certifying that the facility was constructed in accordance with a map, diagram, plan or drawing previously submitted to the assistant secretary, except for such deviations as are specifically described therein.

Section 7. Any field transmission, flow or gathering line on which construction is commenced after the effective date of these regulations shall, if located in waters of a depth of less than 20 feet, be buried and maintained to a minimum depth of three feet. This requirement shall not apply to any portion of such line that is connected to a production facility in current use and located within 500 feet of that facility.

Rule 5. Inspection and Reporting

Section 1. Every person responsible for a previously buried facility shall report in writing to the assistant secretary within 30 days after knowledge thereof any instances not previously reported where the facility, or any portion thereof, has become unburied. Nothing in this Section shall be construed to impose any burial requirements.

Section 2. The assistant secretary shall require an inspection of a pipeline, field transmission, flow or gathering line or associated structure by a person responsible if, after providing that person with notice and an opportunity to respond, he determines the public interest so requires. That person shall inspect the facility and report to the assistant secretary within 30 days thereafter the nature and location of any portion of the facility above the mudline. The assistant secretary may require a map showing the location of the facility inspected and any parts above the mudline.

Section 3. If, after providing the person responsible with notice and an opportunity to respond, the assistant secretary determines the public interest so requires, he shall require the owner or operator of a pipeline, field transmission, flow or gathering line, or associated structure located on a right-of-way or lease upon state waterbottoms to inspect that portion of the right-of-way or lease where he reasonably believes associated material is located and causing an obstruction. If so directed, the responsible person shall conduct an inspection and report to the assistant secretary within 30 days thereafter the nature and location of any associated material above the mudline.

Rule 6. Abandoned Facilities

Section 1. All facilities (other than field transmission, flow or gathering lines on state leases or right-of-way) (a) located above the mudline and in less than 20 feet of water, and (b) constituting an obstruction, shall be removed within 90 days after abandonment or as soon thereafter as practicable by the responsible person or persons.

Section 2. Each person responsible for a facility shall notify the assistant secretary of its abandonment in writing no later than 30 days after such facility is abandoned. Such notice shall include (a) a description of the facility including its location, size and depth of superadjacent waters, and a statement whether the facility will be removed, buried, or remain in place and (b) the nature and location of all portions of the facility then situated above the mudline.

Section 3. Upon learning thereafter that any portion of a facility abandoned under Section 2 is protruding above the mudline in depths of water less than 20 feet and constituting an obstruction, the person or persons responsible shall notify the assistant secretary and remove or mark that portion of the facility within 90 days or as soon thereafter as practicable; provided, however, field transmission, flow and gathering lines on state leases or right-of-way shall not be required to be removed.

Section 4. For purposes of this rule, a facility shall be deemed abandoned if it has not been actually used for the *bona fide* movement, processing or production of hydrocarbons within the preceding six months, provided that a facility shall not be deemed abandoned if (a) the owner or operator thereof reasonably intends to use the facility for the movement, processing or production of hydrocarbons in the reasonably foreseeable future or (b) the owner or operator has applied for but not received permission from the relevant jurisdictional authority to abandon the facility.

Rule 7. Remedial Action

Section 1. If information available to the Office of Conservation discloses an obstruction resulting from a facility exposed in violation of Section 5 or Section 7 of Rule 4, an abandoned fa-

cility, or associated material, the assistant secretary may, upon 10 days written notice, order any person responsible for the facility or, where the obstruction is caused by associated material, any person responsible for a facility located on the right-of-way or lease where the obstruction occurs, to show cause, taking into account all relevant issues, why said person should not be required to take appropriate remedial action, as determined by the assistant secretary.

Section 2. For purposes of this rule, "appropriate remedial action" includes: (a) reburial of a pipeline as required by Rule 4, Section 5 to its original depth; (b) reburial of a field transmission, flow or gathering line as required by Rule 4, Section 7 to its original depth; (c) removal of an abandoned facility (other than a field transmission, flow or gathering line situated on a state lease or right-of-way) except where it is demonstrated that the facility is in water depths greater than 20 feet; (d) removal of associated material in water depths less than 20 feet; or (e) installation and maintenance of private aids to navigation at the location of the obstruction in accordance with applicable rules and regulations of the United States Coast Guard and Corps of Engineers.

Section 3. Any person ordered to take remedial action shall, within 10 days of completing this action, submit a written report to the assistant secretary certifying that such action has been completed in accordance with the assistant secretary's order.

Section 4. Nothing in these regulations shall be deemed to limit or extinguish any legal obligations or right of any person arising under a lease, right-of-way or permit issued by the state or under any otherwise applicable law or regulation.

Herbert W. Thompson
Commissioner

RULE

Department of Natural Resources Office of Management and Finance

Rate Schedule for Copies of Computerized Public Records

In accordance with the rule adopted by the Division of Administration pertaining to the uniform fee schedule for copies of public records, the Department of Natural Resources (DNR) has adopted a rule which institutes a schedule of rates to recover its costs in providing copies of computerized public records to non-governmental, private sector bodies. This schedule includes rates for those records provided on computer magnetic tape and those provided on computer printouts.

The rates are as follows:

1. Output From the DNR Information Processing Center

A. Job Set Up/Take Down—Each request received from the private sector for a copy of computerized records requires the involvement of production control technicians who must set up the job, submit the job for processing, review the output according to quality control standards, and prepare the output for transmittal to the requestor. A flat rate of \$20 per job is charged.

B. Systems analyst and programmer involvement—certain jobs require the involvement of a systems analyst and/or a computer programmer to customize existing "utility" programs to meet the requestor's requirements. Each hour worked by an analyst or programmer is charged at a rate of \$30.

C. CPU-related resources—The selection, extraction, processing and sorting of data consume a combination of DNR computer resources, including CPU usage, memory usage, I/O channels, disk access and tape access. The combined usage of these resources is logged by DNR in units of standard unit of processing (SUP) hour. Each SUP hour is charged at a rate of \$180.

D. Printing—All printing is done on a laser printer producing 8½" × 11" pages. Each page image is charged at a rate of \$.08.

E. Magnetic tapes—Users requesting records on magnetic tapes are encouraged to supply their own 2400 ft. tapes. Those not doing so are charged \$25 for each tape provided by DNR.

F. Postage—Charged on an actual cost basis.

2. Output from DNR Computer Terminals

The Department of Natural Resources has several computer terminals which are available to the public to access public records. These terminals are located in the well files area in the Natural Resources Building in Baton Rouge and in the six Conservation District Offices. Currently, no charge is imposed to use these terminals, although there is a \$.25 charge for a copy of any terminal screen which is printed on the terminal printer.

F. Carl Rowan
Undersecretary

RULE

Department of Transportation and Development Office of the Secretary

The Department of Transportation and Development, Office of the Secretary, in accordance with the notice of intent published in the July 20, 1984 issue of the *Louisiana Register*, and under the authority of R.S. 2:6 and 36:509(F)(3), adopted a *Flight Operations Manual* which provides direction for the operation of aircraft owned and operated by the State of Louisiana.

A copy of the complete manual can be viewed at the office of G. L. Ray, maintenance systems engineer, in room 504 of the Department of Transportation and Development building, Baton Rouge, LA, or at the Office of the State Register, 900 Riverside North, Fifth Floor, Baton Rouge, LA.

Robert G. Graves
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 repealed its rule stating that the lifetime maximum amount of accident and health coverage is reduced to \$250,000 on the July 1st following the attainment of the age of 70. This rule was adopted on an emergency basis effective April 25, 1985.

James D. McElveen
Executive Director

RULE

Department of Treasury Louisiana School Employees' Retirement System

The Board of Trustees of the Louisiana School Employees' Retirement System amended its policy procedures by adoption of the rule below with respect to interest rates charged on purchases of service credit.

All cost computations on and after July 20, 1985 for all active members to gain retirement credit will be done on an eight percent compound interest rate.

The only exceptions to the eight percent compound inter-

est rate will be credit for active military service which has a five percent compound interest rate in the legislative provision.

A review of the interest rate being used will be made in January of each year. Should a change of rate be agreed on after the review, the new rate will become effective July 1 of that same year. This rule is being adopted pursuant to the notice of intent published in the May 20, 1985, issue of the *Louisiana Register*.

J. Michael Dodds, III
Secretary-Treasurer

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

This rule was adopted by the Louisiana Wildlife and Fisheries Commission at its regular meeting held in Baton Rouge, LA, July 3, 1985.

The Wildlife and Fisheries Commission as per Title 34:851.24F shall prescribe the regulations pertaining to personal flotation devices to be used for each person on board every motorboat or vessel used upon all navigable waterways of the state.

As per Title 34:851.24G the Wildlife and Fisheries Commission shall prescribe the regulations pertaining to the number, size and type of fire extinguishers to be carried by each motorboat and vessel operating upon all navigable waterways of the state.

Additionally the Wildlife and Fisheries Commission shall prescribe proper standards for flame arrestors through Title 34 Sec. 851.24(H) and for ventilation requirements for boats of closed construction through Title 34 Section 851.24(I) on motorboats operating upon the waters of this state.

The Wildlife and Fisheries Commission does hereby adopt the federal regulations for personal flotation devices, fire extinguishers, flame arrestors and ventilation as follows:

The following rules and regulations have been adopted by the Wildlife and Fisheries Commission pursuant to Title 34 Sections 851.24F (1), 851.24G, and 851.24H and 851.24I.

I

In accordance with Title 34 Section 851.24F (1), the following definitions shall apply to the classification of personal flotation devices (P.F.D.).

A) P.F.D. Type I, a U.S. Coast Guard approved flotation device of the wearable design capable of turning most unconscious persons from a face down position without effort from its wearer. This device must provide a minimum buoyancy of 22 pounds in the adult size and a minimum of 11 pounds in the child size.

B) P.F.D. Type II, a U.S. Coast Guard approved wearable device designed to turn its wearer to a vertical or slightly backward position in the water. Its adult size shall provide a minimum buoyancy of 15½ pounds, the medium child size shall provide a minimum of 11 pounds, and the infant and small child size shall provide a minimum buoyancy of 7 pounds.

C) P.F.D. Type III, a U.S. Coast Guard approved wearable device designed so the wearers can place themselves in a vertical or slightly backward position. Its adult size shall provide a minimum buoyancy of 15½ pounds, its medium child size shall provide a minimum of 11 pounds and the infant and small child size shall provide a minimum buoyancy of 7 pounds.

D) P.F.D. Type IV, a U.S. Coast Guard approved device designed to be thrown to a person in the water and grasped, not worn. It shall provide a minimum of 15½ pounds of buoyancy.

E) Regulations prescribed by the commission as to the type and number of personal flotation devices required on recreational

boats while a watercraft is in use on the waters of this state are as follows:

1) Class A watercraft (less than 16 feet in length)

Shall carry at least one, type I, II, III, or IV personal flotation device for each person on board. The P.F.D. must bear the U.S. Coast Guard approval number and must be of the appropriate sizes and serviceable.

2) Class I watercraft (16 feet to less than 26 feet in length)

Shall carry at least one serviceable, type I, II, or III personal flotation device for each person on board and one serviceable type IV device. The P.F.D.'s must bear the U.S. Coast Guard approval number and must be of the appropriate sizes.

3) Class II watercraft (26 to less than 40 feet in length)

Shall carry at least one serviceable, type I, II, or III personal flotation device for each person on board and one serviceable type IV device. The P.F.D.'s must bear the U.S. Coast Guard approval number and must be of the appropriate sizes.

4) Class III watercraft (40 and over)

Shall carry at least one serviceable, type I, II, or III for each person on board and one serviceable type IV device. The P.F.D.'s must bear the U.S. Coast Guard approval number and must be of the appropriate size.

F) Every motorboat carrying passengers for hire upon the waters of this state must be equipped with serviceable U.S. Coast Guard approved type I or II personal flotation devices. The number of P.F.D.'s shall be equal to the number of persons being carried and of the appropriate size.

G) For the purpose of this part "serviceable" personal flotation devices shall mean capable of being properly worn with all straps, snaps, flotation bags, approval labels and limitation notices intact and in working condition.

II

In accordance with Title 34 Section 851.24G the commission prescribes the following regulations for fire extinguishers on motorboats.

A) All motorboats of closed construction shall carry the appropriate approved fire extinguishers according to its length.

1. Class A. (under 16 feet in length)

At least one approved B-I or 5B type extinguisher.

2. Class I, (16 to less than 26 feet in length)

At least one approved B-I or 5B type extinguisher.

3. Class II (26 to less than 40 feet in length)

At least two approved B-I or two 5B extinguishers or at least one approved B-II or one 6B extinguisher.

4. Class III, (40 feet and above in length)

At least three approved B-I or 5B extinguishers or at least one approved B-I, 5B and one approved B-II or 6B extinguishers. When an approved fixed extinguishing system is installed one less B-I or 5B type extinguisher is required.

5. All open motorboats shall be required to carry the same approved fire extinguishers according to class, except that open motorboats of outboard design where the construction of such motorboats will not permit the entrapment of explosive or flammable gases or vapors and less than 26 feet in length shall not require fire extinguishers.

6. For the purpose of this part, motorboats of closed construction shall mean any motorboat that has one or more of the following conditions.

(1) Inboard engine;

(2) Closed compartments under thwarts and seats wherein portable fuel tanks are stored;

(3) Double bottoms not sealed to the hull or which are not completely filled with flotation materials;

(4) Closed living spaces;

(5) Closed storage compartments in which combustible or flammable material is stored;

(6) Permanently installed fuel tanks.

7. The term "approved" for this part shall mean certified by the U.S. Coast Guard and bearing the U.S. Coast Guard approval number or UL (Underwriters Laboratory) seal listing its approval for marine use.

8. All fire extinguishers must be maintained in proper working order and fully charged.

III

The following regulations are prescribed by the commission pertaining to flame arrestors or backfire traps in accordance with Title 34 Section 851.24H.

A. Every motorboat shall have the carburetor or carburetors of every engine (except outboard engines) using gasoline as fuel, equipped with a U.S. Coast Guard approved device so labeled and emplaced as to prevent danger of backfire.

IV

The following regulations are prescribed by the commission pertaining to the requirements of ventilation of boats of closed construction in accordance with Title 34 Section 851.24I.

A. Every motorboat, (except open boats) using as fuel any liquid of a volatile nature shall be equipped with a ventilation system consisting of at least two ventilation ducts fitted with cowls. One of the ducts must be designated as an exhaust duct and installed so as to extend to the lower portion of the bilge. Another is to be designated as the intake duct and be so installed to a point below the level of the carburetor air intake. This system will be acceptable as will any U.S. Coast Guard approved system, however either system must be maintained in proper working order.

J. Burton Angelle

Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

THE FOLLOWING RULE WAS ADOPTED BY THE
LOUISIANA WILDLIFE AND FISHERIES COMMISSION AT
ITS REGULAR MEETING HELD IN BATON ROUGE,
LOUISIANA, JULY 3, 1985.

Act 323 of the 1984 Louisiana Legislature authorizes the Louisiana Wildlife and Fisheries Commission to issue permits for the taking of gamefish with scuba gear, therefore, the following rules and regulations are enacted by the commission to permit a special scuba diving season for taking of certain gamefish:

1. The special season shall be limited to Toledo Bend Reservoir, and only in that part of the lake located south of Highway 6 (Pendleton Bridge) on the Louisiana side.

2. The special season shall be for four months beginning at sunrise on the first day of June and ending at sunset on the last day of September each year.

3. The taking of gamefish species shall be permitted during daylight hours only from sunrise to sunset.

4. Each diver harvesting gamefish is required to have a special permit issued by the secretary of the Louisiana Department of Wildlife and Fisheries, and the permit must be available for inspection upon request.

5. In addition to the special permit, the permit holder must have a valid Louisiana sportsfishing license.

6. Largemouth bass, crappie and bream shall be the only gamefish species allowed to be taken.

7. The daily creel limit shall be five largemouth bass, 25 crappie and 50 bream; the possession limit shall be the same as the daily creel limit.

8. The scuba diver must be submerged in the water and use only standard underwater spearing equipment.

9. No permitted diver shall have in his possession (vessel or on his person) any other fishing gear.

10. Each permit holder shall submit to the Louisiana Department of Wildlife and Fisheries a monthly report of gamefish taken, and other information requested on the forms supplied by the department; the report deadline for a specific month shall be on the 15th of the following month. All reports should be sent to Bennie Fontenot, Louisiana Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA, 70895. Each permit holder must submit the monthly report whether they fish or not.

11. A legal diving flag shall be conspicuously displayed while diving operations are taking place.

12. Permits will expire at the end of each season and shall be renewed on an annual basis.

13. Failure to adhere to any of the above stipulations shall result in the revocation of the permit.

The Louisiana Wildlife and Fisheries Commission hereby authorizes the secretary of the Louisiana Department of Wildlife and Fisheries to issue said permits as in compliance with the forementioned rules and regulations, and the secretary has been authorized to recall permits and/or to close the special season if deemed necessary.

J. Burton Angelle
Secretary

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

The State Civil Service Commission will hold a public hearing on August 7, 1985 for the purpose of considering proposed amendments to Civil Service Rules 6.15 and 6.22.

The hearing will begin at 9 a.m. and will be held at the Rivergate, Room 2, Ground Floor, Canal St. at the river in New Orleans.

Consideration will be given to the following:

Chapter 6

Amend and re-enact Rule 6.15 as follows:

6.15 Salary Step Increases

(k) An employee who has been detailed with pay to a higher class shall be eligible for salary step increases in the higher class on the same eligibility date established in his regular class, except that pay benefits authorized under this rule shall be temporary pay benefits during the period of detail and shall not establish an eligibility for any special benefits provided for elsewhere in these rules.

(l) When an employee has been detailed with pay to a higher class and is promoted to the same class directly from the detail, his pay eligibility on promotion shall not be less than he actually received on detail.

EXPLANATION

The rules as currently established do not provide for regular step increases in the higher class while an employee is on de-

tail to such higher class. This absence has a particularly adverse affect on detailed employees who are at maximum pay in their regular positions. The proposed rule change would alleviate this problem and would provide employees the full range of temporary monetary benefits, while on detail, as they could have received had they been promoted. These benefits would not establish eligibility for other special pay benefits.

Chapter 6

Amend and re-enact Rule 6.22(d) as follows:

6.22 Rate of Pay on Detail

(d) Any such temporary increase granted shall not establish an eligibility for any special benefit provided for elsewhere in these rules, except those authorized under Rule 6.15(k).

EXPLANATION

This revision gives recognition to the temporary step increase benefits authorized in the revision to Rule 6.15(k).

* * * * *

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

Herbert L. Sumrall
Director

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

The State Civil Service Commission will hold a public hearing on August 7, 1985 for the purpose of considering for regular adoption the emergency rule changes adopted by the commission at its July 3, 1985 meeting. These include Civil Service Rules 1.39.2(a)2; 1.39.2(b); 17.16; 17.17 and the repeal of Rule 17.18.

The hearing will begin at 9 a.m. and will be held in New Orleans, LA at the Rivergate, Room 2, Ground Floor, Canal Street at the river across from the International Trade Mart, Entrance No. 4, facing the International Trade Mart.

You will note that after each proposed rule change listed below, an explanation for the change is provided.

Consideration will be given to the following.

CHAPTER 1

Amended Rule 1.39.2(a)2 and 1.39.2(b) as follows:

1.39.2 'State service', for the purposes of layoff and layoff avoidance measures, means the total length of classified state service in the equivalent full-time years, months, and days as an employee of a state agency or agencies subject to the following:

(a) Periods of time not counted as classified state service under this definition for the purposes of layoff and layoff avoidance shall be:

1. . . .
2. State service earned before retirement in any state retirement system by an employee who is rehired into state service after such retirement.
3. . . .
4. . . .
5. . . .

(b) Periods of time counted as classified state service under this definition for the purpose of layoff or layoff avoidance measures are the following, which are all subject to Rule 1.39.2(a)2:

1. . . .
2. . . .
3. . . .
4. . . .

- 5. . . .
- 6. . . .
- 7. . . .
- 8. . . .
- 9. . . .
- (c) . . .

EXPLANATION

Employees who have chosen to retire from a state retirement system and who later reenter state service will not have any time previous to the retirement counted for layoff purposes. This simplifies the rules and should make agencies less apprehensive about rehiring retirees, if they desire. It is also consistent with the intent of the rules, which is to help protect career state employees from layoff until they are entitled to and choose to retire from state government. Subsection (b) was changed only to accommodate the amendment to Rule 1.39.2(a)2.

CHAPTER 17

Amended Rule 17.16 as follows:

17.16 Order of Layoff by Appointment and Status

The order of layoff in the affected class(es), career fields, organizational unit(s), and geographic area(s) shall be by the type of appointment as follows: restricted, job, provisional, probational, part-time permanent employees, full-time permanent employees.

(a) Within each permanent appointment status, layoff shall be according to length of state service; those with the least service shall be laid off first.

(b) . . .

EXPLANATION

The words "career fields" were added to the first sentence of the rule only to clarify its present meaning.

Rule 17.16(a) eliminates the requirement to lay off probational employees based on length of state service. It allows agencies to lay off on such a basis, but does not require it, because practicality and agency needs are considered paramount to such consideration of a basically unprotected group. Thus, if an agency had three probational Typist Clerks II and wished to lay off two of them, it could choose any two without regard to length of state service.

Amended Rule 17.17 as follows:

17.17 Subject to the following provisions, a permanent employee who is affected by a layoff has the right to displace another employee who occupies the same, an equivalent, or lower class position in the same career field and is in the organizational unit(s) and geographic area(s) affected by a layoff. An employee who displaces another, must meet the class qualifications for the position involved. A part-time permanent employee may displace only other part-time permanent employees.

(a) . . .

(b) . . .

(c) Offers of displacement to occupied positions for which the employee qualified shall be made by the appointing authority in the following manner and order.

- 1. . . .
- 2. . . .
- 3. . . .
- 4. . . .
- 5. . . .
- 6. . . .
- 7. . . .

EXPLANATION

The words "in the same career field" were added to the first sentence of the rule only to clarify its present meaning. Since Rule

17.18 was repealed, the words "Subject to Rule 17.18" have been omitted in Subsection (c) above.

Rule 17.18—Repealed

EXPLANATION

The repeal of Rule 17.18 simplifies the displacement (bumping) offers to employees affected by a layoff. This repeal eliminates bumping offers outside the employee's commuting area while still affording sufficient protection to employees.

Persons interested in making comments relative to these proposals may do so at the public hearing or in writing to the following address: Director, Department of Civil Service, Box 94111, Baton Rouge, LA 70804-9111.

Herbert L. Sumrall
Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Credit for Secondary Students Attending Vo-Tech Summer School

In accordance with Revised Statutes 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 Bulletin 741 relative to secondary students attending a postsecondary vocational technical school summer program, to read as follows:

"Secondary students may attend a postsecondary vocational-technical school summer program and receive one (1) unit of credit or more provided the appropriate number of clock hours of instructions and course requirements are satisfied. Further, the appropriate number of clock hours offered is to be consistent with the existing requirements of Bulletin 741, i.e., 180 hours for one Carnegie unit, 270 hours for one and one-half Carnegie units." This applies to post-secondary vocational-technical school summer programs only.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., September 9, 1985 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

James V. Soileau
Executive Director

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

**Rule Title: Credit for secondary students
attending vo-tech summer school**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
There will be no costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
This will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
The only benefits will be that secondary students will be able to attend vocational-technical schools during summer months and be recommended for secondary credit.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

This will have no effect on competition and employment.

Joseph F. Kyle
Deputy Superintendent
for Management and Finance

David W. Hood
Legislative Fiscal
Analyst

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Facility Planning and Control**

The Facility Planning and Control Department of the Division of Administration advertises its intent to revise the "Louisiana Capital Improvement Projects Procedure Manual for Design and Construction" to comply with statutory requirements and policy changes since the 1982 edition of the procedure manual.

Copies of the proposed revisions may be obtained from Facility Planning and Control, attention William B. Smith, Box 94095, Baton Rouge, LA 70804-9095.

Interested persons may submit written comments on the proposed revised procedure manual until 4:00 p.m., August 22, 1985, to the above address.

A public hearing will be held on the proposed revisions at 2:00 p.m., August 26, 1985 at the Third Floor Committee Room, Capitol Annex Building, Baton Rouge, LA.

Stephanie L. Alexander
Commissioner

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
None
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
None
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
Possible small decrease in fees to designers of State Capital improvement projects.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
None

Roger Magendie
Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

§103. Citation of the Louisiana Administrative Code

Without prejudice to any other mode of citation, the *Louisiana Administrative Code* may be cited by Title, Part and Section number. The preferred short form of citation of the *Louisiana Administrative Code* is "LAC." Thus, "LAC 35:XI.315" refers to Section 315 of Part XI of Title 35 of the *Louisiana Administrative Code*.

§105. Arrangement of the Louisiana Administrative Code

The *Louisiana Administrative Code* is arranged as follows:

A. The *Louisiana Administrative Code* is divided into Titles which are subdivided as follows:

- 1. Parts, identified by Roman numerals, with a new sequence of numerals beginning in each Title;
- 2. Subparts, identified by Arabic numerals, with a new sequence of numerals beginning in each Part;
- 3. Chapters, identified by Arabic numerals, with a new sequence of numerals beginning in each Part;
- 4. Subchapters, identified by capital letters, with a new sequence of the alphabet beginning in each Chapter;
- 5. Sections, identified by Arabic numerals, with a new sequence of numerals beginning in each Title.

B. The Sections of the *Louisiana Administrative Code* are subdivided into the following parts:

- 1. Subsections, identified by capital letters, with a new sequence of the alphabet beginning in each Section;
- 2. Paragraphs, identified by Arabic numerals, with a new sequence of numerals beginning in each Subsection;
- 3. Subparagraphs, identified by lowercase letters, with a new sequence of the alphabet beginning in each Paragraph;
- 4. Clauses, identified by lowercase Roman numerals, with a new sequence of numerals beginning in each Subparagraph.

* * *

Mai Abington
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC Rules on Rules**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
None.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
None.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
None.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
None.

Mai Abington
Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Governor's Special Commission on Education Services**

Application Procedure for Governor's Scholars' Program

Each recipient must file for funds with the Director/Scholarship Division, Governor's Special Commission on Education Services. Application must be complete and on file in the Scholarship Division Office by March 1.

Please read the guidelines governing the payment of funds and pertaining to retaining the scholarship. Should your status as a recipient be in doubt, you should contact the Director/Scholarship Division, Governor's Special Commission on Education Services, immediately.

- 1. Complete application form.
- 2. Return the application to the Scholarship Division at the above address along with a copy of at least a seven-semester high school transcript, a copy of ACT scores, and a statement of extra-

curricular activities (number of years as a member of each and number of years as an officer of each) with signature of principal indicating all information is correct as stated. (ALL MUST BE MAILED IN ONE ENVELOPE.) Incomplete application information will not be accepted.

3. The Scholarship Division will review the application and scholastic records.

4. The commission will determine the recipients, who will be notified by letter. Recipients for the fall semester/quarter should receive notice before registration.

5. Deadline for applying for fall semester/quarter scholarships is March 1.

6. Fall funds are sent to the university for registration; spring funds are sent to the university on receipt of grade reports and after grade reports from the previous semester/quarter have been processed.

7. The university will disburse the funds to the recipient.

8. Deadline for claiming spring funds is March 1. Any funds not claimed by these dates will be reassigned by the Scholarship Division to eligible applicants not previously funded.

Guidelines

You are advised to read carefully and retain this copy for future reference

Governor's Scholars' Program

The following requirements must be met:

1. *Resident status*—Applicant must be a resident of Louisiana for one year and a graduate of a Louisiana public or an approved private high school.

2. *University selection*—Must be a public or independent college or university in the State of Louisiana.

3. *Personal Qualifications*—Applicant must demonstrate the ability to read and understand this information; must possess an acute mind, good character, ambitious purpose, and positive qualities of leadership; must have participated in extra class activities and must have abstained from participation in activities which create behavioral incidents.

4. *Scholastic requirements*—Must have earned a 3.5 or better average based on a 4.0 scale in at least seven semesters of high school. The following grading scale is used by the commission in determining grade eligibility for high school:

94-100 = A
87- 93 = B
80- 86 = C
70- 79 = D

To retain the scholarship, a recipient must earn a 3.2 or better grade point average semester-by-semester or quarter-by-quarter. The recipient must be enrolled as a full-time student carrying AND EARNING 12 or more hours at a semester university or eight or more hours at a quarter university. PASS/FAIL, CLEP, and REMEDIAL courses do not meet this requirement and will not be considered.

5. Recipient must be enrolled in a college preparatory curriculum as defined by the Board of Regents.

6. Intent to enroll at a university other than that stated on the application must be stated in writing to the Scholarship Division by the appropriate deadline. Failure to do so will result in permanent cancellation of the scholarship.

7. Intent to TRANSFER from one university to another must be stated in writing to the Scholarship Division by the appropriate deadline. Failure to do so will result in permanent cancellation of the scholarship.

8. Only through approval by the commission may a recipient fail to enroll for or drop from a regular school session (excluding summer sessions) and maintain the scholarship. The commis-

sion must ascertain that there is justifiable reason or hardship before granting this approval.

9. The recipient may receive other financial aid provided by state funds.

10. Scholarship funds will be disbursed to a recipient over a period of time not to exceed four years unless approved by the commission.

11. In the event state-appropriated funds are insufficient for full funding of this program, the commission will determine distribution of available funds.

Mona H. Durham
Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Governor's Scholars' Program

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

\$1,000,000 for scholarships; \$9,778 for salary of one new position, \$1,320 in related benefits, \$4,200 in operating expenses, \$1,435 in acquisition/repairs.

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

This program will be funded with 8(g) interest when available; will be funded with State General Funds until 8(g) funds are available.

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

There are no estimated costs to affected persons except that individual recipients funded with the scholarships will be able to continue their higher education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no estimated effect on competition and employment.

Mona H. Durham
Director/Scholarship Division

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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) intends to amend the GOEA Policy Manual to add a new subsection to Section 800, entitled "Fiscal Requirements." The proposed effective date of this amendment is September 20, 1985.

Proposed Amendment to the
Governor's Office of Elderly Affairs Policy Manual
After Subsection VIII of Section 800, entitled "Fiscal Requirements," add:
Subsection IX—Policy on Audits

A. Purpose

These policies formalize procedures to be followed to insure that audits of recipients of GOEA funds are conducted in keeping with state and federal standards concerning the frequency, scope, composition, completeness, and accuracy of audits. The policy provides procedures to ensure that audit findings and recommendations are properly resolved and documented. The

policy also sets the standards of independence to be met by recipient auditors.

B. Scope

This policy governs audit review activities of the GOEA; those organizations operating under a parish voluntary council on aging (PVCOA) charter approved by the GOEA director and issued by the secretary of state; the Area Agencies on Aging (AAA) designated pursuant to the approved State Plan; all other recipients of GOEA funds; and sub-recipients of the above mentioned recipients. The policy is intended to satisfy audit requirements under state and federal law by implementing the requirements of the Federal Single Audit Act of 1984, and all regulations issued pursuant to the above law. Nothing in this policy is intended to contradict, alter, limit, or extend the provisions of the above law, and any such policy statements which may have been inadvertently included here are superseded by the above mentioned law. Issues arising from such statements shall be resolved in accordance with the provisions of the Single Audit Act of 1984, which are included as an integral part of this policy.

C. Policy

1. Report frequency, initiation, and clearance

Audits of recipients of GOEA funds and of their sub-recipients are to be conducted on an annual basis, and the report must be issued within 150 days of the close of the state fiscal year, or of the fiscal year of the recipient or sub-recipient if different from the state fiscal year. Any individual or firm engaged to conduct an audit of GOEA recipients or sub-recipients must meet the current independence criteria of the U.S. General Accounting Office in that agency's published standards for the audit of government programs, and must have the engagement approved by GOEA and the legislative auditor of the State of Louisiana. The letter of engagement must specifically mention the Single Audit Act of 1984 and this section of the GOEA Policy Manual.

2. Report Content

Audit reports will be prepared in accordance with the standards outlined in the Single Audit Act of 1984 and contain the comments and schedules required in the act and Section 800-VI of the GOEA Policy Manual. Reports failing to meet these requirements will not be accepted.

3. Distribution of Reports

a. Recipients of GOEA funds are to ensure that their auditor will supply a bound copy of the audit report to GOEA and their federal cognizant agency, if any, within five days of completion of the report. Sub-recipients of GOEA funds are to ensure that their auditor provide GOEA recipients a copy of their audit report within five days of completion of the report. GOEA recipients must supply GOEA with a copy of the audit reports of each of their sub-recipients within ten days of completion of the report. Copies of sub-recipients' reports will be for GOEA informational purposes and monitoring purposes only. The five and ten day deadlines contained in this part are subject to the 150 day requirement of Part 1 of this Section. Auditors of recipients and sub-recipients must provide copies of the audit report to the legislative auditor as required by that office.

b. Audit reports are public information, but will not generally be released or distributed unless a specific request is made for them. In some situations, information in audit work papers cannot be released pending the resolution of audit recommendations. In a few rare instances, information contained in audit work papers may be held in confidence in order to appropriately safeguard the trust and confidence of persons supplying audit information.

4. Resolution of Audit Findings

a. Clearance of audit reports and resolution of audit findings concerning area agencies will be the responsibility of GOEA.

Clearance of audit reports and recommendations of area agency sub-recipients will be the responsibility of the area agency concerned, relative to the funds contained in sub-contracts. Clearance of audit reports for funds disbursed directly to a PVCOA by GOEA, such as funds appropriated under R.S. 1606, are the responsibility of GOEA.

b. Upon the receipt of an audit report of a recipient, GOEA will inform the recipient, in writing, of the findings of the report, the recommendations on the methods to resolve audit findings, and a deadline for taking corrective action. Within the set deadline the recipient must reply in writing to GOEA as to what corrective action has been taken, and must at this time state its disagreement to any audit finding. The response will cover each pertinent fact presented in the audit report with which it disagrees, will specifically state the reason for disagreement, and will include adequate support. Unless disagreement exists as to the amount, the recipient will remit any funds due GOEA, according to the audit report, with its response. If a portion of the amount is in disagreement, any portion not in disagreement must be remitted at the time of the response.

c. If the audit report has no recommendations or findings GOEA will so inform the recipient and close the audit. The recipient does not have to respond to this letter of closing.

5. Review of the Responses

a. GOEA will review the responses of recipients to the audit findings and recommendations to ensure that:

i) appropriate verification is included that specific corrective action has been taken or that proposed actions are sufficient to effect resolution of audit recommendations, and to preclude recurrence of problem areas or deficiencies, or

ii) where corrective action was not taken, or is not contemplated, even though an audit recommendation for corrective action was made, the justification for this inaction is fully satisfactory.

b. GOEA will decide at this time whether or not an on-site visit is required, and if required, will so inform the recipient concerned of the purpose and time of the visit. This process of visits and/or written communication will continue until all audit issues are resolved. GOEA reserves the right to consult directly with auditors to resolve questions concerning whether the responses adequately resolve audit recommendations. Recipients reserve this right in regard to the audit reports of their sub-recipients.

c. Recipients will follow the review procedures and standards outlined in this part in reviewing audit reports of their sub-recipients.

6. Procedures for Monitoring Compliance with Audit Recommendations

a. GOEA will maintain a suspense file for all audit reports which include monetary exceptions or compliance recommendations. GOEA will regularly review the suspense file to determine the status of unfulfilled recommendations. Upon fulfillment of the recommendations, the audit reports will be transferred to the regular permanent audit files.

b. In those cases in which GOEA determines that the recipient or one of its sub-recipients is not making sufficient progress on audit recommendations, GOEA will advise the recipient in writing of the need for immediate specific action. With respect to the deficiencies, if the required actions are not fully initiated within 30 days of the issuance of these instructions, appropriate action will be taken to suspend funding to the recipient and/or to effect charter revocation, area agency de-designation, or other appropriate action. With respect to sub-recipients, if the required actions are not fully initiated within 30 days of the issuance of these instructions, the recipient will take appropriate action to terminate the GOEA funded contract concerned.

c. GOEA reserves the right to assume clearance authority

on all sub-recipient audits whose audit recommendations are not completed or otherwise resolved within six months of the issuance of the audit report.

7. Appeals of Audit Findings

Recipients may appeal audit report recommendations through the following procedural steps:

a. If additional information is available which may change the recommendation, this information should be transmitted to GOEA, which will confer with the audit firm as necessary to determine whether adjustments to the report, and its findings and recommendations, are appropriate.

b. If the actions outlined above do not resolve the audit issues to the satisfaction of the recipient involved, the recipient may initiate an appeal through the regular appeal process of GOEA.

c. Sub-recipients may follow the appeal policies of the respective recipient in the event that audit issues cannot otherwise be resolved.

d. The filing of an appeal action involving the repayment of funds by a recipient or sub-recipient as a result of an audit finding does not relieve the appealing party of the responsibility of remitting funds due in accordance with the timetable outlined above for funds not in dispute.

Sandra C. Adams
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Audit Requirements**

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

There will be no implementation costs to state or local governmental units.

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

There will be no 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 revenue impact resulting from this amendment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no effect on competition and employment.

Sandra C. Adams
Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**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) intends to amend the GOEA Policy Manual to facilitate the revised reporting being required by the GOEA and to have the contractors' financial reports match their budgets in format and content.

Section 800, entitled "Fiscal Requirements," is being revised to make the required changes in "Appendix A - Accounting Manual for Office of Elderly Affairs Contractors."

The proposed revision will affect the following sections of the Accounting Manual:

SECTION III - CHART OF ACCOUNTS

Preface

Chapter 1: Department

Chapter 2: Chart of Accounts

Chapter 3: Annotated Chart of Accounts

SECTION V - MONTHLY FINANCIAL REPORTING

Preface

Chapter 1: Instructions for Monthly Financial Reports

Chapter 2: Monthly Financial Reports

In Section III, a few department and revenue account numbers will be changed to reflect a more logical order. Departments and accounts will be added or deleted depending on the need for such classifications.

Probably the greatest improvement in Section III will be the addition of indirect cost departments for supportive services, C-1, C-2, and senior center. Use of the indirect cost departments is a practical and time-saving option; the concept is discussed in Chapter 1, Departments.

In Section V, monthly financial reports will be revised to order line item categories and departments (columns) in the same manner as the chart of accounts. This will make it easier to transfer financial data from the ledger to the financial reports. Financial reports will be coded with the department and account numbers.

In order to accurately complete the monthly financial reports, the following departments and line item categories will be required:

DEPARTMENTS	LINE ITEM CATEGORIES
200 Area Agency Administration	5100's Salaries
*210 Indirect Costs (SS)	5200's Fringe
220 Access (SS)	5300's Travel
230 Community Services (SS)	5400's Operating Services
250 In-Home Services (SS)	5500's Operating Supplies
260 In-Care Facilities (SS)	5600's Other
270 Ombudsman (SS)	5700's Capital Outlay
*310 Indirect Costs (C-1)	
320 C-1 Outreach	
330 C-1 Transportation	
340 C-1 Nutrition Service	
*410 Indirect Costs (C-2)	
420 C-2 Outreach	
430 C-2 Nutrition Service	
*510 Indirect Costs (SC)	
520 Senior Center Services	

*Indirect cost departments are optional; contractors may elect to charge indirect costs to the service departments. If contractors choose to allocate directly to service departments, they must allocate to all service categories, e.g. the indirect costs cannot be charged to access and none to the other service categories within the Supportive Services Program.

The proposed revisions are intended to improve the overall relationship between the components of the system:

1. Written cost allocation plan is developed.
2. Budget is prepared.
3. Financial records (journals and ledger) are set up and maintained using the established chart of accounts.
4. Monthly financial reports are prepared.
5. Monthly comparisons of budget to actual are performed.

All contractors must coordinate these procedures in order to operate efficiently. The Accounting Manual is designed to help in the coordination process.

The proposed effective date of this amendment of Section 800 of the GOEA Policy Manual is September 20, 1985.

Copies of the proposed revised subsections of the GOEA Policy Manual may be obtained by writing the Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374, Attention: Betty Johnson, Planning Analyst III. Written comments may be submitted to the same address.

Sandra C. Adams
Director

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
There will be no costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
There will be no revenue impact resulting from this rule change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
There will be no effect on competition and employment.

Sandra C. Adams
Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Board of Embalmers and Funeral Directors**

The Department of Health and Human Resources, Louisiana State Board of Embalmers and Funeral Directors proposes to implement the following rule amendment in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:840. This proposed amendment was inadvertently omitted from the board's notice of intent which appeared in the May 20, 1985 issue of the *Louisiana Register*. The purpose of said amendment is to allow more flexible working hours for interns.
Rule 3—Internship

Section 5. The secretary, upon notification by the applicant, will inform the licensed person responsible for the training of the intern of the rules and regulations concerning the internship and that he will be responsible to the board for the application and enforcement of these rules and regulations.

Credit for funeral director and/or embalmer internship shall not be allowed to any person while he is in military service or while enrolled as a full-time student in a mortuary college or a university (part-time students pursuing 11 hours or less are acceptable). Half of the embalmer/funeral director hours worked must be during the hours of 7 a.m. and 7 p.m. The other half may be served any hours of the day or night.

Interested persons are invited to submit written comments on the proposed amendment. Such comments should be submitted no later than the close of business on August 16, 1985 to Lloyd E. Eagan, Secretary, State Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011.

Lloyd E. Eagan
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amends Rule 3 - Internship**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
There will be no costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
Competition may increase among funeral establishments by removing attendance requirement by licensed funeral director during normal working hours.

Lloyd E. Eagan
Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Board of Practical Nurse Examiners**

Notice is hereby given that the Louisiana State Board of Practical Nurse Examiners plans to amend the administrative rules and minimum requirements relating to practical nursing education and licensure to practice in the State of Louisiana at its annual meeting, September 27, 1985.

The proposed revision includes the following:
Section III. Program Establishment

- 1-3 Staffing
 - a. Instructor—student ratio:
One instructor shall be responsible for no more than eight students in the clinical area.

Interested persons may direct inquiries to the Louisiana State Board of Practical Nurse Examiners, 4201½ Canal Street, New Orleans, LA 70119, (504) 483-4505. Written comments on the proposed revision will be received through August 31, 1985.

Terry L. DeMarcay, RN
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Practical Nursing Education and Licensure Practice**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
None.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
None.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
This should produce a more competent, efficient practical nurse to enter the health care field.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Depending on numbers of enrollment this change could necessitate additional faculty for larger practical nursing programs—at least part time.

Terry L. DeMarcay
Executive Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, proposes to implement the following rule in the Aid to Families with Dependent Children (AFDC) Program.

Proposed Rule

The Office of Family Security proposes to require an official reapplication for AFDC benefits and to prorate benefits from the date of application following a period of AFDC grant discontinuance.

Federal Regulation 45CFR206.10(b) (2) requires that the application be in writing and 45CFR206.10(a) (6) (i) (D) requires that the state prorate the payment for the month of application. Federal Regulation 45CFR233.34(d) provides the criteria for when a state may suspend rather than terminate assistance and grant discontinuance situations are equated with termination of AFDC assistance.

This rule will reconcile state AFDC policy with federal regulations to assure that recipients whose AFDC benefits are discontinued due to receipt of or increases in earnings or child support payments or loss of the earned income exemption shall, upon subsequent loss of or reduction in earnings or child support payments, be required to reapply for AFDC benefits and have benefits prorated from the date of application.

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Box 44065, Baton Rouge, LA 70804. Mrs. Stewart is the person responsible for responding to inquiries regarding this proposed rule. A copy of the proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on the proposed rule will be held on August 6, 1985, in the Louisiana State Library Auditorium, 760 Riverside North, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

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

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

Rule Title: AFDC Grant Discontinuances

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

State funds saved in AFDC grants are estimated to total \$8,991 in 1985-86, \$12,943 in 1986-87 and \$13,955 in 1987-88. Administrative costs will be minimal since these were recently active cases.

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

Federal matching funds for the AFDC payments will be

reduced by \$15,858 in FY 86; \$22,821 in FY 87; and \$24,606 in FY 88.

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

Some AFDC Families will receive reduced benefits upon reapplication. The proration of first month's benefits will affect approximately 391 cases in FY 86; 422 in FY 87; and 455 in FY 88. Their first month's benefits are projected to be reduced an average of \$84.75.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

None.

Marjorie T. Stewart
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Family Security**

Department of Health and Human Resources, Office of Family Security, proposes to adopt the following rule in the Food Stamp Program as provided for in Federal Regulation 7 CFR 273.9 (d) (6).

Proposed Rule

Effective October 1, 1985, and each October 1, thereafter the annualized standard utility allowance in the Food Stamp Program shall be adjusted to reflect changes in the cost of utilities.

The Office of Family Security will conduct an annual statewide survey of utility companies to determine the average monthly cost of utilities. This methodology is subject to approval by the United States Department of Agriculture Food and Nutrition Service. The standard allowance developed shall also be submitted to USDA FNS for approval.

Interested persons may submit written comments at the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. Ms. Stewart is the person responsible for responding to inquiries regarding this proposed rule. A copy of this proposed rule and its fiscal and economic impact statement is available for review in each parish in the local Office of Family Security.

A public hearing on the proposed rule will be held Aug. 6, 1985, in the Louisiana State Library Auditorium, 760 Riverside North, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views and arguments, orally or in writing, at said hearing.

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

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

Rule Title: Food Stamp Standard Utility Allowance

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

The cost is \$50 (\$25 federal, \$25 state) in FY 84-85, 85-86, and 86-87. Any increase in food stamp benefits to recipients is 100% federally funded.

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)

Food stamp recipients' allotment could change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no effect on competition and employment.

Marjorie T. Stewart
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to implement the following amendment in the State Plan for the Low Income Home Energy Assistance Program.

Proposed Rule

The Low Income Home Energy Assistance Program State Plan, Attachment A and Attachment B will be amended to read as follows:

Attachment A:

The Income limits column shall read:

One Person

0-171

172-285

286-346

Attachment B:

Income Limits—For a one person household, total monthly income not over \$346.

The emergency rule is simultaneously published in this issue of the *Louisiana Register* and is adopted on August 1, 1985 to permit the agency to make an energy payment to approximately 14,500 SSI single person households who would not otherwise be eligible for the August, 1985 issuance.

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. Ms. Stewart is the person responsible for responding to inquiries regarding this proposed rule. A copy of the proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on the proposed rule will be held on August 6, 1985 in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments orally or in writing at said hearing.

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

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Low Income Energy Assistance Plan

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

The LIHEAP is 100% federally funded by block grant with adm. costs limited to 10% of that grant. Implementation of this rule will reduce adm. costs while providing assistance to more needy Louisianians.

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

\$335,353 is available in federal funding for this purpose.

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

Grants totalling \$623,500 would be available to the ill, disabled and handicapped which this group would not receive at the Energy Program current eligibility level.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

None

Marjorie T. Stewart
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to implement the following rule in the Medical Assistance Program.

Proposed Rule

Effective September 20, 1985, the Office of Family Security shall amend Attachment 2.2-A of the Title 19 State Plan to include as covered individuals those who are receiving Old-Age, Survivors and Disability Insurance (OASDI) benefits and who were receiving Supplemental Security Income (SSI)/State Supplementation Payment (SSP) concurrently for any month after April, 1977, and who would again be SSI eligible were it not for OASDI cost-of-living increases (paid under Section 215(i) of the Social Security Act) received since SSI benefits were terminated. All other sections of the State Plan that may be affected by this change are also being amended.

Implementation is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title 19 policy changes. If disapproved by HCFA, the policy prior to this proposed amendment remains in effect.

Emergency rulemaking has been invoked to implement this policy effective June 10, 1985. The emergency rule is being published simultaneously with this notice of intent. This action was necessary to adopt this as an emergency rule to comply with a federal court order to revise eligibility requirements for extended Medicaid.

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. She is the person responsible for responding to inquiries regarding this proposed rule. A copy of the proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on the proposed rule will be held on August 6, 1985, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

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

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Lynch vs. Rank

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

The following cost estimates were made by the Office of Family Security and are based on a list supplied by the So-

cial Security Administration of 13,204 individuals who are considered to be potentially eligible for extended Medicaid benefits. OFS has assumed that 50 percent of those individuals would actually qualify for benefits. Estimates do not include the cost of long-term care because it is assumed that the service would be available to persons whether or not the proposed rule is adopted.

	FY 85-86 (9 mos.)	FY 86-87	FY 87-88
State	\$1,976,426.00	\$2,974,308.00	\$3,278,013.00
Federal	3,509,076.00	5,244,283.00	5,779,775.00
TOTAL	\$5,485,502.00	\$8,218,591.00	\$9,057,788.00

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

Federal revenues will be increased by \$3,509,076 in FY 85-86 (FFP = 63.97%); \$5,244,283 in FY 86-87 (FFP = 63.81%); and \$5,779,775 in FY 87-88 (FFP = 63.81%).

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

An estimated 6,600 persons will now be Medicaid eligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

We do not anticipate any effect on competition and employment.

Marjorie T. Stewart
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, proposes to implement the following rule in the Medical Assistance Program.

Proposed Rule

Effective October 1, 1985, revised standards for payment for Intermediate Care Facility I and II services and Skilled Nursing Facility services will be adopted.

Standards for payment will include thirteen sections. Section I covers standards for facility participation. This section includes the scope of the standards, enrollment of facilities in the medical program, facility decertification, ownership, and provider agreements.

Section II covers administration and staffing standards. This section includes specific staffing requirements and qualifications for facility administrators, assistant administrators, medical directors, nursing services directors, charge nurses, supervisors of health services, nursing staff, resident services directors, social services personnel, activities coordinators, dietary supervisors and consultants, pharmacists or pharmaceutical consultants, and records consultants.

Section III covers payment limitations and standards for income consideration in determining payments.

Section IV covers cost reports. This includes submittal of cost reports, allowable costs, costs not allowable and general instructions for completing cost reports.

Section V covers the overall plan of care and includes the basis for the overall plan of care, the written plan of care, the contents of the plan of care, and participating staff involvement and responsibilities in the plan of care.

Section VI covers applicant/recipient services including physician services, medication services, nursing care services, services and supplies included and excluded in the facility's vendor

payments, dental services, social services, activities programs, rehabilitative services and ancillary services.

Section VII covers recipient records. This includes general requirements, medical records, applicant/recipient personal property records and financial records.

Section VIII covers facility records including provider agreements, daily census records, employee records, accounting records, fiscal and accounting procedures, supporting fiscal documents and medical records.

Section IX covers applicant/recipient rights including general requirements, notification of rights and the bill of rights.

Section X covers general requirements for written policies and procedures concerning transfer and discharge agreements, use of restraints, applicant/recipient complaints, emergencies and notification of changes in the status of applicants/recipients.

Section XI includes audits, admission review, inspections of care (Professional Medical Review (PMR) and Independent Professional Reviews (IPR), and utilization review.

Section XII covers appeals procedure including scope, informal reconsiderations, evidentiary hearings and optional skilled nursing facility appeal procedure.

Section XIII covers sanctions including special staffing requirements, withholding of vendor payments and civil fines.

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

Emergency rulemaking has been invoked to implement this policy effective July 1, 1985. The emergency rule will be published simultaneously with this notice of intent. This action is necessary to comply with Senate Concurrent Resolution 141 of the 1984 Regular Session of the Louisiana Legislature.

Interested persons may submit written comments to the following address:

Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. Ms. Stewart is the person responsible for responding to inquiries regarding this proposed rule. A copy of the proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on the proposed rule will be held on August 6, 1985, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, Louisiana beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

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

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

**Rule Title: Standards for Payment: ICF-I, ICF-II
and SNF Services**

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

Implementation costs of this proposed rule are \$3,198 in 1985-86 for printing of 1,650 copies of the standards for payment. This amount includes \$1,599 in state funds.

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

Federal Title XIX matching funds are available at the rate of 50% of expenditures for administrative costs. An additional \$1,599 in federal funds would be generated in 1985-86.

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

No costs and/or economic benefits are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No effect on competition and employment is anticipated.

Marjorie T. Stewart
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Hospitals**

Effective October 1, 1985, the Department of Health and Human Resources, Office of Hospitals, Emergency Medical Services proposes to promulgate the schedule for reimbursements for courses in the Emergency Medical Services Program provided through contract. This schedule of reimbursements is being promulgated under the authority granted to the secretary by R.S. 40:1231 and is required to disburse federal block grant funds.

General Conditions of Reimbursements

1. Contractors will receive reimbursement for only those services for which the contractor incurs cost. Contractor must insure medical supervision for all training programs except the refresher training activities. Medical supervision may be accomplished through gratis or a contractual agreement.

2. The course reimbursement rate is based upon utilization of the full complement of faculty as outlined in the Office of Hospitals, Emergency Medical Services Manual, and the Advanced EMT-Training Manual. Funds not claimed through the reimbursement request process shall remain with the Office of Hospitals, Emergency Medical Services.

3. The Office of Hospitals, Emergency Medical Services, shall determine if it is in the best interest of all parties involved to pay contractees during the progress of the course; payment not to exceed 25 percent of total contract, and not to be made before that segment for which payment is being made has been completed. Also the Office of Hospitals, Emergency Medical Services, may determine whether any staff member who cannot attend 100 percent of the required hours may be reimbursed based on the number of hours of actual instruction.

Specific Reimbursement Rates and Qualifications

1. EMT-Basic

A. Required Staff and Fees

Instructor-Coordinator - \$1500
Medical Director - \$ 200
Instructor-Assistant - \$ 750

B. Staff Qualifications

Medical Director - M.D., preferably ACEP certified
Instructor-Coordinator - M.D., R.N., or EMT-Paramedic or EMT-Intermediate; Certified Instructor by OH-EMS*
Instructor-Assistant - EMT-P, I, or A, Certified Instructor by OH-EMS*

2. EMT-Basic Refresher

A. Required Staff and Fees

Instructor-Coordinator - \$300
Instructor-Assistant - \$200

B. Staff Qualifications

Instructor-Coordinator - EMT-A, I, or P, R.N., M.D., Certified Instructor by OH-EMS*
Instructor-Assistant - EMT-A, I, or P, Certified Instructor by OH-EMS*

3. EMT-Intermediate

A. Required Staff and Fees

Medical Director - \$ 300
Instructor-Coordinator - \$2500
Instructor-Assistant - \$2000
Clinical Instructor - Voluntary
Field Internship Preceptors - Voluntary

B. Staff Qualifications

Medical Director - M.D., Certified Advanced Instructor by OH-EMS*

Instructor-Coordinator

- M.D., R.N., Certified Advanced Instructor by OH-EMS*

Instructor-Assistant

- M.D., R.N., EMT-P; Certified Advanced Instructor by OH-EMS*

Clinical Instructor/Preceptors

- M.D., R.N.

Field Internship Preceptors

- R.N., EMT-P

4. EMT-Intermediate Only Refresher (12 Hours)

A. Required Staff and Fees

Instructor-Coordinator - \$200
Instructor-Assistant - \$125

B. Staff Qualifications

Instructor-Coordinator - M.D., R.N., or EMT-P
Instructor-Assistant - R.N., EMT-P, or EMT-I

5. EMT-Paramedic

A. Required Staff and Fees

Medical Director - \$ 1,500
Instructor-Coordinator - \$10,000
Instructor - \$ 6,500
Instructor-Assistant - \$ 3,000 (To be paid to assistants at the following rates)

M.D. - \$30/hr
R.N. - \$20/hr
EMT-P - \$15/hr
-NOTE- - Assistant Instructors may not be staff otherwise contracted for this course

Clinical Instructors/Preceptors

- Voluntary

Field Internship/Preceptors

- Voluntary

B. Staff Qualifications

Medical Director - M.D., Advanced Instructor OH-EMS*

Instructor-Coordinator

- M.D., R.N., Advanced Instructor OH-EMS*

Instructor

- R.N., Advanced Instructor OH-EMS*

Instructor-Assistant

- M.D., R.N., or EMT-P; Advanced Instructor OH-EMS preferably

6. Workshop/Seminar

A. Fees

M.D. - \$40/hr
R.N. - \$25/hr
EMT-P - \$15/hr
EMT-I - \$12.50/hr
EMT-Basic - \$10/hr
Attorney - \$40/hr

- Public Safety Other - \$15/hr
- B. Staff Qualifications
 - Appropriate professional credentials
 - 7. Practical Examination
 - A. Required Staff and Fees
 - Practical Stations Evaluator - \$100
 - Make-up or Clerical Assistant - \$ 50
 - B. Staff Qualifications
 - Practical Stations Evaluator - Must be certified at skill level for which he is administering examination

*Based on the need for the course, instructor's certification by this office may be waived for the first course taught by any individual. Any subsequent courses would require instructor certification by this office.

Interested persons may submit written comments on the proposed rule within 15 days of the date of publication at the following address: John W. King, Assistant Secretary, Office of Hospitals, Department of Health and Human Resources, 200 Lafayette Street, Baton Rouge, LA 70801.

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Contract Reimbursement Schedule
For EMS Training**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
 - There will be no set implementation costs or savings to state or local governmental units as a result of the adoption of this rule, as funds expended will be recovered through the federal block grant.
 - 1985-86 \$175,371.00
 - 1986-87 \$233,828.00
 - 1987-88 \$233,828.00
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
 - 1985-86 \$175,371.00 In federal funds
 - 1986-87 \$233,828.00 In federal funds
 - 1987-88 \$233,828.00 In federal funds
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
 - There should be no net cost or financial benefits to the contractors affected by this proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
 - Since the demand for emergency medical technician training greatly exceeds the present training capable, there should be no effect on competition.

John King Mark C. Drennen
Assistant Secretary Legislative Fiscal Officer

NOTICE OF INTENT

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

In accordance with the laws of the State of Louisiana, R.S. 40:4, and the provisions of Chapter 13 of the State Sanitary Code, the State Health Officer has determined that the following amendments of the listing entitled "Individual Mechanical Wastewater Treatment Plants-Acceptable Units" are adopted:

1) Amend the listing to include two additional units, specified as follows:

Manufacturer	Plant Designation	Rated Capacity
Mo-Dad, Inc. Box 822	Mo-Dad-1-1000	1000GPD
Denham Springs, LA 70726	Mo-Dad-1-1500	1500GPD

The specified changes are in compliance with the requirements set forth in Section 6.6 of Appendix A of Chapter 13 of the State Sanitary Code.

Comments regarding the proposed rule should be addressed to: Daneta Daniel Bardsley, Ed.D., Assistant Secretary, Office of Preventive and Public Health Services, Department of Health and Human Resources, Box 60630, New Orleans, LA 70160. A public review hearing will be held on August 5, 1985 at 10:00 a.m. at 325 Loyola Avenue, Room 511, New Orleans, to hear comments on the rule.

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Individual Mechanical Sewage
Treatment Plants-Acceptable Units**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
 - There are no implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
 - There is no affect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
 - The consumer will be afforded a wider selection of products, thus enhancing competition, possibly resulting in reduced cost to the consumer.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
 - Competition will be stimulated by the presence of the new products. Effect on employment cannot be estimated.

Daneta Daniel Bardsley Mark C. Drennen
Assistant Secretary Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Preventive and Public Health Services proposes to adopt on September 20, 1985 the following changes to the rule published in the *State Register*, Volume 10 on July 20, 1984. These changes are in accordance with 7 CFR Part 246. These revisions are necessary to implement mandated federal regulations and to clarify existing rules.

Amendments To The General Rule

- 1. In Section II.A.2 before "food package" add "average" and after "package" add "cost, at or." Delete the "the" after "below." After "below" add "110 percent of the monthly." After "median" delete "price" and add "average food package cost." After the last sentence add "Vendors will be given one opportunity to lower food costs within 15 days of notification during the

application process in order to meet program guidelines. To maintain authorization vendors may not exceed parish monthly median by more than 120 percent. Failure to lower costs within 15 days of notice of excessive prices will terminate the agreement. Vendors shall provide the food package at the current price or at less than the current price charged to other customers.”.

2. In Section III.D.1. add after first sentence “Agreement is null and void if ownership changes.”. Delete the last sentence. Add “Fifteen day notice will be given prior to the expiration of agreements. Expiration of agreements are not subject to appeal. Vendors may reapply six months after expiration of agreement.”.

3. In Section III.F. After “Agreement” add “upon 15 days from receipt of.” Before “request” delete “upon.”

4. In Section V.B. After “Report Sheets;” add “failure to supply requested records relevant to the vendor agreement within 15 days of receipt of request;”.

5. In Section V.C. After last sentence add “Written notice of the adverse action, the cause(s) for and the effective date of the action will be provided to authorized vendors not less than 15 days in advance of the effective date of action.”.

6. In Section VI before the first sentence add “A.”.

7. In Section VI after first paragraph add

“B. Adverse action will be imposed during the appeal process but after the 15-day advance notification period unless the agency determines that participants would be unduly inconvenienced.

“C. Vendors will be given one opportunity to reschedule a hearing date upon written request.”.

Interested persons may submit comments on the proposed changes at the following address: Daneta Daniel Bardsley, Ed.D., Assistant Secretary, Office of Preventive and Public Health Services, Department of Health and Human Resources, Box 60630, New Orleans, LA 70160.

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

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Rules of Vendors Participation in the WIC Program

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

The Louisiana WIC Program is funded by the U.S. Department of Agriculture. Clarification of notification timeframes and appeal rights required by 7CFR 246 as amended on February 13, 1985. This rule will not increase costs to OPPHS. There may be some savings to the agency by a decrease in total food package costs.

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

There will be no effect on revenue collections.

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

The rule will allow the agency to contain food package costs assuring that maximum funds go to a maximum number of eligible patients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

This rule will only slightly impact the number of authorized vendors. There is no estimated impact on employment.

Daneta Daniel Bardsley, Ed.D.
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of the Secretary

The Louisiana Department of Health and Human Resources (DHHR) intends to apply for FY 1986 Low-Income Home Energy Assistance Block Grant funds in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register* Volume 47, Number 129, Tuesday, July 6, 1982, Pages 29472-29493.

Effective October 1, 1985 the Office of Human Development will assume responsibility for administration of the Low-Income Home Energy Assistance Program.

Services available under this program include:

Home Energy Assistance—vendor payments on behalf of eligible households for home energy as a source of heating or cooling of dwelling units.

Weatherization—the provisions of materials and labor for altering housing units of eligibles in accordance with U.S. Department of Energy guidelines to conserve energy and reduce energy cost.

Energy Crisis Intervention—vendor payments on behalf of eligible households for home energy as a source of heating or cooling during weather related or supply shortage emergencies as may be declared by the governor.

Eligible categories include:

1. Households in which one or more individuals, excluding foster children, are receiving:

a. Title XIX (Medicaid)—This group includes AFDC (Aid to Families with Dependent Children) and SSI (Supplemental Security Income) recipients;

b. food stamps; or

c. veterans' and survivors' pensions.

2. Households with gross incomes which do not exceed 110 percent of the poverty level, as published by the U.S. Department of Health and Human Services in the *Federal Register*, Volume 50, Number 46, dated Friday, March 8, 1985. The published poverty income guideline for all states except Alaska and Hawaii and the District of Columbia is an annual gross income of \$10,650 for a family of four. A family of four with a gross income of not more than \$976 is eligible for services.

The proposed LIHEAP State Plan is available for public review at each OHD parish office Monday through Friday from 8:30 a.m. to 4 p.m.

Interested persons may submit written comments on the proposed plan from July 20, 1985 through August 12, 1985 to: Melvin Meyers, Jr., Assistant Secretary, Office of Human Development, Box 44367, Baton Rouge, LA 70804.

Public Hearings on the proposed plan are scheduled as follows:

1 p.m. Monday, August 5, 1985 - Room 209 State Office Building
900 Murray Street
Alexandria, LA

1 p.m. Tuesday, August 6, 1985 - Third Floor Conference Room
1755 Florida Street
Baton Rouge, LA

At the public hearings all interested persons will have the opportunity to provide recommendations on the proposed block grant applications, orally or in writing. Written comments will be accepted through August 12, 1985.

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

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

Rule Title: LIHEAP Block Grant Plan

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

Implementation cost of this plan is \$15,923,025 FY 1986 federal funds from an anticipated allotment of \$20,582,947 reduced by \$38,346 or .1836 percent, direct federal grant to the Houmas Indian Tribe and \$4,621,576 to be budgeted 7/1/86-9/30/86. Of the total estimated cost the amount of \$2,058,295 (10 percent of total allotment) will be transferred to the Social Services Block Grant and \$13,864,730 will be available for energy assistance (84 percent), weatherization (15 percent), and energy crisis intervention (one percent). Administrative costs will be limited to \$1,386,473 which is 10 percent of total cost of these three services.

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

For the period 10/1/85-6/30/86 a total of \$15,923,025 in LIHEAP Block Grant funds will be available to the state.

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

It is anticipated that purchase of service contracted funds will offset the cost of service delivery to designated local community action agencies with whom OHD proposes to contract for delivery of energy assistance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Only minimum effect is anticipated on competition and employment as all but the largest community action agencies state they can implement the proposed contracts with existing staff.

Melvin Meyers, Jr.
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Radiologic Technology Board of Examiners**

The Louisiana State Radiologic Technology Board of Examiners advertises its intent to adopt rules and regulations pursuant to Chapter 45, Title 37:3200-3219.

Proposed Rule

1.01 Implementation of the Medical Radiation Health and Safety Act.

1. The Louisiana Medical Radiation Health and Safety Act, R.S. 37:3200 through R.S. 37:3219 provides that, in order to safeguard life and health by preventing excessive and improper exposure to ionizing radiation, any person practicing or offering to practice as a radiologic technologist in this state shall submit evidence that (s)he is qualified to do so and shall be allowed to practice as a radiologic technologist. The act creates a board of examiners with regulatory authority, dictates the board's composition and qualifications, methods of appointment of office of the board members. The duties of the board are specified in the act and these duties provide for the implementation of the Medical Radiation Health and Safety Act through the adoption of rules and regulations.

2. All persons in hospitals using radioactive materials or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes shall be responsible for compliance in accordance with the provisions of this Chapter and the provisions of these rules and regulations.

1.02 Officers of the Board

The officers of the board shall consist of a chairman, first vice-chairman, second vice-chairman and secretary-treasurer.

1. The officers of the board shall be elected at each annual meeting by a majority vote of those board members present. The elected officers shall assume office when the new business is begun at this meeting.

2. The duties of the officers shall be as follows:

a. The chairman shall act as the chairman of the board and shall preside at all meetings of the board. The chairman shall not make any motions and shall vote only when necessary to break a tie vote. The chairman shall exercise general supervision of the affairs of the board and shall have the usual powers of such office and any other powers and duties as the board may direct. The chairman shall, with the secretary-treasurer, sign all original licenses issued by the board.

b. The first vice-chairman shall perform the duties of the office of the chairman in the absence of the chairman.

c. The second vice-chairman shall perform the duties of the office of the chairman in the absence of the chairman and the first vice-chairman.

d. The secretary-treasurer shall give notice of all meetings of the board. The secretary-treasurer shall attend all meetings of the board and shall record all votes and the minutes of all proceedings in a book to be kept for that purpose. The secretary-treasurer shall exercise supervision of all monies received by the board, including application fees, license fees, renewal fees, fines, penalties, and other payments. The secretary-treasurer shall be responsible for the preparation of an annual budget of the board, which budget shall be subject to the approval of the board. The secretary-treasurer shall, with the chairman, sign all original licenses issued by the board. The secretary-treasurer shall perform such other duties as may be prescribed by the board under whose supervision (s)he shall be.

1.03 Official Office of the Board

The domicile of the board shall be Baton Rouge.

1.04 Meetings of the Board

1. As required by R.S. 37:3205(B), the board shall meet in Baton Rouge, LA at least every three months and at such other times as may be necessary. The quarterly meetings of the board shall be held in January, April, July and October. The annual meeting shall be in July.

2. The chairman of the board shall have the authority to call other meetings of the board to carry out the business of the board, provided that written notice of such meetings be mailed to the last known address of all members of the board at least 15 days before such meeting.

3. A majority of the board constitutes a quorum. No action may be taken by the board except by affirmative vote of the majority of the members present and voting. All votes shall be *viva voce* and shall be recorded in the minutes. No proxies shall be allowed.

4. At all regular quarterly meetings the chairman and the secretary-treasurer shall each submit a report to the board.

5. The fiscal year of the board shall run concurrent with that of the State of Louisiana.

1.05 Powers and Duties of the Board

R.S. 37:3207 provides that:

A. The board shall:

1. Formulate rules to govern its actions.

2. Examine, license, and renew licenses of duly qualified applicants for licensure as radiologic technologists.

3. Promulgate pursuant to the Administrative Procedure Act minimum standards for the accreditation of educational pro-

grams to train individuals to perform radiologic procedures in the state.

4. Conduct hearings upon charges calling for discipline of a licensee.

5. Keep a record of all board proceedings.

6. Adopt and revise rules and regulations pursuant to the Administrative Procedure Act necessary to enable the board to administer the provisions of the Chapter.

7. Have all other powers necessary and proper to the performance of its duties.

B. The board may:

1. Establish pursuant to the Administrative Procedure Act a code of ethics for radiologic technologists.

2. Establish pursuant to the Administrative Procedure Act continuing education requirements for license renewal.

3. Employ legal counsel to represent the board in all matters pertaining to the administration of the Chapter and fix the compensation and define the duties of such counsel.

2.01 Adoption of Rules and Regulations

R.S. 37:3207 et seq. provides that the board shall adopt and revise rules and regulations necessary to enable the board to carry into effect the provisions of this Part. In promulgating rules, the board is exercising powers that have been delegated by the Louisiana Legislature.

1. Definitions of rules and regulations: Statements, guides or requirements of conduct or action that are of general applicability. Rules and regulations of the board implement or interpret the act or describe the organization, procedure or practice of the board.

2. All rules and regulations of the board shall be adopted, revised or repealed in accordance with the Administrative Procedure Act, R.S. 49:950-970.

a. Except in emergency situations, the board shall give at least 15 days notice of its intent to adopt, revise, or repeal rules and regulations. The notice shall be in accordance with statutory requirements and shall be published in the *Louisiana Register*.

b. After adoption, and as soon as possible, the official text of rules and regulations shall be submitted for publication in the *Louisiana Register*. The rules and regulations become effective on the date of their publication, unless otherwise specified.

c. Any interested person may petition the board, requesting the promulgation, revision or repeal of rules and regulations which would affect that person. The petition shall:

1. be submitted in writing,

2. state the name and address of the petitioner,

3. include an exact statement of the changes sought and the effect of the proposed change on existing practice,

4. include data, opinions or arguments in support of request.

The board shall act on the petition within 90 days after receiving said petition. The board shall either deny the petition, stating reasons therefor, or shall initiate rule-making proceedings in accordance with its procedure for same.

2.02 Declaratory Statements of the Board

The board may issue a declaratory statement in response to a request for clarification of the effect of rules and regulations of R.S. 37:3200 et seq.

1. A request for a declaratory statement is made in the form of a petition to the board. The petition shall include at least:

a. the name and address of the petitioner;

b. specific reference to the statute or rules and regulations to which the petition relates;

c. a concise statement of the manner in which the petitioner is aggrieved by the rule or statute or by its potential application to her/him, or in which (s)he is uncertain of its effect;

d. a statement of whether an oral hearing is desired.

2. Said petition shall be considered by the board at its next regularly scheduled meeting provided that the petition has been filed at least 21 days prior to said meeting.

3. The declaratory statement of the board on said petition shall be in writing and mailed to petitioner at the last address furnished to the board.

3.01 Disciplinary Proceedings Before the Board

The board has the responsibility to consider and determine the action necessary upon all charges of conduct which fail to conform to R.S. 37:3200 et seq., or to the rules and regulations promulgated to carry out the provisions of this Part.

A. Grounds for disciplinary proceedings against a licensed radiologic technologist as specified in R.S. 37:3219 are:

1. Is guilty of fraud or deceit in the procurement or holding of the license.

2. Has been convicted of a felony in a court of competent jurisdiction, either within or outside of this state, unless the conviction has been reversed and the holder of the license discharged and acquitted; or if the holder has been pardoned with full restoration of civil rights, in which case the license shall be restored.

3. Is or has been afflicted with any medical problem, disability, or addiction which, in the opinion of the board, would impair professional competence.

4. Has aided and abetted a person who is not a licensed radiologic technologist or otherwise authorized by this Chapter to perform the duties of a license holder.

5. Has undertaken or engaged in any practice beyond the scope of duties permitted a license holder under this Chapter.

6. Has been found guilty of violations of a code of ethics which the board may establish by regulation.

7. Has interpreted a diagnostic image for a licensed practitioner, a patient, the patient's family, or the public.

8. Is or has been found guilty of incompetence or negligence in his performance as a license holder.

9. Has applied radiation to humans without a prescription from a licensed practitioner as defined in this Chapter.

10. Has applied radiation to humans without the direction and supervision of a licensed practitioner as defined in this Chapter.

3.02 Procedures for Processing Complaints and Inquiries

A. Upon receipt of complaints or inquiries, the board will forward its complaint form, which must be satisfactorily completed before the board takes further immediate action.

1. A complaint may be initiated by any person, corporation, association, public officer or by the board on its own initiative.

2. Anonymous letters of complaint against individuals shall not be recognized as a basis for formal action.

3. If a complaint form is not filed with the board, no further action is taken unless sufficient information can be clearly determined from written material received by the board.

4. If the information is insufficient, the board may request further information by either written correspondence or an informal hearing.

B. All complaints received shall be assigned a sequentially ordered complaint code number which shall be utilized in all official references.

C. At its next regularly scheduled meeting, the board shall officially receive and act upon all complaints and inquiries received.

D. The board shall take one of the following actions on a complaint:

1. no action;

2. informal inquiry/hearing;

3. formal hearing.

3.03 Conduct of an Informal Inquiry/Hearing. This is a nonadversarial procedure.

A. Informal Inquiry Procedures

If the board determines the complaint warrants further investigation:

1. The file shall be assigned by the board to a member of the staff who conducts an investigation.

2. The licensee shall be given adequate prior notice of the informal inquiry and possible hearing of the issues to be discussed. Adequate notice includes:

a. informing the licensee in writing that a complaint has been filed,

b. a short and plain statement of the nature of the complaint,

c. a reference to the particular sections of the statutes, rules and/or ethical standards of the board which appear to have been involved,

d. copies of the law and the rules and regulations of the board, and

e. a request for the licensee's cooperation in obtaining a full understanding of the circumstances which led to the allegation.

3. The licensee shall be requested to provide, within 30 days, a written statement giving the licensee's view of the situation which is the subject of the complaint.

4. Evaluating the Findings of the Informal Inquiry

Upon receipt of a reply from the licensee, the investigator shall review the information to determine if a violation may have occurred, and if so, what standard(s) have been violated and report to the board his findings.

5. The board shall review the report of the investigator and determine

a. that the complaint has no basis in fact, so indicate in its proceedings and the complainant and licensee shall be so notified;

b. that the issues raised by the complainant could constitute a violation of standards, and then determine whether:

(1) further investigation by correspondence is indicated,

(2) further investigation by an informal hearing is indicated, or

(3) institution of formal hearing procedures is indicated.

B. Informal Hearing Procedures

The board shall conduct informal hearings in executive session in accordance with the following:

1. It is expected that the licensee not have an attorney or other advisors present, although it is his right to do so.

2. Witnesses may be called, but are not placed under oath and no subpoenas are issued.

3. Statements made at the informal hearing may not be introduced at a formal hearing unless all parties consent.

4. No transcript of the informal hearing is made.

C. Evaluating the Findings of the Informal Hearing

1. If the board decides that the subject of the complaint is a violation of the standards, and that disciplinary proceedings are warranted, the board shall then determine whether:

a. the violation merits informal disposition or

b. a formal hearing will be held.

2. The board, in determining for informal disposition, shall order actions such as:

a. A settlement between the person making the complaint and the licensee. This settlement shall be written, signed by the licensee and the complainant and submitted to the board within 30 days of the informal hearing.

b. A consent order describing the disciplinary action which

will be taken. A consent order shall be signed by the licensee, the chairman and the vice-chairman of the board.

D. Refusal to respond or cooperate with the board.

1. If the licensee does not respond to the original inquiry within 30 days a follow-up letter shall be sent to the licensee by registered or certified mail, return receipt requested.

2. If the licensee refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the licensee's failure to cooperate and shall inform the licensee that the lack of cooperation may result in action which could eventually lead to suspension or revocation of license, or other appropriate legal action under the law.

E. Withdrawal of Complaint

If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

F. If, at any point in the informal proceedings described above, the board finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to the effect in its order, the board is hereby given authority to obtain a restraining order from a judge of the appropriate court to suspend the license pending informal hearing proceedings for revocation of license or other disciplinary action. This formal hearing shall be promptly instituted.

3.04 Conduct of a Formal Hearing

A. Initiating the Process

1. The board initiates a formal hearing by issuing full notice of the hearing. A formal hearing may be the result of a complaint made by any manner specified in the informal procedures.

2. Once full notice of the formal hearing has been served, no board member or officially designated hearing officer may communicate with any party to a formal hearing or to that party's representative concerning any issue of fact or law involved in that formal hearing unless all parties or their representatives are present.

3. Full Notice

The written notice shall recite specific acts which the licensee is alleged to have committed and shall assert that those acts violate a statute or rule of the board.

a. The notice shall include:

(1) A statement of the date, time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes, rules or ethical standards involved.

(4) A short and plain statement of the matters asserted which shall be the subject of the hearing.

(5) A statement of the rights of the parties.

b. Notice shall be given to all parties 30 days in advance of the proceedings to allow a reasonable opportunity for preparation.

c. The notice shall be delivered by registered or certified mail, return receipt requested. If the licensee cannot be found by this or other reasonable methods, the board may hold a hearing in the licensee's absence.

d. The content of the notice limits the scope of the hearing and of the evidence which may be introduced.

e. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

4. The chairperson of the board shall appoint a hearing officer who may be a member of the board whose primary role shall be to hear evidence and arguments and make recommendations to the board.

a. Any hearing officer appointed who because of bias or interest, is unable to assure a fair hearing, shall be recused from that particular proceeding on his own motion or motion of any member of the board, or motion of any party, if the majority of the board determines the recusal is warranted.

b. At the hearing, the charges shall be prosecuted by the board's personnel who conducted the investigation, and by the board's attorney, who shall present evidence that disciplinary action should be taken against the licensee.

c. Upon motion filed before hearing served on all parties to the proceeding, the hearing officer may in his discretion permit any interested person to intervene in the proceedings if the panel determines that such person's interest would be substantially affected by the proceedings and is not adequately represented by another party to the proceedings and that intervention would not cause serious delay, disruption or otherwise burden the hearing process.

B. 1. Discovery

a. Depositions and interrogatories of witnesses may be taken and shall be admissible in the proceedings.

b. Evidence which was not made available to both parties at least five days in advance may be barred from introduction.

c. Evidence not within the scope of the notice may be excluded.

d. When the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

e. Documentary evidence in possession of the board may be received in the form of copies of excerpts, or by incorporation by reference.

f. Official notice may be taken of generally recognized technical or scientific facts. However, parties shall be afforded an opportunity to contest the material so noticed.

2. Subpoenas

The board is empowered by statute to issue subpoenas when requested in writing by any party in a contested case.

a. The board, or its designated hearing officer, may sign and issue subpoenas when requested in writing by any party to a contested case.

b. The information called for by a subpoena shall be reasonable, shall relate to the matter under consideration, and shall not be privileged.

c. If the person fails to comply with a subpoena, the board may apply to the judge of the appropriate district court for rule to show cause why the person should not be requested to comply.

3. Motions

a. A request to the board or the hearing officer by a party for a particular action should be made in the form of a motion.

b. A motion may be made before, during or after a hearing.

c. All motions must be made at an appropriate time, according to the nature of the request.

d. Motions are directed to the hearing officer who shall dispose of them appropriately.

e. Motions made before or after the hearing shall be in writing. A motion made during the course of a hearing may be made orally.

f. The hearing officer may refer a motion to the board.

C. Formal Hearing Procedures

1. Conduct of the Hearing

a. The hearing officer appointed by the chairperson, shall be present for the hearing.

b. The hearing will be conducted in accordance with the Administrative Procedure Act, La. R.S. 49:955-966.

(1) Opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(2) Objections to evidentiary offers may be made and shall be noted in the record.

c. The hearing will be open to the public.

2. Order of Proceedings

a. The hearing officer calls the session to order, identifies the case, subject of the case and cites the authority for holding the hearing.

b. The hearing officer asks the parties to identify themselves and their counsel.

c. All testimony shall be given under oath, such oath to be administered by the hearing officer.

d. Customary order of the proceedings shall be followed at the discretion of the hearing officer.

3. Evidence

a. In determining the admissibility of evidence, the hearing officer must follow the rules governing administrative hearings in Louisiana.

b. Constitutional guarantees of due process give the licensee a right to a decision based on evidence presented at the hearing. The hearing officer preparing the recommended decision shall only consider evidence presented at the hearing or officially noted in the record.

4. The records of the hearing shall include:

a. all papers filed and served in the proceedings;

b. all documents and other materials accepted as evidence at the hearing;

c. statements of matters officially noticed;

d. notices required by the statutes or rules, including notice of the hearing;

e. affidavits of service or receipts for mailing of process or other evidence of service;

f. stipulations, settlement agreements or consent orders, if any;

g. records of matters agreed upon at a prehearing conference;

h. reports filed by the hearing officer;

i. orders of the board and its final decision;

j. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

k. a transcript of the proceedings, if one has been made, or a tape or stenographic record.

The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

5. Cost for reproduction of the records of the hearing or any part thereof shall be assessed to the requesting party as prescribed by the board.

3.06 The Final Decision of the Board

1. The board must determine whether the facts in the case support the charges brought against the licensee. It must determine whether the charges are a violation of R.S. 37:3219, the ethical standards of radiologic technology or other rules and regulations of the board.

2. The board accepts a proposed order from the hearing

officer setting forth the findings of facts and conclusions of the hearing. The board may adopt such findings and conclusions in whole or in part.

3. The decision must be accompanied by a statement of the reasons for the decision and must dispose individually of each issue of fact or law necessary from the hearing officer.

4. The board's decision shall be based on the evidence and the proposed decision from the hearing officer.

5. The vote of the board must be recorded and made a part of the decision. A majority vote must be obtained in order for an ethics violation to be judged to have occurred.

6. The board may assess the licensee with the costs of the hearing.

7. The board determines the sanctions appropriate as consistent with law. The board may decide rather than to revoke or suspend a license, to censure the licensee. The vote for censure is a majority vote.

8. The final decision shall be delivered to each party by registered or certified mail, return receipt requested.

9. The final decision shall be delivered within 30 days of the close of the hearing.

10. The final decision shall become effective 11 days after the receipt of notification of all parties, provided that there is no appeal. Publication shall be withheld until that date.

3.07 Appeal of Board Decision

1. A petition by a party for reconsideration of hearing must be in writing and filed with the board within 10 days after the receipt of the board's final decision. The petition must set forth the grounds for the rehearing which must be one of the following:

a. the board's decision is clearly contrary to the law and the evidence;

b. there is newly discovered evidence, which was not available to the licensee at the time of the hearing and which may be sufficient to reverse the board's action;

c. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or

d. it would be in the public interest to further consider the issues and the evidence.

2. If a petition for reconsideration is denied, a party may proceed to seek judicial review of the decision.

3. Judicial review may be initiated by filing a petition in the appropriate district court within 30 days after mailing of notice of the final decision of the hearing or rehearing.

F. Notification of Final Actions

Upon either completion of the decision, expiration of the time for any appeal, or conclusion of appeals, the board shall notify the following of its actions.

1. All licensed radiologic technologists.

2. All affected parties, and all affected professional organizations.

4.01 Definitions

The following words and terms, when used in this rule shall have the following meanings, unless the text clearly indicates otherwise.

1. *Board* means the Radiologic Technology Board of Examiners created pursuant to R.S. 37:3200-3201.

2. *License* means a certificate issued by the board authorizing the licensee to use radioactive materials or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes in accordance with the provisions of this Chapter.

3. *Licensed practitioner* means a person licensed to practice medicine, dentistry, podiatry, chiropractic, or osteopathy in this state.

4. *Nuclear medicine technologist* means a person, other

than a licensed practitioner, who under the direction and supervision of a licensed practitioner uses radioactive materials on humans for diagnostic or therapeutic purposes upon prescription of a licensed practitioner.

5. *Radiation therapy technologist* means a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner applies radiation to humans for therapeutic purposes upon prescription of a licensed practitioner.

6. *Radiographer* means a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner applies radiation to humans for diagnostic purposes upon prescription of a licensed practitioner.

7. *Radiologic technologist* means any person who is a radiographer, a radiation therapy technologist, or a nuclear medicine technologist licensed under this Chapter who under the direction and supervision of a licensed practitioner applies radiation to humans upon prescription of a licensed practitioner.

8. *Radiologic technology* means the use of a radioactive substance or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes upon prescription of a licensed practitioner.

9. *Radiological physicist* means a person who is certified by the American Board of Radiology in radiological physics or one of the sub-specialties of radiological physics or who is eligible for such certification.

10. *Radiologist* means a physician certified by the American Board of Radiology or the American Osteopathic Board of Radiology, the British Royal College of Radiology, or certified as a radiologist by the Canadian College of Physicians and Surgeons.

11. *Ionizing radiation* means x-ray and gamma rays, alpha and beta particles, high speed electrons, neutrons and other nuclear particles.

12. *Licensed radiologic technologists, (LRT)* means any person licensed pursuant to this Chapter.

13. *Student* means any person who is enrolled in and attending a board approved educational program or college or radiologic technology who applies radiation to humans while under the supervision of a licensed practitioner or a licensed radiologic technologist.

14. *Department* means the Department of Health and Human Resources (DHHR).

15. *CAHEA* means the Committee on Allied Health Education Accreditation.

16. *JRC/ERT* means Joint Review Committee in Education for Radiologic Technology.

17. *ARRT* means the American Registry of Radiologic Technologists.

5.01 General Provisions

1. Except as hereinafter provided, no person other than a licensed practitioner or the holder of a license as defined in R.S. 37:3200 et seq. shall use radioactive materials or equipment emitting or detecting ionizing radiations on humans for diagnostic or therapeutic purposes.

2. The board shall issue a license pursuant to these rules and regulations provided the applicant for a specific license has met all the requirements as prescribed in R.S. 37:3208.

3. The license of a radiologic technologist may be suspended for a fixed period or may be revoked, or the holder of such a license may be reprimanded or otherwise disciplined in accordance with the provisions and procedures defined in R.S. 3719.

6.00 Licensure

6.01 Scope of License

1. There are three categories of licenses for radiologic technology as defined in R.S. 37:3200 by their area of specialization. The categories are radiographer, radiation therapy tech-

nologist and nuclear medicine technologist. A radiologic technologist shall be restricted to the use of ionizing radiation by the category that is defined on his license.

2. No person holding a license under these rules and regulations shall use radioactive substances or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes unless under the direction and supervision of a licensed practitioner and unless so directed by prescription of a licensed practitioner.

3. No person shall knowingly employ as a radiologic technologist any person required by the provisions of these rules and regulations to hold a license who does not hold a license under these rules and regulations.

6.02 Necessity of License

1. No person shall assume or use the title or designation "licensed radiologic technologist" unless he holds a current license in accordance with the provisions of these rules and regulations.

2. Every radiologic technologist shall have his license at work. It shall be displayed or shall be on file. The license shall be available for inspection at any time upon request by the board.

3. Students enrolled in and attending a board approved program of radiologic technology who apply ionizing radiations to humans for necessary diagnostic or therapeutic purposes while under the supervision of a licensed practitioner or a licensed radiologic technologist at the approved clinical facilities of the sponsoring institutions are exempt from the requirements of licensure by this board.

6.03 Qualifications of Applicants for Licensure

1. An applicant for licensure under the provision of this Chapter must verify by oath or affirmation that he is:

- a. At least eighteen years old.
- b. Is of good moral character.

(1) The term *good moral character* as applied to an applicant means the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstances which would provide legal cause under R.S. 37:3219.

c. Has successfully completed a four-year course of study in a secondary school (high school) approved by the State Board of Elementary and Secondary Education, passed an approved equivalency test, or has graduated from a secondary school outside Louisiana having comparable approval.

d. Has successfully completed a course of study in radiography, radiation therapy technology, or nuclear medicine technology approved by the board in accordance with standards promulgated by the board.

6.04 Licensure by Endorsement; Reciprocity

1. Any person who holds a current certificate from the certifying boards as prescribed in R.S. 37:3210 is exempt from examination. Upon application and the payment of a fee equivalent to that required for written examination and initial licensing fee, the board shall issue a license to such credentialed person.

2. By reciprocity, any person who is licensed as a radiologic technologist under the laws of other states, provided that the standards under which they were examined are at least as stringent as those established by the board, shall be issued a license without an examination upon application and payment of a fee equivalent to that required for the written examination and initial licensing fee.

3. Application for licensure by endorsement or reciprocity may be made at any time.

6.05 Licensure by Examination

1. Pursuant to R.S. 37:3207 and 3209, an applicant for licensure shall be required to pass the written examination of the Louisiana State Radiologic Technology Board of Examiners which

shall be the examination constructed by the American Registry of Radiologic Technologists (ARRT) for each category of radiologic technology, except as otherwise provided above.

a. To be eligible for examination by the board, an applicant shall possess all qualifications for licensure prescribed by R.S. 37:3208, provided, however, that an applicant who has completed or prior to examination will have completed his approved course of study, shall be deemed eligible for examination upon submission to the board of a letter from the program director of a board approved school or college of radiologic technology certifying that the applicant will complete or has completed his/her radiologic technology course of study prior to examination and specifying the date of completion.

2. The board establishes as the passing criterion on the ARRT written examination the passing score as established by the ARRT.

6.06 Application for Examinations

1. Requests for application forms shall be directed to the board.

2. Application Deadlines

Applications for the March examination must be postmarked no later than January 1. Applications for the July examination must be postmarked no later than May 1. Applications for the October examination must be postmarked no later than August 1. The mailing deadline is enforced rigidly. No exception to the deadline will be made regardless of circumstances. Applications received which are postmarked after the deadline will be held over for the next regular examination.

6.07 Follow-up to Application Submission

1. Incomplete applications

Applications which are received with incomplete data may cause postponement to the next examination. "Incomplete notices" are mailed to those who did not provide all information requested on the application form.

2. Finding of Ineligibility

If information indicating ineligibility is received, the applicant is notified of the deficiencies. The application is retained on an inactive basis and may be reactivated at the applicant's request whenever the requirements have been met. The application fee is not refundable, however, there is no additional charge for reactivating the application.

If information indicating ineligibility is received after an admission ticket for the examination is issued, the applicant will be notified. The applicant will not be permitted to take the examination. If an application appears to indicate eligibility and evidence of ineligibility is received after the applicant has taken the examination, the applicant's results will be cancelled and the applicant required to re-take the examination at such time that eligibility is achieved.

3. Admission Ticket

Approximately two weeks before the examination date, an admission ticket is mailed to each examinee. Each admission ticket will indicate the examination to be taken, the examination date, reporting time, and the exact address of the examination center. Examinees are to take their admission tickets to the examination center indicated on the tickets. Each examinee will be required to show an admission ticket to the supervisor and to provide some form of positive identification. Lack of an admission ticket may result in an examinee's being refused entry to the examination center.

The admission ticket will also contain the examinee's unique identification number, which the examinee will verify on an answer sheet. This ID number is the primary means of identifying the examinee's answer sheet during the scoring process.

If an admission ticket is lost or has not been received one

week prior to the examination, the examinee should notify the board immediately.

6.08 Modifications to Submitted Information

1. Address or Name Changes

If an examinee must change the mailing address which was entered on the application form, the examinee must inform the board in writing. Changes in the examinee's name are to be handled in the same manner, but must be accompanied by documentary evidence of the change (e.g., copy of marriage certificate, legal name change form, et cetera). If an admission ticket fails to reach a candidate due to a change of address that was not relayed to the board, the candidate may not be allowed into the examination center. No address or name changes will be processed at the examination center. All changes must be sent directly to the board by the candidate.

2. Examination Center Changes

If an examinee must change the examination center selection indicated on the application, the request must be addressed to the board and must reach the board not later than three weeks before the administration date.

3. Postponements

Applicants are expected to appear for examination as assigned. When circumstances make it impossible for an examinee to appear for examination on the date assigned, the examinee may request postponement to the next examination administration. Requests for postponement must be made in writing. Requests postmarked prior to the first day of the month in which the exam is scheduled will be automatically assigned to the next administration without additional fee. Requests postmarked after that date, but before the examination date, may be required to pay a service fee.

6.09 Re-Examination

1. An applicant who fails to pass the examination may reapply for the next examination provided that the applicant complies with the following:

- a. Files a new application for re-examination.
- b. Pays the appropriate non-refundable fee.
- c. Satisfies any additional conditions or requirements of the board.

6.10 Issuance of License

1. If the qualifications, requirements and procedures prescribed or incorporated by these rules and regulations are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of radiologic technology in the State of Louisiana. The license shall define the category of radiologic technology practice that the applicant may engage in.

6.11 Renewal of License

1. Every person licensed by this board shall renew his/her license every two years upon application and payment of a renewal fee in the amount stated in R.S. 37:3218. The board shall, upon verification of the accuracy of the application, issue to the applicant a certificate of renewal.

2. An application for renewal of license form shall be mailed prior to expiration by the board to each person holding a license issued under these rules and regulations.

Such forms shall be mailed to the most recent address as reflected in the official records of the board.

6.12 Expiration of License

1. Every license issued by the board under this Chapter, the expiration date of which is not state thereon or provided by these rules, shall become null, void and to not effect on the thirty-first of May of the second year following the year of issuance.

2. The timely submission of an application for renewal of a license as provided above shall operate to continue the expiring

license in full force and effect pending issuance of the renewal license.

6.13 Reinstatement of License

1. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided.

a. An application for reinstatement from a radiologic technologist who has not ceased practice in accordance with provisions of R.S. 37:3200-3219 shall be made upon a form supplied by the board accompanied by two letters of character recommendation from physicians of the former licensee's place of employment, together with the applicable renewal fee plus a penalty which may be assessed and computed as follows:

- (1) one year or less—\$0 to \$50
- (2) one to two years—\$100
- (3) two or more years—\$100 to \$500

b. An application for reinstatement from a person who has ceased activities as a radiologic technologist for not more than five years may have his license reinstated upon payment of the renewal fee as provided for in R.S. 37:3216 and 3218.

6.14 Minimum Standards for the Accreditation of Educational Programs

1. Pursuant to R.S. 37:3207(3), the board adopts as its minimum standards for education the Essentials and Guidelines of an Accredited Educational Program for the Radiographer, Radiation Therapy Technologist and the Nuclear Medicine Technologists as adopted by the American College of Radiology, American Medical Association and the American Society of Radiologic Technologists and accredited by the Committee on Allied Health Education and Accreditation and the Joint Review Committee on Education in Radiologic Technology, provided that the standards do not conflict with board policies.

2. The program director shall submit evidence of compliance with minimum standards of education for the accreditation of educational programs to the board upon forms provided by the board.

6.15 Code of Ethics

1. A code of ethics has been adopted by the board and shall be sent to each licensure candidate.

Interested persons may submit written comments on the proposed rules and regulations at the following address: Alice M. Dausat, R. T., Chairman, Louisiana State Radiologic Technology Board of Examiners, 6795 Downman Rd., New Orleans, LA 70126.

Alice Dausat, R.T.
Chairman

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Rules and Regulation

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

Difficult to assess at this point. We have been operating on personal monies of board chairman and members. The board has no means of determining a meaningful budget until we can ascertain revenues (amount) from licensure fees. Because of exemptions, no estimation can be made of licensure fees. Because of exemptions, no estimation can be made of number of licensure applicants.

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

The fees to be paid under the Chapter are pursuant to R.S. 37:3218. An additional fee has been established under

these rules and regulations and is the penalty fee for one who has not renewed and who has not ceased to practice. The penalty may be assessed as follows:

(1) one year or less—\$0 to \$50; (2) one to two years—\$100; (3) two or more years—\$100 to \$500.

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

No economic benefits to directly affected persons projected for near future. For the general population, these rules and regulations pursuant to R.S. 37:3200-3219 will safeguard life and health by preventing excessive and improper exposure to ionizing radiation by radiologic technologists working in hospitals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

With grandfather clause, R.S. 37:3210(B), no estimated effect.

Alice Dausat, R. T.
Chairman

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

DOCKET NUMBER UIC 85-16

In accordance with the provisions of R.S. 49:950, et seq., the Louisiana Administrative Procedure Act, and the authority given in R.S. 30:4, notice is hereby given that the commissioner of conservation will conduct a public hearing at 9:00 a.m., Monday, August 5, 1985, in the Conservation Hearing Room located on the first floor of the State Land and Natural Resources Building, 625 North 4th St., Baton Rouge, LA.

At such hearing the commissioner or his authorized representative will consider the revision of Statewide Order 29-B, Section XV, Pollution Control, which governs the disposal of non-hazardous oilfield waste, both onsite and offsite, generated in the drilling and production of oil and gas wells; provides for the construction, monitoring, operating, and closure of pits used to store such wastes; and provides for the possible re-use of treated materials that have such capabilities.

A copy of the proposed rules and regulations may be obtained at no cost by writing James H. Welsh, Office of Conservation, Injection and Mining Division, Box 44275, Baton Rouge, LA 70804-4275, by calling 504/342-5515 or by coming in person to Room 253 of the State Land and Natural Resources Building, 625 North 4th St., Baton Rouge, LA.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:45 p.m., Monday, August 12, 1985. Office of Conservation, Injection and Mining Division, Box 44275, Baton Rouge, LA 70804-4275, Re: Docket No. UIC 85-16.

Herbert W. Thompson
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Statewide Order 29-B,
Section XV - Pollution Control**

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

Implementation of the proposed rules will require ad-

ditional funding, specifically in hiring 10 additional personnel, providing professional services, and purchase of field equipment. The total cost of implementation will be \$554,000 of which \$391,000 will be annual recurring expenses (\$181,000 is non-recurring expenses and will be needed in FY 85-86 only). All funds associated with implementation of these rules will be provided from the Mineral Conservation Fund.

There will be no implementation costs to local government units as these agencies have no regulatory responsibility in implementation of the proposed regulations.

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

There will be no estimated effect on revenue collections of state or local governmental units as there are no proposed changes regarding amounts of public hearing fees, application fees, or operational fees charged to the affected oilfield and waste disposal industry (all fees will remain the same as at present).

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

It is estimated that there are approximately 14,000 pits that would have to be closed out if the proposed rules and regulations are adopted.

Existing data indicate that the oilfield industry will be required to spend a total of \$280,000,000 over a three year period to close the 14,000 oilfield pits. Assuming one-third of the existing oilfield pits will be closed each year of the three-year period (4,665 pits each year for three years), this will result in an annual average cost of \$93,333,333 per year (for three years) to the oilfield industry.

Implementation of these proposed rules will also impose additional costs to the 12 commercial waste disposal facilities. It is estimated that expenses will average \$10,000 annually to meet additional monitor well and testing requirements. These annual costs will be reoccurring expenses to the waste disposal industry as long as a specific facility remains in operation. There are currently 12 nonhazardous commercial waste disposal facilities that may be affected, resulting in additional annual expenses totalling \$120,000.

Adoption of the proposed rules could also provide an economic benefit to the 12 commercial waste disposal facilities being that these facilities may be in a position to sell re-processed/re-usable materials. It is estimated that 75,000 cubic yards of processed materials may be produced under the proposed re-use rules, resulting in an estimated \$300,000 additional gross income to these total commercial facilities, resulting in a net \$180,000 to those effected total commercial facilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

The subject rule revision should increase competition and employment both at the well site and in commercial non-hazardous oilfield waste disposal facilities. Dirt (construction) work, trucking, environmental consulting (testing, analyses, etc.) and oilfield service business will be these main areas that competition and employment may affect.

James H. Welsh, Director
Injection and Mining Division

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Notice is hereby given that the Louisiana Department of

Public Safety and Corrections, Office of Motor Vehicles, proposes to adopt a rule relating to the reporting of termination of policies of liability insurance pursuant to R. S. 32:863.2.

A copy of the proposed rule can be viewed at the Office of the State Register at the Capitol Annex, Fifth Floor, Baton Rouge, LA.

Interested persons may submit their written views and opinions until 4:30 p.m., September 6, 1985, to John Politz, Assistant Secretary, Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896.

John J. Politz
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Termination of Liability Insurance**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
The implementation of the proposed rule requiring reporting of cancellation of liability insurance policies by magnetic tape results in a savings of \$1,119,171.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
The proposed rule does not itself affect revenue collections but it does allow for efficient implementation of Act 212 of 1984 which will generate more than \$2,000,000 annually.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
The costs of implementation to be done by the affected liability insurers is unknown.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
It is estimated that there will be no effect on competition but that the number of employees needed for implementation of Act 212 of 1984 in both the private and governmental sectors will be fewer than without the proposed rule.

John J. Politz
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

**NOTICE OF INTENT
Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend its rules to increase the membership of the Claims Review Committee from six to seven members.

Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m. on Monday, September 9, 1985, at the following address: James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Claims Review Committee Membership**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO

STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)

There will be no actual implementation costs or savings to any state or local governmental units if this change in the composition of the Claims Review Committee membership.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
Revenue collected will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
There will be no costs to the plan members appearing before the Claims Review Committee. The work of the Claims Review Committee will be expeditiously accomplished.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
There will be no effect on competition or employment.

James D. McElveen
Executive Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The following notice of intent was presented to the Louisiana Wildlife and Fisheries Commission at its regular meeting held in Shreveport, Louisiana, June 5, 1985.

It is the constitutional responsibility of the Louisiana Wildlife and Fisheries Commission in consultation with the Louisiana Department of Wildlife and Fisheries to establish annual hunting season dates, bag limits and methods of hunting for resident game. This action provides for the protection and conservation of these important natural resources and allows for recreational opportunities including sport hunting.

To this end, the commission and department have jointly reviewed and considered all available biological information including requests from sportsmen of the state to enable them to propose rules, regulations, season dates and bag limits affecting sport hunting of resident game in Louisiana.

A copy of the proposed rules may be viewed at the Office of the State Register, 900 Riverside North, Baton Rouge, LA.

Interested parties may submit their views in writing to Hugh Bateman, Chief, Game Division, Louisiana Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895.

J. Burton Angelle
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Season and Bag Limits-Hunting**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
There will be no estimated implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
There will be no estimated effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
There is no criteria by which we may gauge the estimated effect on competition and employment. This could include sporting good stores, hardware stores, other places of

business selling hunting equipment, leases on land, commercial hunting preserves, fee hunting and guide services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no criteria by which we may gauge estimated effect on competition and employment. Same as above.

Mary Mitchell
Chief Fiscal Officer

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Louisiana Wildlife and Fisheries Commission hereby expresses intent to prohibit the use of trammel nets, gill nets and hoop nets during the period of March 1 through November 30 in that part of Lacassine Bayou that flows through the Lacassine National Wildlife Refuge, Cameron Parish, Louisiana. This closure has been requested by the Fish and Wildlife Service who has management responsibility of the refuge.

Persons who desire to comment on this proposed rule may do so by submitting written comments to Bennie J. Fontenot, Chief, Fish Division, Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895 prior to August 20, 1985.

J. Burton Angelle
Secretary

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

Rule Title: Net ban in part of Lacassine Bayou

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

There will be no implementation cost as a result of this action.

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

There will be no effect on revenue collections of state or local governments.

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

Insignificant. Primary commercial fishing gear used in Lacassine Bayou are trot lines and slat traps. The most sought after species is catfish. Fishermen will continue to harvest catfish with trot lines and slat traps. Netting will be allowed during the months of December, January and February.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No effect.

Mary Mitchell
Chief Fiscal Officer

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Seafood Division, Louisiana Department of Wildlife and Fisheries, intends to change particular rules governing the Experimental Fisheries Program. This program is authorized under R.S. 56:571 A, B, and C, and the authority to promulgate rules and regulations was delegated to the secretary of the department by Act 331 of 1978. The proposed rules are as follows:

**RULES AND REGULATIONS
EXPERIMENTAL FISHERIES PROGRAM**

Permits—Under Louisiana law, only gear which is legally sanctioned may be used in a fishery. All other types of gear require a permit. Permits will be issued to persons who are interested in the development of new fisheries designed to harvest underutilized species, and to persons who are interested in the development of experimental gear and/or equipment to harvest fish and other aquatic species. The purpose of the permit system is to:

1. Allow the department to closely supervise fisheries which are not sanctioned by statutory law, which may conflict with established fisheries, or which may use gear prohibited by statutory law in other fisheries.

2. Allow the permittee to experiment with new gear which might not meet the requirements of existing statutory law.

The following points will delineate the criteria which will be used in the issuance of permits:

1. Permits will not be issued for species which are threatened or endangered.

2. All permits must be applied for and/or granted from January 1 to July 31 of each year. All permits expire December 31 following the date of issuance. All permits must be returned to the department by January 31 following expiration.

3. All permitted nets must be tagged on the cork line with tags furnished by the department.

4. Each applicant for a permit under this program will be assessed an administrative fee of \$50 at the time of appointment. Each applicant who is a resident of Louisiana will be required to post a performance fee deposit of \$1,000 payable by cashier's check. All non-residents must post a performance fee deposit of \$4,000, also payable by cashier's check. These deposits are required upon application and are valid until December 31 of each year.

5. Possession of a permit does not exempt the bearer from laws or regulations except for those which may be specifically exempted by the permit.

6. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee under provisions of the permit.

7. When a permit is issued for an underutilized specie(s) or for the development of a new fishery, only the permitted specie(s) can be harvested. All other species must be returned to unrestricted waters with a minimum of handling. No other fish may be in the possession of the permittee, and all fish on board the permitted vessel must have head and caudal fin (tail) intact.

8. Holder of a permit must have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder must be on board permitted vessel when operating under conditions of permit. No permit is transferrable without written permission from the department secretary.

9. The department reserves the right to observe the operations taking place under the permit at any time and permittee may be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

10. The bearer of a permit must report monthly the catch taken as a result of the permit. This report must contain a suitable measure of total catch, of effort, and of other parameters which may be required by the department.

11. A report must be received by the department no later than 30 days following the last day of each month. If any permittee does not report monthly as required, his permit shall be suspended. If no report is received by January 31 following suspension, the deposit is forfeited.

12. Information gained by the department through the issuance of a permit is not privileged and will be disseminated to the public.

13. Permit requests for experimental gear must include complete descriptions of the gear and methods used, including drawings or pictures, the specie(s) to be fished. All potential permittees must request an appointment. Proof of ownership of the proposed permitted vessel(s) must be provided at the time of appointment, and the person requesting a permit must show proof that all applicable licenses have been applied for before a permit is issued. Proof of bona fide residency is also required at this time.

14. Permits will be issued for only such time to allow the department to properly evaluate the gear or methods being used. The department may withdraw any permit because it has a deleterious effect; may withdraw any permit in order to conduct its own evaluation of the gear, or fishery; may effect management regulations which render any permit inoperative; or may extend any permit as a means of regulating the fishery until such time the fishery comes under statutory laws.

15. All permittees must notify department prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip. The department must be notified by calling a designated phone number. Commonly accepted passive gear, i.e. eel pots, shall be exempt from this requirement.

16. If citation(s) are issued to any permittee regarding conditions regulated by the permit, all permittee's permits will be revoked, and the permittee may lose all rights and privileges to participate in the program. If found guilty, the deposit is also forfeited.

17. The permitted boat used in the program must have a distinguishing sign so that it may be identified. The sign shall have the word "EXPERIMENTAL" printed on it in at least 6 inch high letters, on a contrasting background so as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

18. The secretary reserves the right to limit the number of permits issued each year. When the number is limited, permits will be granted on a first come, first served basis. A permit does not entitle the bearer the exclusive harvest of the resource, although, at the discretion of the department, a permit may entitle the bearer to exclusive harvest in a certain area but this privilege may be of limited duration and may be lost once management regulations specific to the fishery or gear are promulgated.

PERMIT REVOCATION PROCEDURE

Each permittee may have his/her permit revoked, after the following procedures have been completed.

The permittee will be mailed a notice by registered mail of the intended suspension or revocation. In that notice, a date by which to submit to the department in writing reasons why his permit should not be suspended or revoked will be noted. He may submit in writing documentary evidence, photographs, and statements from witnesses. He may also request in writing a meeting with permit personnel of the department to verbally explain his position. At this meeting, anyone wishing to speak on behalf of the permittee may appear, including an attorney. Following this meeting, all evidence will be considered, and a decision on whether or not to suspend or revoke the permit will be made by responsible department personnel.

No further appeals to the department by the permittees may be made following this hearing.

Public comment was received from interested parties prior to final formulation of the intended rules and regulations. Additional comments may be submitted in writing to: Gerald Adkins, Fish Supervisor, Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895.

J. Burton Angelle
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Update Rules and Regulations-Experimental Fisheries Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
None except printing, miscellaneous paperwork. This affects an ongoing program and requires no increase in headcount, salaries or equipment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
None - performance fee deposits will be returned if not relinquished by depositor. Administrative fees will cover cost of program, but will not add to revenue base.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
Will result in an expanded market for fisheries products, gear purchases, etc. Total estimated benefits approximately \$5 million annually to private interests.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
None on competition. Could result in slight increase in employment in particular areas of coastal Louisiana.

Mary Mitchell
Chief Fiscal Officer

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT Department of Wildlife and Fisheries Office of Wildlife Fish Division

The Department of Wildlife and Fisheries, Office of Wildlife, Fish Division proposes to adopt rules to continue the closure of Lake Bisteneau to all type of netting used in the harvest of fish. The proposed rule is designed to protect the game fish (large mouth bass, striped bass and crappie) population within the lake. The proposed three year closure will be an extension of the netting prohibition which began in 1978. Fish population samples which have been taken on an annual basis continue to indicate that the population of commercial fish species in the lake will not support a commercial fishing operation.

Persons who desire to comment on the proposed continuation of this closure may do so by submitting written comments to Bennie J. Fontenot, Chief, Fish Division, Louisiana Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895 prior to August 15, 1985.

J. Burton Angelle
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Ban netting on Lake Bisteneau

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
There will be no implementation cost as a result of this action.
- 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)

None

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no effect on competition and employment as this is a continuation of a rule that has been in force since 1978.

Mary Mitchell
Chief Fiscal Officer

Mark C. Drennen
Legislative Fiscal Officer

Committee Reports

COMMITTEE REPORT
House of Representatives
House Natural Resources Committee
Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on June 19, 1985 and reviewed certain changes in state regulations proposed by the Louisiana Department of Natural Resources for which notice of intent was published in the May 20, 1985, *Louisiana Register* with the following results:

1) Proposal by the Office of Conservation to amend rules and regulations for governing and controlling matters arising under and involving underwater obstructions. Generally, the proposed regulations concerns the permitting of new facilities on state waterbottoms; inspection of all facilities; abandonment of facilities; and, remedial action.

Approved by a vote of 9-0.

Clyde W. Kimball
Chairman

COMMITTEE REPORT
House of Representatives
House Natural Resources Committee
Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on June 19, 1985 and reviewed certain changes in state regulations proposed by the Louisiana Department of Natural Resources for which notice of intent was published in the May 20, 1985, *Louisiana Register* with the following results:

1) Proposal by the Department of Natural Resources to adopt a rule which would institute a schedule of rates to recover its costs in providing copies of computerized public records to non-governmental, private sector bodies.

Approved by a vote of 9-0.

Clyde W. Kimball
Chairman

COMMITTEE REPORT
House of Representatives
House Natural Resources Committee
Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of

Representatives Natural Resources Subcommittee on Oversight met on June 19, 1985 and reviewed certain changes in state regulations proposed by the Louisiana Department of Wildlife and Fisheries for which notice of intent was published in May 20, 1985, *Louisiana Register* with the following results:

1) Proposal by the Wildlife and Fisheries Commission to permit a special scuba diving season for the taking of certain gamefish (largemouth bass, crappie, bream) in certain areas of Toledo Bend Reservoir.

Approved by a vote of 9-0.

Clyde W. Kimball
Chairman

Administrative Code Update

ADMINISTRATIVE CODE UPDATE
April 1985 to June 1985

Vol.	Title	Section	Effect	Location
1	35	1801	amended (replaces §1801-1823)	LR 11:518 (May 1985)
1	35	6353	amended	LR 11:615 (June 1985)
1	35	505	adopted	LR 11:615 (June 1985)
1	35	11101-11117	adopted	LR 11:616 (June 1985)
1	35	11301-11319	adopted	LR 11:616 (June 1985)

Potpourri

POTPOURRI
Department of Agriculture
Office of Agricultural and Environmental Sciences
Advisory Commission on Pesticides

In accordance with LAC 7:13171, the commissioner hereby publishes a list of all pesticides which, upon disposal, are classified as hazardous wastes under regulation of EPA. This listing shall remain in effect for the period of one year and may be amended at any time when any changes in such classifications are made by EPA.

Table 1
"Acute Hazardous" Commercial Pesticide Products^{1,2}

Active Ingredient	Common or Trade Name
Acrolein	Aqualin, Acrylaldehyde, Magnacide H
Aldicarb	Temik
Aldrin	
Allyl alcohol	
Alpha-Naphthylthiourea	ANTU
Aluminum phosphide	Phostoxin, Delicia
4-Aminopyridine	Avitrol
Arsenic acid	orthoarsenic acid

Active Ingredient	Common or Trade Name
Arsenic pentoxide	
Arsenic trioxide	
Calcium cyanide	Cyanogas
Carbon disulfide	
p-Chloroaniline	
Cyanides	soluble cyanide salts
Cyanogen chloride	
2-Cyclohexyl-4,6-dinitrophenol	Dinex
Dieldrin	
O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate	disulfoton; Di-Syston, Dithiodemeton, Dithiosystox, Thiodemeton
O,O-Diethyl O-pyrazinyl phosphorothioate	thionazin, cynen; Zinophos, Nemafos
Dimethoate	Cygon, De-Fend, Rogor
O,O-Dimethyl O-p-nitrophenyl phosphorothioate	methyl parathion, thiophosphate
4,6-Dinitro-O-cresol and salts	Dinitro, Sinox
4,6-Dinitro-O-cyclohexylphenol	dicyclohexylamine salt
2,4 Dinitrophenol ³	
Dinoseb	Dinitro, DNBP
Disulfoton	Di-Syston
Endosulfan	Thiodan
Endothall	Aquathol
Endrin	
Famphur	Warbex
Fluoroacetamide	Compound 1081
Heptachlor	
Hexaethyl tetra phosphate	HEPT
Hydrocyanic acid	
Hydrogen cyanide	
Methomyl	Lannate, Nudrin
Nicotine and Salts	Black Leaf 40
Octamethylpyro-phosphoramidate	schradan, OMPA
Parathion	ethyl parathion
Phenylmercuric acetate	PMA
Phorate	Thimet
Potassium cyanide	
Propargyl alcohol	
Schradan	OMPA
Sodium azide	Kazoe, Smite
Sodium cyanide	Cymag
Sodium fluoroacetate	Compound 1080
Strychnine and salts	
O,O,O,O-Tetraethyl dithiopyrophosphate	Sulfotepp, Bladafume
Tetraethyl pyrophosphate	TEPP
Thallium sulfate	
Thiofanox	Dacamox
Toxaphene	octochlorocamphene Camphechlor, Alltex, Toxakil
Warfarin	Coumafene, Coumaphene, Dethmor
Zinc phosphate	ZP

Table 2
"Toxic" Commercial Pesticide Products^{1, 2}

Active Ingredient	Common or Trade Name
Acetone	
Acetonitrile	Acrylofume
Acrylonitrile	cianoethylene; Acritet
Amitrole	Cytrol, Weedazol
Benzene	
Bis (2-ethylehexyl) phthalate	
Cacodylic acid	Phytar, Rad-E-Cate, Arsan, Silvisar
Carbon tetrachloride	
Chloral hydrate	
Chlorobenzilate	Acaraben
Chlordane, technical	synklor; Chlor Kill, Orthoklor
Chlordecone	Kepon
Chlorobenzene	
4-Chloro-m-cresol	
Chloroform	
O-Chlorophenol	
4-Chloro-O-toluidine hydrochloride ³	
Creosote	
Cresylic acid	Cresols
Cyclohexane	
cyclohexanone	
Cyclophosphamide	Endoxan
Decachloro-octahydro-1,3,4-metheno-2H-cyclobuta [c,d]-pentalen-2-one	chlordecone; Kepon
Diallate	Avadex, DATC
1,2-Dibromo-3-chloropropane	DBCP, Nemagon, Fumazone
Di-butyl phthalate	
S-2,3-(Dichloroallyl) diisopropylthiocarbamate	diallate; Avadex, DATC
O-Dichlorobenzene	orthodichlorobenzene
p-Dichlorobenzene	paradichlorobenzene; Moth Crystals
Dichlorodifluoromethane	Freon 12, Propellant 12
3,5-Dichloro-N-(1,1dimethyl-2-propynyl) benzamide	pronamide; Kerb, Propyzamide
Dichloro diphenyl dichloroethane	DDD, TDE
Dichloro diphenyl trichloroethane	DDT
Dichloroethyl ether	Chlorex
2,4-Dichlorophenoxyacetic acid, salts and esters	2,4-D
1,2-Dichloropropane	Propylene Dichloride
1,3-Dichloropropene	Telone, D-D Mixture, Nemex, Vidden D
Dimethyl phthalate	DMP
Ethyl acetate	
Ethyl 4,4'-dichlorobenzilate	chlorobenzilate, Acaraben
Ethylene dibromide	EDB, Bromofume, Dowfumen-85, Pestmaster EDB-85, Soilbrom-85
Ethylene dichloride	EDC
Ethylene oxide	Oxirane
Formaldehyde	
Furfural	
Hexachlorobenzene	HCB, Anticarie, No Bunt
Hexachlorocyclohexane; gamma isomer	benzene hexachloride, gamma isomer; lindane

¹Pesticide active ingredients also found in Table E of 40 CFR, Part 261, Subpart d, and Table 4 of NR 181.

²Some information on pesticide active ingredients provided by Office of Pesticide Program staff, USEPA, Washington, DC.

³1,4-Dinitrophenol is listed as a pesticide active ingredient.

Active Ingredient	Common or Trade Name
Hexachlorocyclopentadiene	
Hexachloroethane	Avlothane
Hexachlorophene	
Hydrofluoric acid	
Isobutyl alcohol	
Lead acetate	
Lindane	
Maleic hydrazide	MH ₃₀ , Slo-Gro, Sucker-Stuff, Retard
Mercury	
Methyl alcohol	Methanol
Methyl bromide	
Methyl chloride	
2,2'-Methylenebis (3,4,6-trichlorophenol)	hexachlorophene; G-11
Methylene chloride	
Methyl ethyl ketone	MEK
4-Methyl-2-pentanone methyl isobutyl ketone	MIBK
Naphthalene	Moth Balls
Nitrobenzene	
p-Nitrophenol	
Pentachloroethane	
Pentachloronitrobenzene	PCNB, Quintozene, Tritisan, Terraclor Penta, PCP
Pentachlorophenol	
Perchloroethylene, tetrachloroethylene	
Phenol	carbolic acid
Phosphorodithioic acid, O,O-diethyl, methyl ester	
Pronamide	Kerb
Propylene dichloride	
Pyridine	
Resorcinol	
Safrole	
Selenium disulfide	
Silvex	
1,2,4,5-Tetrachlorobenzene ⁴	
1,1,2,2-Tetrachloroethane	
2-(2,4,5-Trichlorophenoxy) propionic acid	silvex
2,3,4,6-Tetrachlorophenol	
Thiram	Arasan, Thylate, TMTD, Spotrete, Delsan, Pomarsol, Teresan
Toluene	
1,1,1-Trichloroethane	methyl chloroform, Methoxychlor, Marlate
Trichloroethene	
Trichloromonofluoromethane	Freon 11, Propellant 11
2,4,5-Trichlorophenol	Dowicide 2
2,4,6-Trichlorophenol	Dowicide 2S
2,4,5-Trichlorophenoxyacetic acid	2,4,5-T
Xylene	

¹Pesticide active ingredients also found in Table F of 40 CFR, Part 261, Subpart D, and Table 5 of NR 181.

²Some information on pesticide active ingredients provided by Office of Pesticide Program staff, USEPA, Washington, DC.

³3-Chloro-p-toluidine hydrochloride (Starlicide) listed as active ingredient.

⁴1,2,3,4 Tetrachlorobenzene listed as active ingredient.

Table 2 lists pesticide active ingredients classified as "toxic wastes." If 2,200 pounds (1,000 kilograms or approximately 284 gallons) or more of waste of these products is generated in any month, a generator number is required for disposal of the waste. A number must be obtained from EPA or DEQ if the 2,200 pounds of "toxic" waste or 2.2 pounds of "acute hazardous" waste are reached in any one month, without regard to the amount of waste which may be generated in other months. It also bears repeating that the waste includes the diluent as well as the pesticide. Therefore, during the application season the water used to clean a spray rig for applications made during a month, in and of itself, may be enough to require an applicator to obtain a waste generator number. Additionally, it would appear that any liquid spray mixture of any formulation of pesticide active ingredients found in Table 1 would result in sufficient waste water and/or leftover spray mixture to require many commercial applicators to become recognized waste generators.

Bob Odom
Commissioner

POTPOURRI

Department of Natural Resources Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, Louisiana Revised Statutes 56:700.1 through 56:700.5, and in particular, Section 700.4 thereof; regulations adopted for the fund as published in the *Louisiana Register* on August 20, 1980; and also the rules of the secretary of this department, notice is hereby given that 24 completed claims, amounting to \$28,071.20, were received during the month of June, 1985. During the same month, 40 claims, amounting to \$47,220.23 were paid. The following is a list of the paid claims:

Claim No. 84-2209 Herman Alfonso	Claim No. 84-2066 James Arabie	Claim No. 84-2215 Allen Daigle
Claim No. 84-2230 Charles Ballas	Claim No. 84-2155 August Bertoniere	Claim No. 84-2149 August Despaux, Jr.
Claim No. 84-1856 James Daspit	Claim No. 84-1839 Leonard DeQueant	Claim No. 84-1592 Henry Fazende
Claim No. 84-2173 Lester Evans, Sr.	Claim No. 84-2174 Lester Evans, Sr.	Claim No. 84-2223 Peter Gerica
Claim No. 84-1703 Henry Fazende	Claim No. 84-2129 Peter Gerica	Claim No. 84-2186 Nicholas Gonzales
Claim No. 84-2036 August Gisclair, Jr.	Claim No. 84-2151 August Gisclair, Jr.	Claim No. 84-2246 Nicholas Mones, Sr.
Claim No. 84-2187 Nicholas Gonzales	Claim No. 84-2101 Robert Graf	Claim No. 84-2102 William Pflieger
Claim No. 84-2126 Joseph Parrett	Claim No. 84-2085 Nelvin Perrin	Claim No. 84-2236 Ricky Robin
Claim No. 84-2304 Ivo Quinhoes	Claim No. 84-2154 George Reno	Claim No. 84-2140 Harold Toups, Jr.
Claim No. 84-2278 Felix Rotolo	Claim No. 84-2086 Leon Ruttley	Claim No. 84-2177 Gary Treuil
Claim No. 84-2141 Harold Toups, Jr.	Claim No. 84-2142 Harold Toups, Jr.	Claim No. 84-2222 Rodney Weiskopf
Claim No. 84-2221 Noel Usannaz	Claim No. 84-2207 Leonard Victoriano	Claim No. 84-2266 Mark Vogel
Claim No. 84-2255 Stanley Weiskopf	Claim No. 84-2100 Franklin Wiseman	
Claim No. 84-1833 Elson Dufrene	Claim No. 84-2150 James Arabie	

Public hearings to consider completed claims have been scheduled as follows:

Tuesday, August 13, 1985, at 10:00 a.m., in the Police Jury Office, 8201 West Judge Perez Drive, in Chalmette, LA:

CLAIM NO. 83-1129

Pershing Perrin, Jr., of Barataria, LA, while trawling on the vessel, "LA 8658 AV," in East Champagne Bay, west of Mendi-cant Island, Jefferson Parish, encountered an underwater levee on August 27, 1983, at approximately 10:00 p.m., causing damage to his vessel. Amount of Claim: \$283.04

CLAIM NO. 84-1632

Roland Ronquille, of Laplace, LA, while trawling on the vessel, "Lil Toot," in Little Lake, southwest side of lake, La-fourche Parish, encountered a submerged pipe on June 16, 1984, at approximately 11:00 a.m., causing loss of his 50 foot trawl. Amount of Claim: \$525

CLAIM NO. 84-1736

Kenneth J. LeFebure, Sr., of St. Bernard, LA, while trawling on the vessel, "Bayou Blues," in Unnamed Lagoon, west of Falsemouth Bay, St. Bernard Parish, encountered a submerged piling on July 15, 1984, at approximately 3:00 p.m., causing loss of his 50 foot trawl. Amount of Claim: \$620

CLAIM NO. 84-1987

Ricky DeJean, of Chalmette, LA, while trawling on the ves-sel, "Bright Star," in the Gulf of Mexico, southwest of Beach Prong, at LORAN-C readings of 26,882.4 and 46,967.4, Cameron Par-ish, encountered an unidentified submerged obstruction on Oc-tober 16, 1984, at approximately 10:00 a.m., causing loss of his 50 foot trawl. Amount of Claim: \$800

CLAIM NO. 84-2117

Terry P. Ryan, of Kenner, LA, while trawling on the vessel, "Captain Ryan," in Lake Pontchartrain, west of the Causeway, at LORAN-C readings of 28,626.5 and 47,050.0, Jefferson Parish, encountered an unidentified submerged obstruction on October 24, 1984, at approximately 10:00 a.m., causing loss of his 50 foot trawl. Amount of Claim: \$500

CLAIM NO. 84-2118

Terry P. Ryan, of Kenner, LA, while trawling on the vessel, "Captain Ryan," in Lake Pontchartrain, south of Pass Manchac, at approximate LORAN-C readings of 28,596.0 and 47,060.4, St. John Parish, encountered a submerged log on November 2, 1984, at approximately 9:00 a.m., causing loss of his 50 foot trawl. Amount of Claim: \$499

CLAIM NO. 84-2148

Tony Goutierrez, of Braithwaite, LA, while trawling on the vessel, "Bayou Boy," in Black Bay, entrance to Bayou Terre Aux Boeufs, Plaquemines Parish, encountered an unidentified sub-merged obstruction on November 8, 1984, at approximately 3:30 p.m., causing damage to his vessel. Amount of Claim: \$1,065.52

CLAIM NO. 84-2163

Leon J. Harvey, Sr., of Lafitte, LA, while trawling on the vessel, "Guiding Light," in East Bay, east of Burrwood, at LORAN-C readings of 28,857.8 and 46,774.0, Plaquemines Parish, en-counterred an unidentified submerged obstruction on November 6, 1984, at approximately 6:45 p.m., causing loss of his doors and damage to his trawl. Amount of Claim: \$1,170

CLAIM NO. 84-2166

Kenneth Adams, Jr., of New Orleans, LA, while trawling on the vessel, "Shanna Baby," in the Gulf of Mexico, northeast of Deadwoman Pass, at approximate LORAN-C readings of 29,070.0 and 46,844.5, Plaquemines Parish, encountered an unidentified submerged obstruction on November 5, 1984, at approximately 2:00 p.m., causing loss of his 45 foot trawl. Amount of Claim: \$873

CLAIM NO. 84-2206

Paul Robeaux, Sr., of Lafitte, LA, while trawling on the vessel, "Lady Lois," in Little Lake, 200 feet from the north shore, Jefferson Parish, encountered a submerged pipeline on Novem-ber 10, 1984, at approximately 3:00 p.m., causing loss of his 47 foot trawl. Amount of Claim: \$431

CLAIM NO. 84-2224

Michael Russell, of New Orleans, LA, while trawling on the vessel, "Master Nicholas," in The Rigolets, east of Lake Pont-chartrain, St. Tammany Parish, encountered an unidentified sub-merged obstruction on December 13, 1984, at approximately 1:00 p.m., causing loss of his 50 foot trawl. Amount of Claim: \$640

CLAIM NO. 84-2234

Marcello Reynon, Jr., of Marrero, LA, while trawling on the vessel, "Lady Creshia," in Cat Bay, at the mouth of Quatre Bayou Pass, Plaquemines Parish, encountered a submerged steel tank on November 15, 1984, at approximately 4:30 p.m., causing loss of his 50 foot trawl. Amount of Claim: \$560.80

CLAIM NO. 84-2251

Kenneth Adams, Jr., of New Orleans, LA, while trawling on the vessel, "Shanna Baby," in the Gulf of Mexico, north of North Pass, at approximate LORAN-C readings of 29,090.0 and 46,836.2, Plaquemines Parish, encountered submerged concrete on December 14, 1984, at approximately 6:00 p.m., causing damage to his 50 foot trawl. Amount of Claim: \$420

CLAIM NO. 84-2252

Kenneth Adams, Jr., of New Orleans, LA, while trawling on the vessel, "Shanna Baby," in the Gulf of Mexico, north of North Pass, at approximate LORAN-C readings of 29,118.0 and 46,833.1, Plaquemines Parish, encountered an unidentified sub-merged obstruction on December 15, 1984, at approximately 1:35 p.m., causing loss of his 45 foot trawl, lazy line and tickle chain. Amount of Claim: \$934

CLAIM NO. 85-2288

Carl Landen, of Gonzales, LA, while trawling on the vessel, "Miss Gladys," in the Gulf of Mexico, east of the Mermentau River, at approximate LORAN-C readings of 26,811.3 and 46,973.9, Cameron Parish, encountered a submerged pipeline, on Decem-ber 22, 1984, at approximately 2:25 p.m., causing loss of his 50 foot trawl. Amount of Claim: \$769.50

CLAIM NO. 85-2289

Carl Landen, of Gonzales, LA, while trawling on the vessel, "Miss Gladys," in the Gulf of Mexico, south of the New Cut, at LORAN-C readings of 26,846.8 and 46,969.3, Cameron Parish, encountered a submerged 1/2" iron plate on December 12, 1984, at approximately 11:10 a.m., causing loss of his 55 foot trawl. Amount of Claim: \$941.46

CLAIM NO. 85-2293

Randy Dufrene Jr., of Lafitte, LA, while trawling on the vessel, "Lady Karen," in the Gulf of Mexico, 1 mile west of the Grand Isle Sea Buoy, Jefferson Parish, encountered an unidenti-fied submerged obstruction on January 7, 1985, at approximately 11:00 a.m., causing loss of his 55 foot trawl, boards and chain. Amount of Claim: \$1,537.14

CLAIM NO. 85-2298

George Reno, of Venice, LA, while trawling on the vessel, "Tidewater Red," in West Bay, northwest of the West Jetty of Southwest Pass, at LORAN-C readings of 28,774.5 and 46,773.6, Plaquemines Parish, encountered a submerged eyebeam off sunken ship on January 9, 1985, at approximately 11:30 a.m., causing loss of his three trawls and diver fee. Amount of Claim: \$1,765.39

CLAIM NO. 85-2305

Kenneth Marrero, of St. Bernard, LA, while trawling on the vessel, "Tiffany Mike," in Black Bay, south of Mozambique Point,

Plaquemines Parish, encountered an unidentified submerged obstruction on February 24, 1985, at approximately 10:30 a.m., causing damage to his vessel. Amount of Claim: \$1,705.21
CLAIM NO. 85-2309

Kenneth Adams, Jr., of New Orleans, LA, while trawling on the vessel, "Shanna Baby," in Breton Sound, west of Main Pass, Plaquemines Parish, encountered a submerged 1¼" cable on January 14, 1985, at approximately 11:30 a.m., causing damage to his vessel. Amount of Claim: \$1,947.64
CLAIM NO. 85-2327

Anthony Touns, of Westwego, LA, while trawling on the vessel, "Grand Clothilde," in the Gulf of Mexico, east of Jack Stout Bayou, at LORAN-C readings of 27,889.3 and 46,863.8, Terrebonne Parish, encountered an unidentified submerged obstruction on March 26, 1985, causing loss of his 50 foot balloon trawl. Amount of Claim: \$475
CLAIM NO. 85-2329

Harry Phillips, of St. Bernard, LA, while trawling on the vessel, "Buddy Boy," in Bayou la Loutre, east of Stump Lagoon, St. Bernard Parish, encountered a submerged cable on February 28, 1985, at approximately 9:00 a.m., causing loss of his 26 tooth dredge. Amount of Claim: \$475
CLAIM NO. 85-2331

Harry Phillips, of St. Bernard, LA, while trawling on the vessel, "Buddy Boy," in Bayou la Loutre, west of Drum Hole, St. Bernard Parish, encountered a submerged water hose on the last part of March, 1985, causing damage to his vessel. Amount of Claim: \$1,300
CLAIM NO. 85-2343

August Bertoniere, of Metairie, LA, while trawling on the vessel, "Princess," in Lake Pontchartrain, Jefferson Parish, encountered an unidentified submerged obstruction on April 29, 1985, at approximately 1:30 p.m., causing damage to his vessel. Amount of Claim: \$485.60
CLAIM NO. 85-2354

Brian Plaisance, of Westwego, LA, while trawling on the vessel, "Little Reo," in the Gulf of Mexico, south of Barataria Pass, at approximate LORAN-C readings of 28,571.0 and 46,857.5, Jefferson Parish, encountered an unidentified submerged obstruction on May 6, 1985, at approximately 3:00 p.m., causing damage to his trawl. Amount of Claim: \$183.41
CLAIM NO. 85-2355

James Daspit, of Pearl River, LA, while trawling on the vessel, "Country Girl," in the Gulf of Mexico, south of Quatre Bayou Pass, at approximate LORAN-C readings of 26,824.0 and 46,868.0, Plaquemines Parish, encountered an unidentified submerged obstruction on May 16, 1985, at approximately 7:30 a.m., causing loss of his 40 foot trawl. Amount of Claim: \$593.82

Public hearing to consider completed claims have been scheduled as follows:

Thursday, August 15, 1985, at 10:30 a.m., in the L.S.U. Cooperative Extension Service Office, Greater Lafourche Port Commission Building, Highway 308, Galliano, LA:

CLAIM NO. 83-1272

Autry Guidry, of Cut Off, LA, while trawling on the vessel, "Joey & Judy," in East Champagne Bay, east of Pelican Point, Jefferson Parish, encountered an unidentified submerged obstruction on October 21, 1983, at approximately 2:40 p.m., causing loss of his 50 foot trawl. Amount of Claim: \$861.47

CLAIM NO. 84-2032 (Rescheduled)

Webb Cheramie, Jr., of Grand Isle, LA, while trawling on the vessel, "Master Wayne," in the Gulf of Mexico, south of Caminada Pass, at approximate LORAN-C readings of 28,486.0 and 46,849.3, Jefferson Parish, encountered an unidentified sub-

merged obstruction on October 10, 1984, at approximately 5:00 a.m., causing damage to his 90 foot trawl. Amount of Claim: \$502.40

CLAIM NO. 84-2130

Lawrence Charpentier, of Cut Off, LA, while trawling on the vessel, "Thunder Bay," in the Gulf of Mexico, south of Isles Dernieres, at LORAN-C readings of 27,970.6 and 46,829.8, Terrebonne Parish, encountered an unidentified submerged obstruction on November 5, 1984, at approximately 9:00 a.m., causing loss of his 60 foot trawl, lazy line and tickle chain. Amount of Claim: \$1,127.57

CLAIM NO. 84-2131 (Rescheduled)

Webb Cheramie, Jr., of Grand Isle, LA, while trawling on the vessel, "Master Wayne," in the Gulf of Mexico, south of Grand Isle at approximate LORAN-C readings of 28,523.0 and 46,854.5, Jefferson Parish, encountered a submerged piling on October 26, 1984, at approximately 9:30 p.m., causing loss of his 90 foot trawl. Amount of Claim: \$1,573.44

CLAIM NO. 84-2191

Raleigh Lasseigne, of Grand Isle, LA, while trawling on the vessel, "Lady Kay," in Barataria Bay, north of Queen Bess Island, Jefferson Parish, encountered an unidentified submerged obstruction on November 9, 1984, at approximately 2:00 p.m., causing damage to his vessel. Amount of Claim: \$1,088.01

CLAIM NO. 84-2208

John Mialjevich, of Delcambre, LA, while trawling on the vessel, "Tee John," in the Gulf of Mexico, south of Southwest Pass, at approximate LORAN-C readings of 27,355.7 and 46,942.9, Vermilion Parish, encountered a submerged mud lump on December 6, 1984, at approximately 9:30 a.m., causing damage to his vessel. Amount of Claim: \$2,709.09

CLAIM NO. 84-2214 (Rescheduled)

Isadore Dardar, of Golden Meadow, LA, while trawling on the vessel, "Miss Lena," in the Gulf of Mexico, south of Belle Pass, at approximate LORAN-C readings of 28,326.5 and 46,825.0, Lafourche Parish, encountered an unidentified submerged obstruction on December 9, 1984, at approximately 10:00 a.m., causing loss of his 55 foot balloon trawl. Amount of Claim: \$1,017.65

CLAIM NO. 85-2263

John Mialjevich, of Delcambre, LA, while trawling on the vessel, "Tee John," in the Gulf of Mexico, south of Shell Keys, at approximate LORAN-C readings of 27,441.1 and 46,909.4, Iberia Parish, encountered an unidentified submerged obstruction on January 6, 1985, at approximately 10:20 a.m., causing loss of his 42 foot wing net and doors. Amount of Claim: \$1,535.16

CLAIM NO. 85-2291

Wayne Boudwin, of Houma, LA, while trawling on the vessel, "Captain Wayne," in the Gulf of Mexico, south of Holly Beach, at approximate LORAN-C readings of 26,602.0 and 46,978.3, Cameron Parish, encountered an unidentified submerged obstruction on January 3, 1985, at approximately 8:30 a.m., causing loss of his 45 foot balloon trawl and tickler chain. Amount of Claim: \$777.51

CLAIM NO. 85-2315

Jason Adams, of Galliano, LA, while trawling on the vessel, "Lady Shelley," in the Gulf of Mexico, east of Big Constance Bayou at LORAN-C readings of 27,047.7 and 46,951.0, Cameron Parish, encountered a submerged pipe casing on March 23, 1985, at approximately 2:30 p.m., causing damage to his 50 foot trawl. Amount of Claim: \$399.85

CLAIM NO. 85-2322

Ted Melancon, of Cut Off, LA, while trawling on the vessel, "Tee Ted," in the Gulf of Mexico, southeast of Mound Point, at LORAN-C readings of 27,491.5 and 46,919.5, Iberia Parish, en-

countered an unidentified submerged obstruction on April 5, 1985, at approximately 9:45 a.m., causing loss of his 45 foot trawl, tickle chain and lines. Amount of Claim: \$808.21
CLAIM NO. 85-2337

Joseph Cheramie, of Cut Off, La, while trawling on the vessel, "Cathy Cheramie," in the Gulf of Mexico, east of Bay Champagne, at LORAN-C readings of 28,409.4 and 46,837.5, Lafourche Parish, encountered an unidentified submerged obstruction on May 1, 1985, at approximately 9:30 a.m., causing loss of his 50 foot trawl. Amount of Claim: \$870.85

CLAIM NO. 85-2338

Joe Higgins, III, of Cameron, LA, while trawling on the vessel, "Double Trouble," in the Gulf of Mexico, east of Calcasieu Pass, at LORAN-C readings of 26,689.9 and 46,979.9, Cameron Parish, encountered an unidentified submerged obstruction on May 3, 1985, at approximately 8:00 a.m., causing loss of his 55 foot balloon trawl, chain and cable. Amount of Claim: \$1,244.10

CLAIM NO. 85-2341

Eddie Williams, Sr., of Larose, LA, while trawling on the vessel, "Jimmie M," in the Gulf of Mexico, south of Quatre Bayou Pass, at LORAN-C readings of 28,628.2 and 46,868.2, Plaquemines Parish, encountered a submerged boat on May 3, 1985, at approximately 10:30 a.m., causing loss of his 45 foot trawl, boards and bridles. Amount of Claim: \$2,186.27

CLAIM NO. 85-2370

John Bergeron, of Lake Charles, LA, while traveling on the vessel, "Sylvia," in the Intracoastal Waterway, near Little Lake Misere, Cameron Parish, encountered an unidentified submerged obstruction on May 18, 1985, at approximately 9:30 p.m., causing damage to his vessel. Amount of Claim: \$5,000

CLAIM NO. 85-2382

Rufus Deroche, of Cut Off, LA, while trawling on the vessel, "La Shouche," in Timbalier Bay, east of Calumet Island, Lafourche Parish, encountered an unidentified submerged obstruction on May 27, 1985, at approximately 1:30 p.m., causing loss of his 48 foot trawl and tickle chain. Amount of Claim: \$928

Any written objections to these claims must be received by the close of business on August 13, 1985. Any person may submit evidence or make objections in person at the hearings. Written comments must be mailed to: B. Jim Porter, Secretary, Department of Natural Resources, Box 44124, Capitol Station, Baton Rouge, LA 70804.

B. Jim Porter
Secretary

Errata

ERRATA

Department of Health and Human Resources Office of Family Security

On page 637 of the June 20, 1985 *Louisiana Register* (Volume 11, Number 6), under the heading "RULE, Department of Health and Human Resources, Office of Family Security" which implements a freeze of inpatient hospital target rates effective July 1, 1985, there were typographical omissions. The second sentence of the rule as published reads as follows:

"The target rates for subsequent fiscal years shall not be applied."

The correct version should read as follows:

"The target rate percentages for inflating rates for subsequent fiscal years shall not be applied."

A corrected version of the final rule is published in another section of this *Louisiana Register*.

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

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(Volume 11, Number 7)**

1985

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