

CONTENTS

I. EXECUTIVE ORDERS

BR 89-15—Creates the Governor’s Task Force on Welfare Reform within the Department of Social Services	439
BR 89-16—Establishes state employee awareness about substance abuse	439
BR 89-17—Authorizes inmate labor for certain renovations at LTI in Baton Rouge	440
BR 89-18—Authorizes inmate labor to repair oxidation pond at LTI in Baton Rouge	440
BR 89-19—Declares July 3-4 holidays	440

II. EMERGENCY RULES

Agriculture and Forestry Department:	
Advisory Commission on Pesticides—Classifies Rely Herbicide as a restricted-use pesticide	441
Economic Development Department:	
Office of Commerce and Industry—Continuation of financial fees	441
Education Department:	
Board of Elementary and Secondary Education—Bulletin 741—Adds match, writing, science and social studies to list of elementary elective/exploratory classes	442
Bulletin 741—Flexible time requirements in scheduling elementary classes	442
Health and Hospitals Department:	
Office of the Secretary—Bureau of Health Services Financing-MAP-Psychiatric hospital admission reimbursement	442
MAP—Reimbursement for SNF/TDC services	443
Social Services Department:	
Office of Eligibility Determinations—IFG Program - Sets the maximum grant amount	444
Transportation and Development Department:	
Office of the Secretary—Toll schedule for certain ferries	444
Toll schedule for certain ferries	444
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Spring inshore shrimp season opening (1989)	445
Shrimp season	445

III. RULES

Economic Development Department:	
Economic Development Corporation—Minority and Women’s Business Development (LAC 19:1. Chapter 1)	445
Small Business Equity Program-Loan guaranty (LAC 19:VII. Chapter 7)	453
Small Business Equity Program-Loan participation (LAC 19:VII. Chapter 9)	456
Small Business Equity Program-Feasibility studies (LAC 19:VIII. Chapter 11)	459
Venture Capital Co-investment Program (LAC 19:VII. Chapter 1)	460
Venture Capital Match Program (LAC 19:VII. Chapter 3)	463
Venture Capital Match Program (Minority) (LAC 19:VIII. Chapter 5)	464
Office of Financial Institutions—Fee and assessment charges (LAC 10:III.101)	465
Used Motor Vehicle and Parts Commission—Vehicle service contracts (LAC 46:V.4101, 4102)	466
Education Department:	
Board of Elementary and Secondary Education—8(g) Annual Program and Budget (FY 1989-90)	468
Act 832-implementation	468
Bulletin 741-Sex education policy	468
Bulletin 1191-School Transportation Handbook-Age requirements	468
Bulletin 1191-School Transportation Handbook-Driver experience/records	468
Criteria-referenced test and graduation test passing scores	469
Test security	469
Environmental Quality Department:	
Office of Solid and Hazardous Waste-Hazardous Waste Division—Conformity Regulation II (LAC 33:V. 4457)	470
Health and Hospitals Department:	
Office of Public Health—Fee adjustment schedule (LAC 48:V.3703)	471
Sanitary Code-Chapter II-Reportable diseases and conditions	471
Sanitary Code-Chapter XIII-Mechanical wastewater treatment plants	472
Vital Records-Copies of certified records (LAC 48:V.11707)	473
Vital Records-Local registrars (LAC 48:V. Chapter 119)	473
Vital Records-Orleans Parish marriage license requirements (LAC 48.V.12501)	474
Vital Records-Use of vital records in research (LAC 48:V.11709)	475
Office of the Secretary—Fees	
Bureau of Health Services Financing—MAP-Case management for chronically mentally ill	478
MAP-Case management for HIV disabled individuals	479
MAP-Case management for pregnant women	480
MAP-Disproportionate share adjustment for inpatient hospital	482

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MAP-Hospice care licensure and certification	482
MAP-Insurance notification and payment procedures	483
MAP-LTC-mandatory screening requirements for participating facilities	484
MAP-LTC-Medical eligibility for SNF level of care	484
MAP-Provider identification instructions for billings	484
MAP-Service limits for infants in disproportionate share hospitals	485

Labor Department:	
Office of Employment Security-Board of Review—Appealed claims (LAC 40:IV. Chapter 1)	485
Employment Security Law (LAC 40:IV. Chapter 3)	487
Office of Labor—Job Training Partnership Act	496

Natural Resources Department:	
Office of the Secretary-Fishermen’s Gear Compensation Fund—Fee Assessment	497

Social Services Department:	
Office of Eligibility Determinations—AFDC-Essential Persons	497
Food Stamp Program-Pre-release Applications	497
Office of the Secretary—Low income Home Energy Assistance Program (LIHEAP)	498

State Department:	
Office of the Secretary of State—Penalty	498

Treasury Department:	
Board of Trustees of the State Employees Group Benefits Program—Fee schedule	499

IV. NOTICES OF INTENT

Agriculture and Forestry Department:	
Office of Animal Health Services-Livestock Sanitary Board—Livestock video auction market requirements (LAC 7XX.11710)	501
Office of Forestry—Prescribed burning fee (LAC 7:XXXIX.701)	503
Timber marking fee (LAC 7:XXXIX.701)	504

Civil Service Department:	
Civil Service Commission—Layoff avoidance measures	504
Red circle pay rates; Restricted appointment; Unsatisfactory rating; Leave while in unclassified position; Application for review of referee’s decision; Preferred reemployment list	505

Economic Development Department:	
Board of Architectural Examiners—National Council of Architectural Registration Boards (LAC 46:I.317)	506
Renewal procedure (LAC 46:I.1191)	507

Education Department:	
Board of Elementary and Secondary Education—Bulletin 741-State Exit Exam	508
ECIA Chapter 2 and ESEA Title II State Application (FY 7/1/89 - 9/30/92)	508
Education of Homless Children and Youth (FY '90 State Plan)	509
Migrant Education State Plan	510

Environmental Quality Department:	
Office of Air Quality and Nuclear Energy-Nuclear Energy Division—Regulation and licensing of Naturally Occurring Radioactive Materials (NORM)	510

Health and Hospitals Department:	
Board of Examiners of Professional Counselors—Code of Conduct and Declaration Statement	511
Office of Hospitals—Ambulance certification fees	512
Office of the Secretary, Bureau of Health Services Financing—Pharmacist and medical records practitioner consultation requirements for LTC facilities	512
Vacancy status notification in LTC facilities	513

Labor Department:	
Office of Workers’ Compensation—Self-insurers (LAC 40:I)	514

Social Services Department:	
Office of Eligibility Determinations—AFDC Program-Earned income disregards	515
Food Stamp Program-Replacement Issuances	515

Treasury Department:	
Bond Commission—Non-traditional tax-exempt bond issues (repeal)	516

V. POTPOURRI

Natural Resources Department:	
Fishermen’s Gear Compensation Fund—Claims	517

Executive Orders

EXECUTIVE ORDER BR 89 - 15

WHEREAS, the U. S. Congress passed P.L. 100-485, known as the Family Support Act of 1988 requiring the states to achieve certain standards and effect certain changes in their support enforcement programs and their AFDC programs; and

WHEREAS, it is in the best interest of the state of Louisiana to reduce the welfare rolls and secure jobs for welfare recipients, through education and training of recipients;

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

SECTION 1: The Louisiana Department of Social Services is the designated entity for all IV-A (AFDC) and IV-D (Support Endorsement) operations in the state.

SECTION 2: There shall be a Task Force established in the Office of the Secretary of the Department of Social Services to review and provide comments on the proposed federal regulations for implementation of the Family Support Act of 1988.

SECTION 3: The purpose of the Task Force shall be to review and evaluate the existing public and private resources for the education and training of AFDC recipients in order to reduce the welfare roll and secure jobs for the recipients. The Task Force shall review, evaluate and make recommendations regarding optional state functions under the Family Support Act.

SECTION 4: The Task Force shall review, evaluate and make recommendations which will effect the mandated coordination/integration with employment and training services provided through the Department of Labor and Department of Education.

SECTION 5: The Task Force shall be named the Governor's Task Force on Welfare Reform and shall be composed of the following members:

- a. the secretary of the Department of Social Services, or her designee; who shall be designated chairman;
- b. the secretary of the Department of Economic Development, or his designee;
- c. the secretary of the Department of Labor or her designee;
- d. the superintendent of the Department of Education or his designee;
- e. the commissioner of Administration or his designee;
- f. chairman, Joint Committee on Health and Welfare, or his designee;
- g. assistant secretary of the Office of Community Services, Department of Social Services, or her designee;
- h. assistant secretary of the Office of Eligibility Determinations, Department of Social Services, or his designee;
- i. deputy assistant secretary of the Office of Eligibility Determinations, Department of Social Services;
- j. the assistance payments program director of the Office of Eligibility Determinations;
- k. representative of the Legislative Fiscal Office (ex-officio);
- l. representative of the School of Social Work, Louisiana State University;
- m. representative of Southern University;

- n. representative of Delgado Community College;
- o. representative of Caddo Community Action Agency;
- p. representative of SMILE Community Action Agency;
- q. representative of Quad Community Action Agency;
- r. representative of Child Care Services, Inc. of Northwest

Louisiana;

s. representative of the New Orleans Department of City Welfare;

t. representative of New Orleans Bread for the World;

u. representative of United Way of Greater New Orleans

Area;

v. representative of the Ministerial Association;

w. representative of Agenda for Children;

x. representative of Jefferson Parish Manpower;

y. representative of Welfare Rights;

z. representative of the AFL-CIO;

aa. representative of the Council for a Better Louisiana;

bb. representative of Learn/Earn Program;

cc. a current AFDC recipient (urban area);

dd. a current AFDC recipient (rural area).

SECTION 6: The Task Force shall meet periodically and when deemed necessary. The Task Force shall periodically provide its findings and recommendations to the secretary of the Department of Social Services. The secretary shall be responsible for transmitting a report of the final recommendations to the governor. The Department of Social Services shall provide clerical support to the Task Force.

SECTION 7: Each department within the executive branch shall provide the Task Force with such data, information, and statistics as are requested by the Task Force.

SECTION 8: This Task Force shall continue to serve at the pleasure of the governor until public hearings in accordance with the Administrative Procedure Act are concluded, comments evaluated and recommendations submitted to the administration.

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 22nd day of May, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 89 - 16

WHEREAS, the governor and the state of Louisiana have made a commitment to working toward a drug free Louisiana; and

WHEREAS, employees are the state's most valuable resource and the health of employees is paramount to carrying out their responsibilities; and

WHEREAS, substance abuse can have a serious adverse effect on users, their productivity, their health and safety, and their dependents, co-workers and the general public; and

WHEREAS, state government should be a leader in promoting a drug-free workforce and preventing substance abuse by

employees; and

WHEREAS, the enactment of the Federal Drug Free Workplace Act of 1988 places restrictions on state governments which receive federal grants and requires them to maintain a drug free workplace;

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

SECTION 1: The state of Louisiana shall have a goal to increase employee awareness about substance abuse and to achieve and maintain a workplace free of drug and alcohol abuse. The state shall have a policy which:

- a. prohibits the illegal use, possession, sale or manufacture of controlled substances by state employees at the worksite or while conducting official state business;
- b. prohibits working or reporting to work for the state under the influence of and impaired by illegal drugs or alcohol;
- c. encourages rehabilitation, when possible, for substance abuse by employees; and
- d. promotes substance abuse awareness for state employees.

SECTION 2: The commissioner of administration shall establish and implement the substance abuse policy and awareness program for state employees. The policy and awareness program shall be applicable to all state employees and meet the requirements of the 1988 Federal Drug Free Workplace Act.

SECTION 3: All state agencies shall carry out the provisions of the established substance abuse policy and awareness program. Each state agency shall make a good faith effort to maintain a workplace free of substance abuse.

SECTION 4: This order is effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 23rd day of May, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 89-17

WHEREAS, during the 1988 Regular Session the legislature enacted Act 933 (originally Senate Bill No. 606) relative to correctional facilities inmate labor; and

WHEREAS, said Act, among other things, authorizes the governor to use inmate labor in certain projects or maintenance or repair work; and

WHEREAS, the Act provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by executive order, authorize the use of inmates of a penal or correctional facility owned by the state of Louisiana for necessary labor in connection with a particular project:

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

SECTION 1: that inmate labor be and is hereby autho-

rized to:

- a) provide housing and life safety renovations for students,
- b) repair/replace windows and screens in dormitories, and
- c) renovate showers and plumbing fixtures in dormitories at Louisiana Training Institute in Baton Rouge.

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 26th day of May, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 89-18

WHEREAS, during the 1988 Regular Session the legislature passed Senate Bill No. 606 relative to correctional facilities inmate labor; and

WHEREAS, said Act, among other things, authorizes the governor to use inmate labor in certain projects or maintenance or repair work; and

WHEREAS, the Act provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by executive order, authorize the use of inmates of a penal or correctional facility owned by the state of Louisiana for necessary labor in connection with a particular project;

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

SECTION 1: that inmate labor be and is hereby authorized to repair and upgrade the oxidation pond at Louisiana Training Institute in Baton Rouge.

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 26th day of May, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 89-19

WHEREAS, under Title 1, Section 55 of the Louisiana Revised Statutes of 1950, Independence Day, July 4, 1989, is a legal holiday in Louisiana; and

WHEREAS, under the same statute it is provided that "the governor by executive proclamation may authorize the ob-

servance of such other holidays and half-holidays as he may deem in keeping with efficient administration"; and

WHEREAS, it is fitting and proper that an extra day be set aside for our citizens to honor America and Americans as a reaffirmation of their pride and commitment to the principles of this Nation;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana do hereby proclaim Monday, July 3, 1989 and Tuesday, July 4, 1989 as holidays by law in an effort to focus the attention of our citizens on our Country's character, heritage, and future well-being. I do hereby direct further that the heads of all institutions, offices and departments of the state shall permit employees to observe these holidays, except that provision shall be made for the efficient administration of all facilities, the operation of which cannot be dispensed with, in the discretion of the head of the institution, office or department where such conditions prevail.

IN WITNESS HEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 6th day of June, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Advisory Commission on Pesticides

The commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, and pursuant to his authority under R.S. 3:3203(A), amends LAC 7:13139(B) to include:

Chemical Name	Common Name
17.3,5,6-trichloro-2-pyridinyloxy acetic acid	triclopyr (Rely)

This emergency rule classifies Rely Herbicide, marketed by Hoechst-Roussel Agri-Vet Company, as a restricted-use pesticide within the state of Louisiana and requires that all restrictions set forth in LAC 7:13139 and 7:13141 apply to said pesticide effective until August 1, 1989.

The Environmental Protection Agency granted a specific exemption under the provisions of Section 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, for the use of Rely for control of broadleaf weeds in rice. Data indicates that some phototoxicity to non-target, susceptible crops might occur; therefore, the commissioner of Agri-

culture and Forestry adopted this emergency rule to protect non-target crops from possible drift damage.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Department of Economic Development Office of Commerce and Industry Finance Division

Financial Incentive Fees

The Department of Economic Development, Office of Commerce and Industry, Finance Division, does hereby exercise the emergency provision of the Administrative Procedure Act (R.S. 49:953B) to adopt, effective June 30, 1989, the following regulations for the continuation of financial fees. The following rules will adopt the emergency regulations and the emergency amendment and repeal of existing regulations. The rules pertain to the continuation of fees to provide for the cost of services performed by the Department of Economic Development, Office of Commerce and Industry, Finance Division.

Title 13 ECONOMIC DEVELOPMENT Part I. Office of Commerce and Industry Subpart 1. Finance

Chapter 3.

§301. Advance Notification Fee

Advance notification fee of \$100 per advance notification, which shall be due 90 days prior to the beginning of construction, to be submitted with the advance notification form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104B(7)

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12: 659-666 (October, 1986), amended LR 15:

§303. Application Fee for all Programs

To amend each fee that is submitted with each application for the following programs administered by the Department of Economic Development, Office of Commerce and Industry, Finance Division: Industrial Tax Exemption Program, Article VII, Part II, Section 21 (F) of the Louisiana Constitution of 1974; Enterprise Zone Program R.S. 51:1781-1790, et seq.; Energy Conservation Program R.S. 47:305.30; Restoration Tax Abatement Program, Article VII, Part II, Section 21 (H) of the Louisiana Constitution and R.S. 47:4322-4319, Louisiana Capital Companies (Venture Capital) R.S. 51:1921-1932; Industrial Tax Equalization Program R.S. 47:3201-3206; Corporate Headquarters Tax Equalization Program R.S. 47:3201-3206; Industrial Assistance Program, R.S. 47:4302-4306; Warehousing and Distribution Tax Equalization, R.S. 47:3201-3206; and Transportation Equalization, R.S. 51:941-946. The fee shall be .2 percent of the estimated total amount of taxes to be exempted. The fee shall be submitted with each application received for all the programs administered by the Department of Economic Development, Office of Commerce and Industry. In no case shall an application fee be less than \$200 and in no case shall a fee exceed \$5000 per project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104B(7)

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12:659-666 (October, 1986), amended LR 15:

§305. Inspection Fee

Inspection fees of \$100 for each plant inspection shall be submitted with each affidavit of final cost/energy saved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104B(7)

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12:659-666 (October, 1986), amended LR 15:

§307. Renewals

A fee of \$50 shall be charged for the renewal of a contract for the benefits of the Industrial Tax Exemption Program Article VII, Part II, Section 21 (F) of the Louisiana Constitution of 1974; Enterprise Zone exemptions (where applicable), R.S. 51:1781- 1790, et seq., Corporation Headquarters (where applicable), R.S. 47:3201-3206; Industrial Tax Equalization (where applicable), R.S. 47:3201-3206, Industry Assistance (where applicable), R.S. 47:4301-4306; and Warehousing and Distribution Establishment Tax Equalization Program (where applicable), R.S. 47:3201-3206.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104B(7)

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12:659-666 (October, 1986), amended LR 15:

§309. Collection Procedure

To adopt a regulation that provides for the implementation of new fees to be collected from all businesses submitting Advance Notifications, Applications, Affidavits, and/or Contract Renewals for programs referenced in §303, on or after May 4, 1988. No documents will be processed until such time as the fee is received in the Office of Commerce and Industry, Finance Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104B(7)

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12:659-666 (October, 1986), amended LR 15:

Robert Paul Adams
Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Revision to Bulletin 741, Page 71

The State Board of Elementary and Secondary Education, at the meeting of May 25, 1989, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and approved a revision to Bulletin 741, Page 71 to add math, writing, science, and social studies to the list of elementary elective/exploratory classes.

This emergency adoption is necessary in order for local

school systems to incorporate these courses into the summer school/regular school year curriculum.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Revision to Standards 2.090.05 and 2.090.06 of Bulletin 741

The State Board of Elementary and Secondary Education, at its meeting of May 25, 1989, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R. S. 49:953B and approved the Department of Education's proposed revisions to Standards 2.090.05 and 2.090.06 of Bulletin 741 to permit flexible time requirements in the scheduling of elementary classes.

The emergency adoption of these revisions was necessary in order for local school systems to incorporate this scheduling into the summer school/regular school year curriculum.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

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

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

Currently, Title XIX (Medicaid) recipients in need of inpatient psychiatric services are certified as needing such services by a facility team at the time of admission. The bureau has been advised by the Office of Inspector General under the U.S. Department of Health and Human Services that the current procedure may only be utilized for non-Title XIX admissions or persons who have not been determined eligible for Medicaid services at the time of admission. Under 42 CFR 441.152 a Title XIX recipient's need for inpatient psychiatric services must be certified by an independent team which may not include any individual employed by the admitting facility. Under this rule the bureau is implementing the federal interpretation of 42 CFR 441.152 as mandated by the OIG findings effective May 8, 1989. Failure to immediately implement this policy interpretation will result in denial of federal matching funds for all psychiatric hospital admissions of Title XIX recipients.

RULE

Reimbursement psychiatric hospital admissions under Title XIX shall not be made unless the following certification of need procedures are followed.

CERTIFICATION OF NEED

The need for services must be established before Medicaid payment can be initiated.

A. Medicaid Recipient at Admission

For an individual who is a Medicaid recipient when admitted to the facility/program, certification must be made by an independent team consisting of a physician and one or more professional persons. Team composition may be:

1. individual's attending physician;
2. admission team (including one physician) from a psychiatric facility other than the admitting facility.

The independent team must certify that the Title XIX recipient needs the services and that all other requirements prescribed under the Standards for Participation for Psychiatric Facilities participating in Title XIX reimbursement are met.

NO MEMBER OF THE INDEPENDENT TEAM MAY BE EMPLOYED BY OR HAVE A CONSULTANT RELATIONSHIP WITH THE ADMITTING FACILITY.

B. Client Applying for Medicaid

For an individual who applies for Medicaid while in the facility/program, the certification must be made by the interdisciplinary (as required under the Standards for Payment for Psychiatric Facilities) team either employed by or providing services to clients in the facility/program. The interdisciplinary team must certify that the individual needs the service and that all conditions outlined in the Standards for Payment for Psychiatric Facilities are met.

C. Emergency Admissions

For emergency admissions, the certification must be made by the same facility/program based interdisciplinary team as described above. Emergency admission is described as a situation where the client's condition is such that prompt provision of care is necessary to prevent the death or serious impairment of health of the client.

D. Court Ordered Admission

A court ordered admission does not in itself justify characterizing an admission as an emergency. Only an immediate admission that is necessary to prevent death or serious impairment to the patient's health is considered an emergency although the court may determine that an emergency exists. The certification of need determination by the appropriate team is required for Medicaid payment regardless of whether a court ordered the admission.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

Currently, Skilled Nursing Facility (SNF) reimbursement for Technology Dependent Children (SNF/TDC) is set at \$85 per diem. The flat rate established for this service is based on

facility costs for 20 or more cases. To allow for expansion of SNF/TDC services to assure services are available for transfer of cases from the hospital setting to long term care facilities, specific reimbursement procedures are being adopted. Without this rule, the bureau will not be able to assure adequate long term care facility services are available for transfer of TDC cases from the hospital setting. Federal regulations require the Title XIX program to provide coverage for services in sufficient amount, duration and scope to meet the needs of the population served. As a result of this mandatory provision for participation in Title XIX services, the bureau will authorize enhanced reimbursement of facility start up costs associated with establishing a SNF/TDC unit within an existing SNF facility participating in Title XIX reimbursement, under certain conditions. To be authorized enhanced reimbursement for technology dependent care, a facility must meet specific requirements which include: a contractual agreement with the bureau to accept 20 or more TDC cases referred from the hospital setting; a valid provider agreement and licensure to provide SNF level services; a written agreement with the hospital to make 20 or more referrals during the 12-month period; and supporting documentation acceptable to the bureau which demonstrates TDC cases treated by the hospital will be able to transfer to the SNF/TDC facility during the 12-month period. Because of the limited number of SNF/TDC cases in need of long term care service, the bureau will only authorize enhanced reimbursement when the number of these cases in need of long term care services cannot be treated in existing facilities providing SNF/TDC services.

RULE

Reimbursement for Skilled Nursing Facility/Technology Dependent Children (SNF/TDC) services provided in a SNF facility which meets the specific requirements outlined below, shall be based on cost not to exceed a per diem rate of \$106.57. Reimbursement for these services shall be subject to established SNF payment limitations, standards for participation, and standards for payment and all additional requirements for provision of SNF/TDC services.

Enhanced payment for SNF/TDC services shall be limited to a single 12-month period to allow for increased start up costs and shall only be available under the following conditions:

- the facility must have entered into a contractual agreement with the bureau to begin providing SNF/TDC services under enhanced reimbursement;
- the facility must be licensed to provide nursing services at the SNF level of care;
- the facility must have a valid Title XIX provider agreement for provision of SNF services;
- The facility must have a valid agreement with a hospital, treating TDC cases on an inpatient basis in Louisiana, to transfer 20 or more SNF/TDC patients eligible for Title XIX services to the facility during the 12-month period of enhanced reimbursement established under the contractual agreement between the bureau and the facility;
- the facility must provide documentation and assurances from the hospital, acceptable to the bureau, which demonstrate:
 - alternative placement of SNF/TDC cases in existing facilities is not feasible; and
 - 20 or more cases will be transferred to the facility during the 12-month period of enhanced reimbursement;
- the facility must provide the bureau with a detailed operating report which projects admission over the 12-month period, costs per month, and a total projected cost per patient day

for the 12-month period; and

° at the end of the 12-month period, the facility shall file a standard long term care facility cost report that shall be subject to audit and cost settlement, not to exceed \$106.57 per diem.

The facility will be expected to work closely with the bureau to insure that services are provided at the most cost effective rate.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Eligibility Determinations**

The Department of Social Services, Office of Eligibility Determinations, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to adopt the following rule in the Individual and Family Grant (IFG) Program.

Emergency rulemaking is necessary because federal regulations as published in the *Federal Register* of Tuesday, March 21, 1989, Vol. 54, No. 53 pages 11610-11654 mandate a March 21, 1989 implementation date. A disaster has been declared in certain areas of Louisiana and will be managed in accordance with these new regulations.

RULE

The maximum grant amount in the IFG Program has been changed to \$10,000. The amount will be adjusted at the beginning of each federal fiscal year to reflect changes in the Consumer Price Index for All Urban Consumers, published by the U.S. Department of Labor.

The dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone will change to \$7,000 building and \$3,000 contents for a homeowner, and \$10,000 contents for a renter.

May Nelson
Secretary

DECLARATION OF EMERGENCY

**Department of Transportation
and Development
Office of the Secretary**

The Department of Transportation and Development has exercised the emergency provision of the Administrative Procedure Act, R. S. 49:953B, to adopt the following toll schedules for ferries in order to maintain their operation.

TOLL SCHEDULE

Department of Transportation and Development Ferries

- 1) \$.25 for Pedestrian, per Crossing Each Way
- 2) \$1.00 per Vehicle, per Westside to Eastside Crossing;

the Eastside to Westside is a Free Crossing

Locations:

- 1) Chalmette - Lower Algiers

- 2) Canal Street - Algiers
- 3) Jackson Avenue - Gretna

Each vehicle, its owner or operator, and all occupants of such vehicle shall be jointly and solidarily liable for payment of the prescribed toll. Each ferry passenger not crossing in a vehicle shall be liable for payment of the prescribed toll.

*Exceptions: Elderly and Handicapped access to the ferries will be free at all times. Evidence of Elderly and/or Handicapped status will be demonstrated by an identification card issued by any one of the following: Regional Transit Authority, St. Bernard Parish, or Jefferson Parish or any of its transit operators.

EFFECTIVE JULY 1, 1989

Neil L. Wagoner
Secretary

DECLARATION OF EMERGENCY

**Department of Transportation and Development
Office of the Secretary**

The Department of Transportation and Development has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to adopt the following toll schedules for ferries in order to maintain their operation.

Toll Schedule

**Louisiana Department of Transportation
and Development Ferries**

The following toll schedule applies to:

- | | | |
|----|----------------------------------|--|
| 1) | Edgard/Reserve Ferry | Mississippi River
District 02 |
| 2) | Plaquemine/Sunshine Ferry | Mississippi River
District 61 |
| 3) | New Roads/St. Francisville Ferry | Mississippi River
District 61 |
| 4) | Cameron/Ship Channel Ferry | Calcasieu River and
Intracoastal
District 07 |
| 5) | Cameron/Monkey Island Ferry | Calcasieu River
District 07 |
| 6) | Duty/Enterprise | Ouachita River
District 58 |

Each vehicle, its owner or operator, and all occupants of such vehicle shall be jointly and solidarily liable for payment of the prescribed toll. Each ferry passenger not crossing in a vehicle shall be liable for payment of the prescribed toll.

The funds thus generated will be applied to the construction, improvements, repairs, maintenance and operations of those ferry facilities and properties.

FERRY TOLL CLASSIFICATION

RATE SCHEDULE

	TOLL
A. Per Crossing Per Pedestrian Each Way	\$0.25
B. Per Westside to Eastside Vehicle Crossing	\$1.00

NOTE: Eastside to Westside is a Free Crossing for Vehicles.

EFFECTIVE JULY 1, 1989

Neil L. Wagoner
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S.49:953(b), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497, and action by the Louisiana Wildlife and Fisheries Commission on May 5, 1989 which authorized the secretary of the Department of Wildlife and Fisheries to alter the opening date of the 1989 spring inshore shrimp season with concurrence of the commission and the fact that biological sampling has detected significant additional recruitment of small brown shrimp thus reducing the average size of brown shrimp in Zone 1 and delaying the date when 50 percent of the shrimp will reach 100-count, the secretary of the Department of Wildlife and Fisheries with concurrence of the Wildlife and Fisheries Commission does:

Hereby delay the opening of the 1989 Spring Inshore Shrimp Season in Shrimp Management Zone 1 (from South Pass of the Mississippi River to the Louisiana-Mississippi state line) until 6 a.m. on June 5, 1989.

Virginia Van Sickle
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953B, the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497, the Louisiana Wildlife and Fisheries Commission does:

1. hereby set the 1989 Spring Inshore Shrimp Season to open in Shrimp Management Zone 1 (from South Pass of the Mississippi River to the Louisiana-Mississippi State Line) at 6 a.m. on May 22, 1989;

2. hereby set the 1989 Spring Inshore Shrimp Season to open in Shrimp Management Zone 2 (from South Pass of the Mississippi River to the Western Shore of Vermilion Bay and Southwest Pass at Marsh Island) at 6 a.m. on May 22, 1989;

3. hereby set the 1989 Spring Inshore Shrimp Season to open in Shrimp Management Zone 3 (from the Western Shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana-Texas State Line) at 6 a.m. on June 5, 1989;

4. authorize and empower the secretary of the Department of Wildlife and Fisheries with concurrence of a majority of the Wildlife and Fisheries Commission by phone to alter or close the 1989 spring inshore shrimp season in any area or Zone when the Marine Fisheries Division certifies that the biological and technical data indicates the need to do so;

5. authorize and empower the secretary of the Department of Wildlife and Fisheries to set season extensions in areas or Zones when the Marine Fisheries Division certifies that the biological and technical data indicates the need to do so;

6. provide that the secretary of the Department of Wildlife and Fisheries shall give a minimum of 72 hours notice prior to

the closing of the 1989 spring inshore shrimp season or the opening or closing of any special shrimp season or season extensions.

Virginia Van Sickle
Secretary

Rules

RULE

Department of Economic Development Economic Development Corporation

The Department of Economic Development, Economic Development Corporation, amended the rule of the Louisiana Minority Business Development Program. These amendments amend procedures for administering the Louisiana Minority and Women's Business Development Program as authorized by Act No. 888 of the 1988 legislature.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart I. Minority and Women's Business Development Program

Chapter 1. Loan Policies

§101. Program Procedures

A. Loan Policy Statement

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

B. General Policy

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

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

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

3. The corporation shall not knowingly approve any loan or guarantee if the applicant therefore has presently pending or

outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness; nor shall the corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

4. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board at the next meeting of the board in open session with full explanation for such action.

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

C. Loan Approval and Review

1. All applicants are required to submit a detailed business plan before an application is mailed. All loan requests will be presented to the Screening Committee of the corporation at its monthly meetings. The board will act on the recommendation of the Screening Committee at the monthly meeting of the board that occurs within 30 days of the Screening Committee meeting at which the loan request was heard.

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§103. Eligibility Requirements

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

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

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

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

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

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

F. It must provide reasonable security to assure repayment of the loan. Security may include, but not be limited to, a

mortgage on real or personal property, monies due on contracts, assignment of warehouse receipts, guarantees and, if acceptable to the corporation, assignment of receivables or pledge of inventories.

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§105. Contents of Application

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

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

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

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

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

b. The corporation may request written reasons of refusal from the financial institutions which rejects the applicant's re-

quest for a loan or guarantee, and the corporation may consider such reasons in determining whether to grant or deny any application.

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

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

7. A history statement for existing businesses.

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

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

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

11. Three years of personal federal income tax returns.

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

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

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

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

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

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

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

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

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

21. Copy of franchise agreement if purchasing a franchise.

22. Details of bankruptcy proceedings if applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§107. Interest Rates

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§109. Lending Regulations

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

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

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

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

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

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

D. In the event of extreme urgency, as determined by the board chairman, affecting the continuation of existing jobs or the loss of a business opportunity to create new jobs, the board of the corporation may in open session, suspend the full requirements of the loan or loan guaranty application information and require the immediate submission of information sufficient to demonstrate the urgency, the advisability of the loan or loan guaranty and the adequacy of the security to be provided for the loan. In this event, however, the applicant shall provide the full information within such time as the program fixes in conjunction

with the granting of the suspension. Such suspension may be granted only when the amount of the loan or loan guaranty does not exceed the sum of \$250,000 and the loan or loan guaranty is fully secured by first mortgages on immovable and personal liability of sufficiently solvent individuals. The granting of and justification for a suspension, as provided herein, shall be documented and made a matter of permanent public record.

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§111. Staff's Responsibilities

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

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

1. name and address of borrower;
2. date of loan request;
3. brief summary of the business;
4. amount of loan request;
5. rate requested by the borrower and rate agreed upon;
6. terms of repayment. If the loan is to be amortized on a monthly basis, the number of monthly installments and dollar amount should be noted;
7. purpose of the loan;
8. security. Give a complete description of the collateral and state its current value.

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

such action was taken.

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§113. Board Responsibilities

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§115. Reapplication after Denial

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§117. Conditions for Disbursement of Loan Proceeds

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

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

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

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

1. The applicant shall provide to the corporation a mortgagee title insurance policy acceptable to the corporation. At the discretion of the corporation, the corporation may accept a title opinion by a title attorney and approved by the program. The title opinion shall provide evidence of clear title and shall include, but not be limited to, a property description identifying the property owned with pertinent recordation data, satisfactory

evidence that all taxes due on the property have been paid, a full and complete list of all mortgages, liens, encumbrances and/or servitude on the property and such other information as may be necessary for a full recital of the facts surrounding such property.

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

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

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

- a. amount loaned;
- b. rate of interest;
- c. repayment schedule;
- d. description and listing of all property to be included as

the security;

e. provision for executory process;

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

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

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

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

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

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

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

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

tion of the extension.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§119. Compliance Requirements for all Program Loans

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

1. list of all stockholders with the number of shares held by each at any time during the previous year;
2. statement of financial condition including, but not limited to, a balance sheet, profit and loss statement for the most recently completed fiscal year;
3. current reconciliation of net worth;
4. one-year projected cash flow statement. Statement must be prepared on a month-to-month basis, accompanied with footnotes;
5. current personal financial statement of all principals who have endorsed the note or are liable for repayment of the loan or any part thereof;

6. current insurance policies.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§121. Bank Responsibility

Guaranty Loans

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

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

C. After all the mortgage documents have been recorded, the lender must provide for the program's records, a copy of the note, the mortgages and other data deemed necessary by the program. The staff will review all documentation for compliance and issue the Guaranty Agreement along with instructions for the lender to sign and date the agreement, obtain the applicant's signature and date. The lender will retain the original and mail a copy to the program. The Guarantee Agreement outlines the following:

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

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

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

F. 1. In the event of default the lender shall notify the program in writing that the account is in default and if payment is requested along with the outstanding principal and interest amount due.

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

Chapter 3. Collateral

§301. Collateral for a Program Loan

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

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

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

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

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

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

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

6. Listed securities - New York or American Stock Exchange as listed in the Wall Street Journal - Loans should not

exceed 75 percent of the stock's value.

7. Life Insurance; cash surrender value.

8. Real Estate; commercial or personal property.

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

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

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

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

d. list of securities;

e. original copy of insurance policy.

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

Chapter 5. Lending Criteria

§501. Desirable Loans

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§503. Undesirable Loans

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

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

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

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

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

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

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

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

1. pay off a creditor or creditors who are inadequately secured and in a position to sustain a loan or,

2. provide funds to pay off debt to principals of the business, or,

3. provide funds to pay off family members.

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

1. The lease is for a term extending at least five years beyond the period of the loan.

2. The corporation receives an assignment of the lease and the right of re-assignment.

3. If the loan repayment schedule includes a balloon note. The corporation, at its discretion, may require a lease running for 20 years from the date of the approval of the loan.

I. Restaurants, except for regional or national franchises.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

Chapter 7. Appraisers

§701. Appraisers

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

A. a written statement of expertise in appraising property;

B. a written statement of experience as an appraiser;

C. evidence of inclusion on the approved appraisers' list of any state or federally chartered banks or such public agencies as the Small Business Administration, Farmers Home Administration, Federal Housing Administration or other similar institutions.

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§703. Other Guidelines

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§705. Selecting an Appraiser

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

1. The applicant may review the file of credentials of approved appraisers, and shall select from the listing of approved appraisers three appraisers who are acceptable to the applicant.

2. The applicant shall notify the corporation in writing of the names of the three appraisers selected by the applicant.

3. Program staff shall select one appraiser from the list of

three appraisers submitted by the applicant and shall notify the applicant in writing of the appraiser selected by the corporation to perform the appraisal.

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

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

§901. Repayment Terms

A. The board of the corporation can loan, participate in or guarantee the repayment of any loan for a period of five years. However, the corporation may review or extend loans when it deems it necessary, (in the aggregate, not to exceed a total of 15 years). All loans shall be renewed at the prevailing interest rate at the time of the renewal.

B. Rescheduling of Payment Terms

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/

M&WBDP amended LR 15: (June 1989).

§903. Loan Payments

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§905. Delinquency

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

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

C. Loans that fall into the 11 to 29 days past due category will be considered delinquent. Staff will then forward a letter advising clients of delinquency and requesting payment within five days. Loans that fall into the 30-60 day past due category will be considered seriously delinquent and the corporation's legal counsel will be asked to send a letter requesting payment within five days or legal action will begin. The letter shall be sent by certified mail with return receipt requested. The account shall also be reported to the board of the program for consideration.

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§907. Foreclosure

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

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

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

AUTHORITY NOTE: Promulgated in accordance with

R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§911. Charge-Off Method

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

Chapter 11. Reserve Requirement and Fees

§1101. Reserve Requirement

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

§1103. Fee charges

A \$50 non-refundable application fee must be submitted with each application. This fee is acceptable only with the application and in the form of a cashier's check or money order. Borrower shall be responsible for payment of any reasonable closing costs arising from and incident to the making, securing and documenting of an approved direct loan.

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

Chapter 13. Confidentiality and Conflict of Interest

§1301. Confidentiality

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

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

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

§1303. Conflict of Interest

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

AUTHORITY NOTE: Promulgated in accordance with

R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation/M&WBDP amended LR 15: (June 1989).

PLEASE SIGN, DETACH AND RETURN WITH APPLICATION

Statement of Understanding

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

Witness

Applicant/President

Date

Date

Patricia A. Robinson
Director

RULE

**Department of Economic Development
Louisiana Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation adopts the following rule in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2351 through 2360:

Title 19

CORPORATIONS AND BUSINESS

**Part VII. Louisiana Economic Development Corporation
Subpart 3. Small Business Equity Program**

Chapter 7. Loan Guaranty Program

§701. Purpose

To provide for a method of stimulating business development, business acquisition, business growth, and retention of Louisiana based businesses through participation in or guaranteeing debt or equity leverage that uses the private commercial financial sector as the primary source of funds and responsible lead lender. Authority: Attorney General Opinion 88-470.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§703. Eligibility

A. Small business concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

B. Small business growth concerns which fall in the specific Standard Industrial Codes as provided by R.S. 51:2325.

C. Priority will be given to, but not be restricted to, businesses owned and operated by disadvantaged individuals in high unemployment areas, as defined by the Louisiana Department of Labor and as stated in R.S. 51:2321.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§705. Application Process

A. The application shall include but not be limited to:

1. personal information

a. name

b. address

c. Social Security Number

d. telephone number

e. title of individual

f. a personal credit report supplied by the applicant at the applicant's expense. The credit report shall be supplied by a national credit reporting company such as, but not limited to the Credit Bureau, Chiltons Credit Bureau, TRW Credit Bureau, etc.

2. business information

a. name of business

b. address (mail and physical)

c. phone number

d. year established

e. state chartered in

f. legal structure of business

g. IRS tax number

h. business line

3. owner/manager information

a. name

b. address

c. title

d. Social Security Number

e. percentage of ownership

f. annual compensation

4. loan information

a. purpose

b. amount

c. proposed terms

d. breakdown of loan funds

i. building cost

ii. land cost

iii. equipment cost

iv. inventory cost

v. other costs

e. attached exhibits for loan purpose and use of funds with complete cost break down.

5. summary of collateral available to secure loan

a. type and description

i. exhibits attached for description

b. present market value

i. exhibits attached for appraisals

c. present balance owed

d. total value of collateral

6. source of repayment

a. primary source

b. secondary source

7. recap of five-year history of earnings and cash flow

a. year

b. net income

c. income taxes accrued

d. depreciation

8. schedule of debt

a. to whom

b. date opened

c. original balance

d. present balance

e. monthly payment

f. date of maturity

g. rate

h. collateral

9. list of trade creditors/suppliers

a. creditor name

b. address

c. date opened

d. high credit

e. balance

f. terms

10. contingencies

a. list any co-signer(s) or guarantor(s) on any present loans;

b. list all litigation pending on owner or company;

c. list all bankruptcy or insolvency proceedings involving owner or company;

11. a comprehensive business plan must be attached to the application that contains but is not limited to the following:

a. a cover letter which contains:

i. dollar amount requested

ii. terms and timing of loan request

iii. type and price of collateral

b. summary

i. business description

(a). name

(b). location and plant description

(c). product

(d). market and competition

(e). management expertise

ii. business goals

iii. summary of financial needs and application of funds

iv. earnings projections and potential return to investors

c. market analysis

i. description of total market

ii. industry trends

iii. target market

iv. competition

d. products or services

i. description of product line

ii. proprietary position: patents, copyrights and legal and technical considerations

iii. comparison to competitors products

e. manufacturing process (if applicable)

i. materials

ii. sources of supply

iii. production methods

f. marketing strategy

i. overall strategy

ii. pricing policy

iii. sales terms

iv. method of selling, distributing and servicing products

g. management plan

i. form of business organization

ii. board of directors composition

iii. officers: organization chart and responsibilities

- iv. resumes of key personnel
- v. staffing plan/number of employees
- vi. facilities plan/planned capital improvements
- vii. operating plan/schedule of upcoming work for next one to two years.
- h. financial data
 - i. financial history (five years to present) - See NOTE 1
 - ii. five-year financial projections (first year by quarters; remaining years annually)
 - (a). profit and loss statements
 - (b). balance sheets
 - (c). cash flow chart
 - (d). capital expenditure estimates
 - iii. explanation of projections
 - iv. key business ratios
 - v. explanation of use and effect of new funds
 - vi. potential return to investors compared to competitors and industry in general.

NOTE 1: All financial statements *must* meet Generally Accepted Accounting Principals (GAAP)

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§707. Submission and Review Procedure

A. General Policy

1. The corporation shall not approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The corporation shall not approve any loan or guarantee if the applicant or business has been or is presently in any bankruptcy proceedings.

3. The terms or conditions imposed and made part of any loan or loan guarantee authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Louisiana Economic Development Corporation except by subsequent vote of approval by the board at the next meeting of the board.

4. The requirement of personal guarantees shall be negotiated on a project-to-project basis.

B. Submission and Review Policy

1. All applications must be submitted no later than four weeks prior to the scheduled screening committee meeting for consideration at the next scheduled board meeting of the corporation following the screening committee meeting.

2. The bank will submit to LEDEC a completed application with analysis. The LEDEC staff will do analysis independent of bank analysis.

3. The bank will submit to LEDEC the same pertinent data that it did to the bank's loan committee, whatever pertinent data the bank can legally supply.

4. LEDEC staff will review the application and analysis then make recommendations. The staff will work with the bank on terms of loan and LEDEC loan stipulations.

5. The screening committee will review the completed application and will make recommendations to board.

6. The Board of Directors will review all recommendations and will approve or reject the proposal.

7. The applicant will be notified within five working days by mail of the outcome of the application.

8. A guarantee commitment letter will be mailed to the

bank within five working days of approval by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§709. Collateral

A. Collateral to loan ratio will be no less than one to one.

B. Collateral position shall be negotiated but will be no less than a sole second position.

C. Collateral Value Determination.

1. The appraiser must be certified by recognized organization in area of collateral.

2. The appraisal cannot be over 90 days old.

D. Acceptable collateral may include, but not be limited to, the following:

1. fixed assets - real estate, buildings, fixtures;

2. equipment, machinery, inventory;

3. personal guarantees are open for negotiation, if used, there must be signed and dated personal financial statements;

4. accounts receivable with supporting aging schedule.

Not to exceed 90 percent of receivable value.

E. Unacceptable collateral may include but not be limited to the following:

1. stock in applicant company and or related companies;

2. personal items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§711. Terms

A. No less than five years nor more than statutory maximum.

B. There is no penalty for early pay out.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§713. Rate

A. Prime Rate of applicants bank on date of application to bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§715. Equity

A. Will be 25 percent of LEDEC guarantee amount.

B. Equity is defined to be

1. cash

2. paid in capital

3. paid in surplus and retained earnings

4. partnership capital and retained earnings

C. No research, development expense nor intangibles of any kind will be considered equity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§717. Use of Funds

A. Purchase fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent for the term of the guarantee, unless otherwise approved by the bank and LEDEC.

B. Equipment or machinery.

C. Line of credit for accounts receivable or inventory.

D. Working capital, limited to normal use.

E. Debt restructure shall not exceed 49 percent of the total guarantee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§719. Guaranty Agreement

A. Bank responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

B. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDEC board.

C. LEDEC may guarantee up to a maximum of 75 percent of the total loan, but in no case may the guaranty exceed \$2 million.

D. If liquidation through foreclosure occurs, the bank sells collateral and handles legal proceedings.

E. There will be an annual reduction of the guarantee:

1. in proportion to the principal reduction of the amortized portion of the loan;

2. if no principal reduction has not occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

F. The guarantee will cover the unpaid principal amount owed only.

G. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guarantee agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation as stated in the guarantee agreement.

I. Escrowed funds shall be maintained in a manner jointly approved by LEDEC and the state Treasurer's office in an amount equal to the amount of the outstanding guarantees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§721. Loan Closing

A. The secretary-treasurer of the corporation and one of the following: president of the corporation, chairman of the board, or executive director shall execute all necessary legal instruments at or for the loan closing.

1. The loan documents must satisfy all legal requirements as evidenced by the written approval of the corporation's attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§723. Loan Administration and Tracking

A. Loan administration shall be the responsibility of the bank. Administration fees paid by the borrower for extraordinary administration will be allowed within reason with consent of the Board of Directors.

B. The guarantee agreement will outline any information needed from the borrower or the bank for loan tracking by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§725. Confidentiality

A. Confidential information in the files of the corporation acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give out a credit rating or confidential information out regarding any applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§727. Conflict of Interest

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

Nadia L. Goodman
Acting Executive Director

RULE

Department of Economic Development Economic Development Corporation

The Department of Economic Development, Louisiana Economic Development Corporation adopts the following rule in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51: 2351 through 2360:

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 3. Small Business Equity Program

Chapter 9. Loan Participation Program

§901. Purpose

To provide for a method of stimulating business develop-

ment, business acquisition, business growth, and retention of Louisiana based businesses through participation or guaranteeing in debt or equity leverage that uses the private commercial financial sector as the primary source of funds and responsible lead lender. Authority: Attorney General Opinion 88-470.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§903. Eligibility

A. Small business concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

B. Small business growth concerns which fall in the specific Standard Industrial Codes as provided by R.S. 51:2325.

C. Priority will be given to, but not be restricted to, businesses owned and operated by disadvantaged individuals in high unemployment areas, as defined by the Louisiana Department of Labor and as stated in R.S. 51:2321.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§905. Application Process

A. The application shall include but not be limited to:

1. personal information
 - a. name
 - b. address
 - c. Social Security Number
 - d. telephone number
 - e. title of individual
 - f. a personal credit report supplied by the applicant at the applicant's expense. The credit report shall be supplied by a national credit reporting company such as, but not limited to the Credit Bureau, Chiltons Credit Bureau, TRW Credit Bureau, etc.
2. business information
 - a. name of business
 - b. address (mail and physical)
 - c. phone number
 - d. year established
 - e. state chartered in
 - f. legal structure of business
 - g. IRS tax number
 - f. description of business
3. owner/manager information
 - a. name
 - b. address
 - c. title
 - d. Social Security Number
 - e. percentage of ownership
 - f. annual compensation
4. loan information
 - a. purpose
 - b. amount
 - c. proposed terms
 - d. breakdown of loan funds

- i. building cost
- ii. land cost
- iii. equipment cost
- iv. inventory cost
- v. other costs
- e. attached exhibits for loan purpose and use of funds

with complete cost break down.

5. summary of collateral available to secure loan
 - a. type and description
 - i. exhibits attached for description
 - b. present market value
 - i. exhibits attached for appraisals
 - c. present balance owed
 - d. total value of collateral
6. source of repayment
 - a. primary source
 - b. secondary source
7. recap of five-year history of earnings and cash flow
 - a. year
 - b. net income
 - c. income taxes accrued
 - d. depreciation
8. schedule of debt
 - a. to whom
 - b. date opened
 - c. original balance
 - d. present balance
 - e. monthly payment
 - f. date of maturity
 - g. rate
 - h. collateral
9. list of trade creditors/suppliers
 - a. creditor name
 - b. address
 - c. date opened
 - d. high credit
 - e. balance
 - f. terms
10. contingencies
 - a. list any co-signer(s) or guarantor(s) on any present loans
 - b. list all litigation pending on owner or company
 - c. list all bankruptcy or insolvency proceedings involving owner or company
11. A comprehensive business plan must be attached to the application that contains but is not limited to the following:
 - a. a cover letter which contains:
 - i. dollar amount requested
 - ii. terms and timing of loan request
 - iii. type and price of collateral
 - b. summary
 - i. business description
 - (a). name
 - (b). location and plant description
 - (c). product
 - (d). market and competition
 - (e). management expertise
 - ii. business goals
 - iii. summary of financial needs and application of funds
 - iv. earnings projections and potential return to investors
 - c. market analysis
 - i. description of total market
 - ii. industry trends

- iii. target market
- iv. competition
- d. products or services
 - i. description of product line
 - ii. proprietary position: patents, copyrights and legal and technical considerations
- iii. comparison to competitors' products
- e. manufacturing process (if applicable)
 - i. materials
 - ii. sources of supply
- iii. production methods
- f. marketing strategy
 - i. overall strategy
 - ii. pricing policy
 - iii. sales terms
- iv. method of selling, distributing and servicing products
- g. management plan
 - i. form of business organization
 - ii. board of directors composition
 - iii. officers: organization chart and responsibilities
 - iv. resumés of key personnel
 - v. staffing plan/number of employees
 - vi. facilities plan/planned capital improvements
 - vii. operating plan/schedule of upcoming work for next one to two years.
- h. financial data
 - i. financial history (five years to present) - See NOTE 1
 - ii. five-year financial projections (first year by quarters; remaining years annually)
 - (a). profit and loss statements
 - (b). balance sheets
 - (c). cash flow chart
 - (d). capital expenditure estimates
 - iii. explanation of projections
 - iv. key business ratios
 - v. explanation of use and effect of new funds
 - vi. potential return to investors compared to competitors and industry in general.

NOTE 1: All financial statements *must* meet Generally Accepted Accounting Practices (GAAP)

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§907. Submission and Review Procedure

A. General Policy

1. The corporation shall not approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The corporation shall not approve any loan or guarantee if the applicant or business has been or is presently in any bankruptcy proceedings.

3. The terms or conditions imposed and made part of any loan or loan guarantee authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Louisiana Economic Development Corporation except by subsequent vote of approval by the board at the next meeting of the board.

4. The requirement of personal guarantees shall be negotiated on a project-to-project basis.

B. All applications must be submitted no later than four

weeks prior to the scheduled screening committee meeting for consideration at the next scheduled board meeting of the corporation following the screening committee meeting.

C. The bank will submit to LEDEC a completed application with analysis. Staff will do analysis independent of bank analysis.

D. The bank will submit to LEDEC the same pertinent data that it did to the bank's loan committee, whatever pertinent data the bank can legally supply.

E. The staff will review the application and analysis and will make a recommendation. Staff will work with the bank on terms of loan and LEDEC loan stipulations.

F. The screening committee will review the completed application and will make recommendations to board.

G. The Board of Directors will review the recommendations and will approve or reject the proposal.

H. The applicant will be notified within five working days by mail of the outcome of the application.

I. A loan commitment letter will be mailed to the bank within five working days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§909. Collateral

A. Collateral to loan ratio will be no less than one to one.

B. Collateral position shall be negotiated but will be no less than a sole position.

C. Collateral Value Determination.

1. The appraiser must be certified by recognized organization in area of collateral.

2. The appraisal cannot be over 90 days old.

D. Acceptable collateral may include, but not be limited to, the following:

1. fixed assets - real estate, buildings, fixtures;

2. equipment, machinery, inventory;

3. personal guarantees are open for negotiation, if used there must be adequate supporting signed and dated personal financial statements.

E. Unacceptable collateral may include, but not be limited to, the following:

1. accounts receivable;

2. stock in applicant company and or related companies;

3. personal items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§911: Terms

A. No less than five years nor more than 30 years.

B. There is no penalty for early pay out.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§913. Rate

A. Open to negotiations, adjustable rates and fixed rates available

B. Less than commercial rate (Chase Prime)

AUTHORITY NOTE: Promulgated in accordance with

R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§915. Equity

A. There will be no less than 25 percent of LEDEC injection.

B. Equity is defined to be

1. cash
2. paid in capital

C. No research, development expense nor intangibles of any kind will be considered equity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§917. Use of Funds

A. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

B. Purchase of equipment, machinery, or inventory

C. Working capital, limited to normal use.

D. Debt Restructure restricted to 25 percent of total loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§919. Participation Agreement

A. The bank is responsible for administration and monitoring of loan.

B. The lead bank will hold no less participation in the loan than that equal to LEDEC's but not to exceed its legal lending limit.

C. The lead bank may sell other participation with LEDEC's consent.

D. LEDEC will participate up to a maximum of 40 percent of the total loan request, but in no case shall the corporation's participation exceed \$2 million.

E. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

F. The bank is able to set its rate according to risk.

1. Blend our rate to yield a lower overall rate to project.

G. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§921. Loan Closing and Disbursement of Loan Proceeds

A. The secretary-treasurer of the corporation and one of the following: president of the corporation, chairman of the board, or executive director shall execute all necessary legal instruments at or for the loan closing.

1. The loan documents must satisfy all legal requirements as evidenced by the written approval of the corporation's attorney.

2. Disbursement will be made in the name of the lead

bank and into an account in the lead bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§923. Loan Administration and Tracking

A. Loan administration shall be the responsibility of the lead bank. Administration fees paid by the borrower for extraordinary administration will be allowed within reason with consent of the Board of Directors.

B. The Loan Participation Agreement will spell out any information needed from the borrower or the bank for loan tracking by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§925. Confidentiality

A. Confidential information in the files of the corporation acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give a credit rating or confidential information out regarding any applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§927. Conflict of Interest

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

Nadia L. Goodman
Acting Executive Director

RULE

**Department of Economic Development
Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation adopts the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2351 through 2360:

Title 19
CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 3. Louisiana Small Business Equity Program

Chapter 11. Feasibility Studies

§1101. Eligibility

Any Louisiana business that is science-based or developing new technology is eligible to apply. Basic research for the project must be completed and a prototype completed or process defined. The feasibility study must be able to be completed within 24 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§1103. Application

A. The applicant business shall submit a funding request to include but not be limited to:

1. a statement of the problem to be solved by the development;
2. the extensiveness of the problem;
3. history of the research leading to the development of the prototype;
4. if commercialized, effect on economy of Louisiana, U.S. and world;
5. outline of commercialization process;
6. amount requested, use of funds schedule and anticipated schedule of distribution;
7. duration of project;
8. resumes of principal researchers and project developer;
9. requested payback terms;
10. number of jobs to be created if commercialized;
11. financials on company and project developers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§1105. Use of Funds

Funds use is limited to expenses necessary to demonstrate feasibility of project. Eligible budget items will be negotiated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§1107. Reporting and Disbursement Requirements

Financial and narrative progress reports shall be submitted quarterly from the start up date of the feasibility study. A final report shall be due within 60 days of completion of the study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§1109. Loan Terms

A. Contracts for repayment between businesses whose projects are deemed feasible for commercialization and the Corporation shall be perfected within 120 days of completion of the

feasibility study or all sums shall be due and payable at that time. Methods of payback may include term loan, royalty or equity. Interest shall not exceed two points below New York Prime at the beginning of the payback. The term shall not exceed five years.

B. Contracts for repayment between businesses whose projects are not deemed feasible for commercialization and the corporation shall be perfected for repayment of the principal amount only within 120 days of completion of the feasibility study or all sums are due and payable at that time. The term shall not exceed 10 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§1111. Size of Project

The maximum amount loaned by the corporation per project is \$500,000. Under no circumstances shall the amount exceed 90 percent of the project cost. The applicant business shall provide at least 10 percent of the project cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

Nadia L. Goodman
Acting Executive Director

RULE

Department of Economic Development
Economic Development Corporation

The Department of Economic Development, Louisiana Economic Development Corporation adopts the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2331.

Title 19
CORPORATIONS AND BUSINESS

Part VII. Louisiana Economic Development Corporation

Subpart 2. Louisiana Venture Capital Program

Chapter 1. Louisiana Venture Capital Co-Investment Program

§101. Eligibility

A. Any venture capital fund, with five years experience in the management of investments made with the capital of other investors and having at least \$7,500,000 under management is eligible to apply for certification under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§103. Application for certification

A. The application for certification shall contain but not be limited to the following:

1. a cover letter that states that application to the program for certification is being made and indicating reason for applica-

tion for certification;

2. resumé of the principal manager(s);
3. list of all funds managed by the partner(s);
4. amount of fund(s);
5. project preferences including:
 - a. role in financing
 - b. type of financing
 - c. minimum investment
 - d. preferred investment
 - e. preferred investment (LBO)
6. industry preferences;
7. five-year statement showing investments made and results of those investments;
8. experience with co-investment with any other governmental agency;
9. previous/current experience with projects within Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§105. Procedure for Certification Review

A. The application will be submitted to the executive director of the corporation no later than two weeks prior to the regular monthly meeting of the screening committee of the board. He shall review and analyze the information. If the application is complete, he shall submit it and his analysis to the next meeting of the screening committee of the corporation board which shall review the application and make a recommendation to the next meeting of the full board for certification or denial. Upon certification, a certification number shall be assigned the applicant by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§107. Co-investment Criteria

A. Certified venture capital funds may apply to the corporation for a co-investment by the corporation in a round of financing in a specific project. The project must be for a Louisiana based enterprise maintaining headquarters and production facilities in Louisiana. The corporation shall not co-invest more than 25 percent of the total venture capital investment in the proposed round of financing of the project. The corporation investment shall not exceed \$500,000 in the proposed round of financing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§109. Application Procedures for Co-investment

A. The summary application must contain but not be limited to:

1. applicant information
 - a. venture capital fund name
 - b. address
 - c. LEDEC certification number
 - d. telephone number
2. project firm information
 - a. name of business

- b. address (postal and physical)
- c. phone number
- d. year established
- e. state chartered in
- f. legal structure of business
- g. IRS tax number
- h. product or service
- i. headquarters location
- j. location of all production and research and development facilities
 - k. list any pending litigation
 - l. list any bankruptcy or insolvency filings
3. owner/manager information
 - a. name
 - b. address
 - c. title
 - d. social security number
 - e. percent of ownership
 - f. annual compensation
 - g. list any pending litigation
 - h. list any bankruptcy or insolvency filings
4. use of funds
 - a. purpose
 - b. amount
5. securities given in exchange for investment
 - a. list types of securities to be issued in this round of financing to all investors with any terms and/or conditions attached thereto
 6. equity information
 - a. list all equity investors with numbers of shares owned, type of shares owned, dollar value of investment and date of investment
 - b. total shares authorized by class
 - c. total shares outstanding by class
- B. A business plan that contains but is not limited to:
 1. business goals and earnings projections and potential return to investors
 2. market analysis
 - a. description of total market
 - b. industry trends
 - c. target market
 - d. competition
 3. products or services
 - a. description of product line
 - b. proprietary position: patents, copyrights and legal and technical considerations and ownership of same
 - c. comparison to competitors' products
 4. manufacturing process (if applicable)
 - a. materials
 - b. sources of supply
 - c. production methods
 5. marketing strategy
 - a. overall strategy
 - b. pricing policy
 - c. sales terms
 - d. method of selling, distributing and servicing products
 6. management plan
 - a. form of business organization
 - b. board of directors composition
 - c. officers: organization chart and responsibilities
 - d. resumé of key personnel
 - e. staffing plan/number of employees
 - f. facilities plan/planned capital improvements

g. operating plan/schedule of upcoming work for next one to two years.

7. financial data (for existing firms)

a. financial history (five years to present)

See NOTE 1

b. Three-year financial projections (first year by quarters; remaining years annually)

i. Profit and loss statements

ii. Balance sheets

iii. Cash flow chart

iv. Capital expenditure estimates

c. explanation of projections

d. key business ratios

e. explanation of use and effect of new funds

f. potential return to investors compared to competitors and industry in general.

NOTE 1. All financial statements *must* meet Generally Accepted Accounting Practices (GAAP)

8. financial data for startup firms

a. three-year financial projections (first year by quarters; remaining years annually)

i. Profit and loss statements

ii. Balance sheets

iii. Cash flow chart

iv. Capital expenditure estimates

b. explanation of projections

c. key business ratios

d. explanation of use and effect of new funds

e. potential return to investors compared to competitors and industry in general.

NOTE 1. All financial statements *must* meet Generally Accepted Accounting Practices (GAAP)

9. schedule of debt

a. to whom

b. date opened

c. original balance

d. present balance

e. payment schedule

f. date of maturity

g. rate

h. collateral

i. terms of convertibility

j. list all liens against the project firm and related firms

10. list of trade creditors/suppliers

a. creditor name

b. address

c. date opened

d. high credit

e. balance

f. terms

11. collateral offered

a. type and description

b. present market value

i. appraisals no more than 90 days old at time of application

c. present balance owed

d. total value of collateral

e. source of repayment

i. primary source

ii. secondary source

f. federal and state tax status

i. date of current tax status

ii. date of last audit

iii. deficiencies assessed/proposed

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§111. Procedure for Application Review

The application will be submitted to the executive director of the corporation no later than two weeks prior to the regular monthly meeting of the screening committee of the board. He shall review and analyze the information. If the application is complete, he shall submit it and his analysis to the next meeting of the screening committee of the corporation board which shall review the application and make a recommendation to the next meeting of the full board for approval or denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§113. General Policy

A. The corporation shall not approve any co-investment if the project firm has presently pending, at the federal, state or local level, any proceeding concerning denial or revocation of any necessary license or permit.

B. The corporation will invest in the project on the same terms and conditions as the certified venture capital fund.

C. The requirement of personal guarantee shall be negotiated by the board on a project-by-project basis.

D. Nothing contained herein shall limit the ability of the board or committee thereof to make a reasonable decision based on information submitted to it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§115. Conditions for Disbursements of Funds

A. The secretary-treasurer and one of the following: president of the corporation, chairman or executive director shall execute all necessary legal instruments at the closing after certification by counsel that all legal requirements have been met.

B. In the case that the co-investment is to be disbursed in a phased funding, the monies provided by the corporation shall be placed in an escrow account to be disbursed at the joint written request of both the venture capital fund co-investor and the project firm at the same rate of disbursement as that of the co-investor venture capital firm. The secretary-treasurer shall have the authority to release the funds from escrow.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§117. Compliance Requirements of Project Firms

A. Each year, on the anniversary of the initial disbursement of funds, each recipient of funds shall provide the following:

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

2. monthly statement of financial condition including, but not limited to, a balance sheet, profit and loss statement, changes in financial condition, capital reconciliation;

3. current reconciliation of net worth;
4. one-year projected cash flow statement. Statement must be prepared on a month-to-month basis, accompanied with footnotes;
5. current personal financial statement of all principals;
6. annual (within 90 days of the end of the fiscal year) audited financial statement prepared by a certified public accountant;
7. current insurance policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§119. Repayment Terms

The board of the corporation shall have the sole responsibility to set repayment terms on a project-by-project basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§121. Confidentiality and Conflict of Interest

A. Confidentiality. Confidential information in the files of the Program and its accounts acquired in the course of duty is to be used solely for the Program. The Program is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion #82-860.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§123. Ownership of Stock and Incidents Thereto

Stock taken in co-investment shall be held by the Corporation. The board through its duly authorized designee shall vote the stock.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

Nadia L. Goodman
Acting Executive Director

RULE

**Department of Economic Development
Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation adopts the following rule in

accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2331.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Louisiana Economic Development Corporation

Subpart 2. Louisiana Venture Capital Program

Chapter 3. Louisiana Venture Capital Match Program

§301. Eligibility

Any Louisiana-owned and headquartered Venture Capital Fund with a minimum of \$5,000,000 of privately raised capital for equity investment under management may apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§303. Valuation of Investment Fund

The amount of funds under management shall mean the value of any monies invested in a business plus the unexpended monies available for investment. The value of an equity investment shall be the amount of dollars actually invested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§305. Fund Management

Management shall be comprised of individuals with substantial experience in business operations and financing, including business startup or expansion financing. The development of these investments may have been done for the individual's own account or on behalf of others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§307. Application Procedure

A. The application shall contain but not be limited to:

1. resumés of principals;
2. current balance sheet and income statement of applicant fund and individual investments;
3. balance sheet and income statement of all funds and investments managed by applicant principals during the last three years and/or other investments managed by the principals in the last three years;
4. list of fund investors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§309. Amount of Investment

The corporation may invest up to \$2,500,000. The corporation may use its discretion to set the ratio of corporation investment to private investment. However, the ratio shall not exceed \$1 of corporation monies to \$2 of privately raised dollars.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of

Economic Development, Economic Development Corporation, LR 15: (June 1989).

§311. Terms of Investments

Corporation investments shall be made on the same terms and conditions as those of other investors in the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§313. Creation of a Louisiana Fund

The applicant shall, on receipt of funds from the corporation, immediately set up an account in a financial institution domiciled in Louisiana to be called the Louisiana Fund and deposit the proceeds of the state's investment into that fund. The proceeds of this fund shall be used solely for investments in enterprises maintaining headquarters and production facilities in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§315. Reporting Requirements

Funds receiving investments under this program shall submit quarterly and annual financial and narrative reports on the use of Louisiana Fund monies and all other investments made by the fund during the reporting period. The narrative report shall include the number of applications received in addition to other activities. The narrative report shall include a listing of all investors in each business and all subsequent financings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§317. Inactivity

If no activity has occurred in the Louisiana Fund for a period of two years or reporting requirements are not met, the Venture Fund shall be reviewed by the board of the corporation. After review the board may choose to revoke its investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

Nadia L. Goodman
Acting Executive Director

RULE

**Department of Economic Development
Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation adopts the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2331.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Louisiana Economic Development Corporation

Subpart 2. Louisiana Venture Capital Program

Chapter 5. Louisiana Minority Venture Capital Match Program

§501. Eligibility

Any Louisiana-owned and headquartered Venture Capital Fund with a minimum of \$250,000 of privately raised capital for equity investment under management may apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§503. Valuation of Investment Fund

The amount of funds under management shall mean the value of any monies invested in a business plus the unexpended monies available for investment. The value of an equity investment shall be the amount of dollars actually invested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§505. Fund Management

Management shall be comprised of individuals with substantial experience in business operations and financing, including business startup or expansion financing. The development of these investments may have been done for the individual's own account or on behalf of others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§507. Application Procedure

A. The application shall contain but not be limited to:

1. resumés of principals;
2. current balance sheet and income statement of applicant fund and individual investments;
3. balance sheet and income statement of all funds and investments managed by applicant principals during the last three years and/or other investments managed by the principals in the last three years.
4. list of fund investors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§509. Amount of Investment

The corporation may invest up to \$2,500,000. The corporation may use its discretion to set the ratio of corporation investment to private investment. However, the ratio shall not exceed \$1 of corporation monies to \$2 of privately raised dollars.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§511. Terms of Investments

Corporation investments shall be made on the same terms and conditions as those of other investors in the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§513. Creation of a Louisiana Fund

The applicant shall, on receipt of funds from the corporation, immediately set up an account in a financial institution domiciled in Louisiana to be called the Louisiana fund and deposit the proceeds of the state's investment into that fund. The proceeds of this fund shall be used solely for investments in minority owned enterprises maintaining headquarters and production facilities in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§515. Reporting Requirements

Funds receiving investments under this program shall submit quarterly and annual financial and narrative reports on the use of Louisiana fund monies and all other investments made by the fund during the reporting period. The narrative report shall include the number of applications received in addition to other activities and the number of applications received from minority owned firms. Reports must include a listing of all investors in each business and all subsequent financings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

§517. Inactivity

If no activity has occurred in the Louisiana fund for a period of two years, the Venture Fund shall be reviewed by the board of the corporation. After review the board may choose to revoke its investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (June 1989).

Nadia L. Goodman
Acting Executive Director

RULE

**Department of Economic Development
Office of Financial Institutions**

Under authority granted by R.S. 6:121(B)(1) and 911(E), the commissioner of Financial Institutions adopts the following rule for the purpose of assessing fees on all state-chartered savings and loan associations and savings and loan holding companies domiciled in the State of Louisiana as pro-

vided for in Act 597 of the Regular Session of the 1988 Legislature, and all other authority previously granted by state law affecting state-chartered savings and loan associations and savings and loan holding companies domiciled in the State of Louisiana.

EFFECTIVE DATE

This rule will become effective July 1, 1989.

Title 10

BANKS AND SAVINGS AND LOANS

Part III. Homestead and Building and Loan Associations

Chapter 51. Assessments

§5101. Fees

A. Charges

Each state-chartered savings and loan association and savings and loan holding company regulated and supervised by the Office of Financial Institutions shall pay the following in fees and assessments pursuant to the authority granted by R.S. 6:911(E).

	FEE
1. Application for a new interim association filed for the purpose of organizing a holding company for an already existing association;	1,000
2. Quarterly assessment on all state-chartered savings and loan associations at a floating rate to be assessed no later than the last day of each quarter to be based on the total consolidated assets for the preceding quarter;	701,811
3. Annual assessment for all savings and loan holding companies domiciled and/or operating in Louisiana, to be assessed no later than September 30 of each year;	500
4. Holding company application fee;	1,000
5. Application for a new association in connection with the organization of a holding company;	2,500
6. Holding company examination fee;	\$30/hour or \$500 (whichever is greater)
7. Application for service corporation;	\$30/hour or \$500 (whichever is greater)
8. Certificate of authority for foreign association;	\$30/hour or \$500 (whichever is greater)

B. Administration

1. The Commissioner of Financial Institutions shall administer and carry out the provisions of this chapter and may issue such regulations and orders that may be necessary to discharge this duty and to prevent evasions of this chapter.

2. The commissioner may promulgate reporting and examination regulations for state-chartered savings and loan associations and savings and loan holding companies domiciled in the State of Louisiana in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1) and 911(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 15: (June 1989).

Fred C. Dent
Commissioner

RULE

Department of Economic Development Used Motor Vehicle and Parts Commission

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

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 41. Condition of Sale of a Motor Vehicle

§4101. Vehicle Service Contracts

The vehicle service contract must be approved by the commission in that the contract content and forms to be used will be filed 10 days prior to selling such contract and if not rejected in 10 days from the filing date, the service contract will be conditionally approved.

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

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

§4103. Sale and Marketing of Motor Vehicle Performance Warranty Contracts

A. Definitions

1. Extended Performance Warranty: An extended performance warranty (also called an extended warranty) means any contract which insures the purchaser from the following:

- a. breach of warranty by manufacturers, wholesalers, distributors, retailers, or dealers during the initial warranty period;
- b. mechanical failure, breakdown, or required repairs;
- c. expense of repairs during a contractual period stated in the contract.

2. Used Motor Vehicle Dealer: A used motor vehicle dealer is any person who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or exchange of an interest in five or more used motor vehicles in any 12-month period and who is engaged wholly or in part in the business of selling used motor vehicles, whether or not such motor vehicles are owned by such a person. The term shall also include anyone not licensed under Chapter 6 of Title 32 who sells used cars and trucks, new and used motorcycles, new and used trailers, new and used semi-trailers, new and used motor homes. The term does not include employees of persons who would fall under the designation of used motor vehicle dealer.

3. Issuer: Any used motor vehicle dealer who/which enters into a contract of extended performance warranty, which is not underwritten by any third party, with a consumer in exchange for money or other item of value, or as part of the consideration of an act which transfers any interest in, or which creates any security interest in, a used motor vehicle as defined in R.S. 32:771(12).

4. Agent Dealer: Any used motor vehicle dealer who/which sells or brokers a contract of extended performance warranty, which is wholly or partially underwritten by any third party, to a consumer in exchange for money, a commission, or other item of value, or as part of the consideration of an act which transfers any interest in, or which creates any security interest in,

a used motor vehicle as defined in R.S. 32:771(12).

B. No extended performance warranty may be offered for sale in the state of Louisiana by an issuer unless the following requirements have been met.

1. Any issuer seeking to sell extended performance warranties in Louisiana shall make application to the Used Motor Vehicle and Parts Commission (UMVPC) for authorization to issue such warranties. The application shall consist of:

a. a balance sheet and profit and loss statement for the previous five years for the company seeking authorization to issue extended warranties. A shorter time period will only be considered where the company seeking authorization has been doing business for less than five years.

b. a balance sheet and profit and loss statement for the previous five years for any parent company of the company seeking authorization to issue extended warranties. A shorter time period will only be considered where the parent company has been doing business for less than five years or has owned the subsidiary for a shorter period of time.

c. a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in Louisiana as surety in the sum of \$150,000. The bond shall be delivered to the UMVPC and shall be conditioned that the applicant shall comply with the conditions of any written contract made by such applicant in connection with the sale of an extended performance warranty and shall not violate any provisions of the Used Motor Vehicle and Parts Commission Act or any other law of Louisiana in the conduct of the business for which he is licensed. Such bond shall be made payable to the state of Louisiana through the Used Motor Vehicle and Parts Commission for the use, benefit, and indemnity of any persons who shall suffer any loss as a result of any violation of the conditions contained herein. Should the bond be cancelled on any date, the approval to sell extended warranties shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

d. an application fee of \$1,500.

C. No extended performance warranty may be offered for sale in the state of Louisiana by an agent dealer unless the following requirements have been met.

1. Any agent dealer seeking to sell extended performance warranties, on behalf of third parties, shall make application to the Used Motor Vehicle and Parts Commission (UMVC) for authorization to sell such warranties. The application shall consist of:

a. proof sufficient to the UMVPC that the third party represented by the agency dealer has been properly licensed by the commissioner of insurance for the state of Louisiana to market such warranties. Such proof may consist of a duplicate original or certified copy of the third party's license as issued by the commissioner of insurance;

b. a duplicate original of the agent dealer's contract or agreement with the third party;

c. certification by the commissioner of insurance that the third party is in good standing with that commission;

d. a specimen copy of the contract which agent dealer intends to sell on behalf of the third party;

e. certification by the commissioner of insurance that the agent dealer is properly licensed to sell or broker such contracts, or certification that licensing is not required;

f. annual renewal applications shall be required but will consist only of update information as to any changes which occurred during the previous year or, if there have been no

changes during the previous year, a signed statement to that effect.

D. The UMVPC will consider the above applications, as well as the applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business and the UMVPC shall either issue the applicant a license to issue, or to sell as agent for third parties, extended warranties in Louisiana or shall deny the application in writing stating the reasons for denial. A company may resubmit its application upon showing that UMVPC objections have been resolved. The UMVFC shall maintain a list of all licensed issuers of extended performance warranty contracts.

E. To continue issuing extended performance warranty contracts in Louisiana, the issuer shall:

1. file with the UMVPC a profit and loss statement and a balance sheet for each calendar year that sales of extended warranties are made in Louisiana. The report is to be filed within 90 days of the end of the company's fiscal year;

2. maintain a minimum bond of \$150,000. The bond must equal or exceed the amount collected as sales on extended performance warranties during the previous 24 months. The bond shall be updated twice per year. The bond must be updated within 90 days following the end of the company's fiscal year and within 90 days following the midpoint of the company's fiscal year;

3. cover all items specified in the extended performance warranty contract in descriptive terms such as "Coverage Includes the Power Train," which may be specified as a part of that equipment by the Federal Trade Commission. The coverage may only deviate from this standard where each piece to be excluded from the warranty is specifically listed as an exclusion in the contract;

4. not sell its extended performance warranty to any consumer unless that consumer has received a copy of the proposed contract at least 48 hours prior to the purchase of the contract. The completed contract of extended performance warranty must be returned to the purchaser within 10 working days from the date of purchase;

5. the issuer shall prominently display at his place of business on a sign not smaller than 2' by 2' the following information:

a. THIS DEALER MAY ONLY SELL EXTENDED WARRANTIES AFTER THE CUSTOMER HAS BEEN FURNISHED WITH AN ACTUAL COPY OF THE EXTENDED WARRANTY CONTRACT.

b. THIS DEALER MUST FURNISH A COPY OF THE CONTRACT OF THE EXTENDED WARRANTY AT LEAST 48 HOURS PRIOR TO PURCHASE OF THE CONTRACT.

c. FAILURE OF THIS DEALER TO FURNISH A COPY OF THE EXTENDED WARRANTY CONTRACT TO THE PURCHASER 48 HOURS PRIOR TO SALE OF THE CONTRACT OF WARRANTY MAY SUBJECT THIS DEALER TO A FINE OF UP TO \$1,000 BY THE USED MOTOR VEHICLE AND PARTS COMMISSION.

F. The following shall regulate the marketing of extended performance warranties by licensed agent dealers.

1. It is the responsibility of the licensed agent dealer to determine and make certain that the third party which underwrites the extended warranty has complied with the requirements of licensure through the Office of the Commissioner of Insurance.

G. The following shall govern the method of reporting a

suspected violation of "A." through "F." of these rules and the method of review by the UMVPC.

1. Anyone who believes that an agent dealer, or issuer, of an extended warranty contract has violated these rules may submit a signed sworn written complaint to the UMVPC stating the suspected violation that the party believes was committed. The party must send, by certified mail, a copy of the complaint to the company who the party believes has violated these rules. The complainant must also be willing to appear at a public hearing should one be required at a later date.

2. The company who is the subject of the complaint shall have 15 days to answer the complaint in writing to the UMVPC and to the consumer.

3. The complaint shall be considered by a minimum of three members of the UMVPC. The three members must include at least one of the members nominated from a consumer group.

4. Within 45 days of receipt of the complaint, the UMVPC shall notify the complainant and the company who is the subject of the complaint of its finding as to the substance of the complaint and its recommendations. The complainant and the company may then accept those recommendations or request that a public hearing in compliance with the Louisiana Administrative Procedure Act be held. Where both the complainant and the company accept the commission's decision, such acceptance shall act as a waiver of the right to a hearing under the Louisiana Administrative Procedure Act.

H. The following paragraphs shall set forth the penalties which the UMVPC may impose upon an agent dealer or issuer of an extended performance warranty and a used car dealer for violations of these rules.

1. Any issuer, or agent dealer who markets an extended warranty for an issuer or third party not properly authorized to do business in Louisiana may be held responsible for a consumer's cost of repairs when 1) the contracting company has defaulted on the contract; and 2) the Used Motor Vehicle and Parts Commission has ordered such a payment.

2. Any issuer of an extended performance warranty contract, who markets such warranty to a consumer, without first providing a copy of the contract to the consumer at least 48 hours prior to the sale of the contract of warranty may be subject to a fine of up to \$1,000 by the UMVPC.

3. Any issuer or agent dealer of an extended performance warranty contract who fails to return the completed contract of warranty to the consumer within 30 working days, from the date of sale of such warranty, may be subject to a fine of up to \$1,000 by the UMVPC.

4. Should the UMVPC determine that these regulations have been violated by either the company issuing the extended performance warranty or by the agent dealer in excess of once per year, fines of up to \$5,000 and forfeiture of the license to do business in Louisiana may be ordered. The minimum fine shall be \$1,000 upon a finding of a second violation within one year from the date of the previous violation. A license to do business may only be revoked following a hearing held under the rules of the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15: (June 1989).

Rodley J. Henry
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 1.11.00

The board adopted the 8(g) Annual Program and Budget for FY 1989-90. (See page 203 of the March, 1989 issue of the *Louisiana Register* for complete text of program and budget.)

Em Tampke
Executive Director

State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below as a new policy in Bulletin 741 as recommended by the State Department of Education:

Rule 3.01.51.aa(8)

Add as Standard 1.088.00 in Bulletin 741:

A school system which chooses to offer instruction in sex education shall provide the following information to the parents and/or guardians of the students. In addition, parental sessions must be provided by the school system.

1. a description of the course contents;
2. a listing of course materials to be used;
3. the qualifications of the instructor(s).

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule- 3.01.51.aa(9)

Guidelines for Implementation of Act 832 by each city or parish school board not providing a 30-minute planning time for elementary teachers as of the 1989 school year are:

Establish a study committee composed of at least five classroom teachers, to be elected by the classroom teachers employed in the system.

2. The superintendent of the school system will appoint no more than three administrators to the committee.

3. The committee will develop a method for providing planning time.

4. The planning time proposal shall be submitted to the teachers in the system for a vote which needs a majority for approval.

5. Upon approval by the teachers, the proposal shall be presented to the local school for approval or rejection.

6. The implementation of a planning period for elementary teachers shall not affect the required instructional time in the school day.

7. The implementation of a planning period for elementary teachers shall not result in lengthening the school day.

Em Tampke
Executive Director

G-6-89-50

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 March 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following amendments to Bulletin 1191, *School Transportation Handbook* as the rule listed below:

Rule 9.00.50.b(1)

Page 16 Delete Age Requirements as presently stated and insert: "All bus drivers must be at least 21 years of age."

Pages 69 and 70 Delete R.S. 17:160 (School Bus Drivers Under 18 or Over 65 Years of Age Prohibited; Penalty) in its entirety.

Page 94 Delete R.S. 42:691 as written and insert: R.S. 42:691 Compulsory Retirement of Public Employees Because of Age

With the exception of law enforcement personnel and firefighters, no employee of the state of Louisiana, or any political subdivision thereof, or of any district, board, commission, or other agency of either, or of any other such public entity shall be separated from the public service by his appointing authority because of the employee having attained any particular age following employment by the appointing authority. This is in accordance with the provisions of the Federal Age Discrimination in Employment Act.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1989 and under the authority contained in Louisiana

G-6-89-51

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 March 20, 1989 and under the authority contained in Louisiana

State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following amendments to Bulletin 1191, *School Transportation Handbook* to meet the mandates of Act 509 (1988) as the rule listed below:
 Rule 9.00.50.b(2)

On page 15, under Driver Experience and Records, delete 1 and 2 as written and insert the following:

1. Applicants will be disqualified from consideration as bus driver if within the past five years, they have been convicted of or forfeited a bond on any charge of DWI: transportation, possession of use of a Schedule I drug; leaving the scene of an injury or fatality accident; or any felony involving motor vehicles. In addition, any applicant whose driving or criminal record indicates that a concern should exist for the welfare of children in the applicant's charge must come under close scrutiny.

2. The Department of Public Safety and Corrections shall provide for the examination of driving records as provided in S.B. 73, R.S. 17:491.1. The Department of Public Safety recommends that the job applicant pay for these record checks.

Schedule 1 Drug: A controlled substance consisting of drugs and other substances by whatever official name, common or unusual name, chemical name or brand name listed in this Section. Each drug is assigned a DEA controlled substance number. Categories are: Opiates (derived from opium) Hallucinogenic Substances ex. Marijuana, Depressants, Stimulants.

Source: - Code of Federal Regulation (CFR) Title 49, Chapter III. Subchapter B, Appendix D.

Em Tampke
 Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
 Rule. 4.01.91.b

The board adopted the Department of Education's recommended passing scores on the state criterion-referenced tests for grades 3-5-7, and State Graduation Test, including the written composition component of the Graduation Test as listed below:

Grade	Subject	Scale Score
3	Language Arts	347
3	Mathematics	353
5	Language Arts	549
5	Mathematics	549
7	Language Arts	752
7	Mathematics	743
Graduation Test	Language Arts	1053
Graduation Test	Mathematics	1048
Graduation Test	Science	1042
Graduation Test	Social Studies	1041
Graduation Test	Written Composition	1047

This was also adopted as an emergency rule. Effective date of emergency rule was February 20, 1989.

Em Tampke
 Executive Director

RULE

Board of Elementary and Secondary Education

Test Security Policy

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published March 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following Test Security Policy:
 Rule 4.01.91.c

The Board of Elementary and Secondary Education holds the test security policy to be of utmost importance and deems any violation of test security to be serious.

TEST SECURITY

1. Tests administered by or through the State Board of Elementary and Secondary Education shall include but not be limited to:

- a. Teacher Evaluation Test for Vocational-Technical Education
- b. The High School Graduation Exit Examination
- c. High School Equivalency Program Test (GED)
- d. All Criterion-Referenced Tests (CRT) and Norm-Referenced Tests (NRT).

2. For purposes of this policy, school districts shall include LEA, Special School District #1, special schools, and vocational-technical schools, and institutions which utilize tests administered through the Board of Elementary and Secondary Education or the Department of Education. It shall be a violation of test security for any person to do any of the following:

- a. Administer test in a manner that is inconsistent with the administrative instructions provided by the Louisiana Department of Education, which would give students an unfair advantage or disadvantage.
- b. Give examinees access to test questions prior to testing;
- c. Copy, reproduce, or use in any manner inconsistent with test regulations all or part of any secure test booklet;
- d. Coach examinees during testing or alter or interfere with examiner's responses in any manner;
- e. Make answer keys available to examinees;
- f. Fail to follow security regulations for distribution and return of secure test as directed, or fail to account for and secure test materials before, during or after testing;
- g. Participate in direct aid, counsel, assist in, encourage, or fail to report any of the acts prohibited in this section.

3. Each local school district shall develop and adopt a district test security policy. The policy shall provide for the security of the materials during testing and the storage of all secure tests and test materials, including observational answers, keys, video tapes and completed observation sheets and examinee answer documents before, during and after testing.

4. Test materials, including all test booklets and other materials containing secure test questions, answer keys, and student responses, shall be kept secure and accounted for in accordance with the procedure specified in the examination program administration manuals and other communications provided by the State Department of Education. Such procedures shall include but are not limited to the following:

a. All test materials shall be kept in secure, locked storage prior to and after administration of any test.

b. All test materials shall be accounted for and written documentation kept by test administrators and proctors for each point at which test materials are distributed and returned.

c. Any discrepancies noted in the number or serial numbers of testing materials received from contractors shall be reported to the assistant superintendent for Research and Development by designated institutional or school district personnel prior to the administration of the test.

d. In the event the test materials are determined to be missing while in the possession of the institution or school district, designated institutional or school district personnel shall immediately by telephone notify the Assistant Superintendent of Research and Development. The designated institutional or school district personnel shall investigate the cause of the discrepancy and provide the Department of Education with a report of the investigation within 30 calendar days of the initiation of the investigation. At a minimum, the report shall include the nature of the situation, the time and place of occurrence, and the names of the persons involved in or witness to the occurrence. Officials from the State Department of Education are authorized to conduct additional investigations.

5. Each district superintendent shall designate annually one individual in the district authorized to procure test instruments which are utilized in testing programs administered by or through the State Board of Elementary and Secondary Education or the State Department of Education. The name of the individual designated shall be provided in writing to the Assistant Superintendent of Research and Development, State Department of Education.

6. The State Superintendent of Education may disallow, after investigation, test results which may have been achieved in a manner which is violative of test security.

7. The State Department of Education shall establish procedures to identify:

a. Improbable achievement of test score gains in consecutive years;

b. Situations in which collaboration between or among individuals occurs during the testing process;

c. A verification of the number of all tests distributed and the number of tests returned;

d. Any other situation which may result in invalidation of test results.

8. In cases where test results are not accepted because of breach of test security or action by the State Department of Education, any programmatic, evaluative, certification, or graduation criteria dependent upon the data shall not have been met.

9. Individuals shall adhere to all procedures specified in all operation manuals governing the mandated testing program.

10. Any individual(s) who knowingly engage(s) in any activities during testing which results in invalidation of scores derived from the High School Graduation Exit Examination, the High School Equivalency Program Test (GED) or the Vo-Tech Teachers' Evaluation examinations shall forfeit the test results and will be allowed to retake the test at the next test administration.

tion.

11. Anyone known to be involved in the presentation of forged, counterfeit, or altered identification for the purposes of obtaining admission to a test administration site for any test administered by or through the State Board of Elementary and Secondary Education shall have breached test security. Any individual(s) who knowingly cause(s) or allow(s) the presentation of forged, counterfeit or altered identification for the purpose of obtaining admission to any test administration site shall forfeit all test scores and will be allowed to retake the test at the next test administration. Any teacher or other school personnel who allows or breaches test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., policy and regulations adopted by the Board of Elementary and Secondary Education, and any and all laws that may be enacted by the Louisiana Legislature.

The policy was also adopted as an emergency rule. (See February 20, 1989 issue of *Louisiana Register*) This policy supersedes the Test Security Policy advertised as a notice of intent in the June 20, 1988 issue of the *Louisiana Register*. Effective date of this emergency rule is February 20, 1989.

Em Tampke
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. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Louisiana Hazardous Waste Regulations (LAC, Volume 13, Title 33).

The amendments to the Louisiana Hazardous Waste Regulations are to conform to existing federal regulations.

The regulations are to become effective on June 20, 1989, or as soon thereafter as practical upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials Subpart 1. Department of Environmental Quality - Hazardous Waste

Chapter 43. Interim Status

§4457. Closure and Post-closure

A. At closure, the owner or operator must:

1. Remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless Subsection 4905.A(4) of this Chapter applies; or

2. Close the impoundment and provide post-closure care for a landfill under Subchapter M, LAC 33:V.4501, including the following:

a. eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

- b. stabilize remaining wastes to a bearing capacity sufficient to support the final cover; and
- c. cover the surface impoundment with a final cover designed and constructed to:
 - i. provide long-term minimization of the migration of liquids through the closed impoundment;
 - ii. function with minimum maintenance;
 - iii. promote drainage and minimize erosion or abrasion of the cover;
 - iv. accommodate settling and subsidence so that the cover's integrity is maintained; and
 - v. have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

B. In addition to the requirements of Subchapter M, LAC 33:V.4501, during the post-closure care period, the owner or operator of a surface impoundment in which wastes, waste residues, or contaminated materials remain after closure in accordance with the provisions of Paragraph A.2 of this Section must:

1. maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events;
2. maintain and monitor the ground water monitoring system and comply with all other applicable requirements of Subchapter E, LAC 33:V.4367 of this Part; and
3. prevent run-on and run-off from eroding or otherwise damaging the final cover.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 15: (June 1989).

Paul H. Templet, Ph.D.
Secretary

RULE

Department of Health and Hospitals Office of Public Health

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

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 13. Family Planning Services

Chapter 37. Fees

§3703. Fee Adjustment Schedule

A. . . .

B. Persons whose adjusted income in accordance with family size is at or below 100 percent of poverty as is defined by the United States Community Services Administration poverty guidelines shall not be responsible for payment of services. Persons whose gross family income is at or above 250 percent pov-

erty as is defined by the United States Community Services Administration poverty guidelines shall be charged the full cost of services provided. Between these two levels, fees shall be adjusted in accordance with the formula included in the "Schedule of Charges." Effective June 20, 1989 the current fee schedule is replaced by the following:

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

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

AUTHORITY NOTE: Promulgated in accordance with 42 USC 300; 42 CFR Subpart A, Part 59. 5A5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 15: (June 1989).

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of Public Health

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Department of Health and Hospitals, Office of Public Health has amended Chapter II of the State Sanitary Code as follows:

Sanitary Code
State of Louisiana
Chapter II
The Control of Disease

2:003 The following diseases are hereby declared reportable:

Amebiasis	Malaria
Anthrax	Measles (rubeola)*
Aseptic meningitis	Meningitis, <i>Haemophilus</i>
Acquired Immune Deficiency Syndrome (AIDS)	Meningococcal infection (including meningitis)*
Blastomycosis	Mumps
Botulism*	Mycobacteriosis, atypical***
Brucellosis	Ophthalmia neonatorum**
Campylobacteriosis	Pertussis (whooping cough)
Chancroid**	Plague*
Cholera*	Poliomyelitis
Chlamydial infection**	Psittacosis
Diphtheria*	Rabies (animal and man)
Encephalitis	Rocky Mountain Spotted Fever
(specify primary or post-infectious)	Rubella (German measles)*
Erythema infectiosum (Fifth Disease)	Rubella (congenital syndrome)
Foodborne illness*	Salmonellosis
Genital warts**	Shigellosis
Gonorrhea**	Syphilis**
Granuloma Inguinale**	Tetanus
Hepatitis, Viral (specify type)	Trichinosis
Herpes (genitalis/neonatal)**	Tuberculosis***
Legionellosis	Tularemia
Leprosy	Typhoid fever
Leptospirosis	Typhus fever, murine (fleaborne, endemic)
Lyme Disease	Yellow fever*
Lymphogranuloma Venereum**	Vibrio infections (other than cholera)

*Report suspected cases immediately by telephone. In addition, all cases of rare or exotic communicable diseases and all outbreaks shall be reported.

**Report on STD-43 form

***Report on CDC 72.5 (f 5.2431) card

All reportable diseases and conditions other than the Venereal Diseases and Tuberculosis should be reported on an EPI-2430 card and forwarded to the local parish health unit or the Epidemiology Section, Box 60630, New Orleans, LA 70160.

Other Reportable Conditions

Cancer	Severe under nutrition
Complications of abortion	(severe anemia, failure to thrive)
Congenital hypothyroidism	Sickle cell disease (newborns)
Lead poisoning	Spinal cord injury
Phenylketonuria	Sudden infant death syndrome (SIDS)
Reye Syndrome	

This action regarding the reporting of Campylobacteriosis, Fifth Disease and Lyme Disease comes as a result of an increasing number of cases being reported and/or the need for additional epidemiological data to assist the physicians around the state with diagnosis and/or treatment by providing information on the incidence and prevalence of these diseases. In some parts of the country campylobacter causes more diarrheal illness

than does salmonella or shigella and there have been reports indicating a possible increase in activity in Louisiana. Recent studies of Parvovirus 19, the causative agent of Fifth Disease, shows a possible connection to fetal death if contact occurs early in pregnancy. While the studies continue, the Office of Public Health needs to gather additional data in order to provide recommendations to exposed pregnant females (especially in school populations). Lyme disease generated national attention and was reported for the first time ever in Louisiana in 1988. In order to evaluate the degree of activity with its subsequent complications and to collaborate with our neighboring states on information sharing and development of control measures, Lyme Disease must be added to the reportable list.

The necessity of adding Chlamydia trachoma, Herpes genitalis and Genital warts to the reportable disease list comes as a result of the need to gather more information on the ever increasing number of illnesses and the complications associated with these entities. Genital herpes can cause severe complications to babies born of mothers with this infection and recent studies have linked herpes to cancer of the cervix. Chlamydia has been linked to pelvic inflammatory disease, neonatal conjunctivitis and pneumonia along with other complications that principally affect women and infants. Genital warts have been linked to vaginal and penile cancers. Ongoing surveillance is needed to keep medical and public health personnel aware of the problems and to implement and maintain disease intervention measures.

The reportable conditions added to the list are conditions that have been reportable by law for several years under various state statutes but were never published as a complete list which could be distributed to physicians. In an effort to improve communication between the agency and the physicians and to increase disease reporting, it is our feeling that a composite list of reportable diseases and conditions should make it easier for physician reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of Public Health, LR 15:

David L. Ramsey
Secretary

RULE

**Department of Health and Hospitals
Office of Public Health**

In accordance with the laws of the State of Louisiana, R.S. 40:4, 40:5, and the provisions of Chapter XIII of the State Sanitary Code, the State Health Officer has determined that the following amendment to the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes--Acceptable Units" is adopted:

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

MANUFACTURER	PLANT DESIGNATION	RATED CAPACITY
Joe Miller Contractors	"Econo-HP" Models	
Route 13, Box 813	500 HP	500 GPD
Lake Charles, LA 70611	1000 HP	1000 GPD
(318) 855-2282	1500 HP	1500 GPD

AND

Duplantis Concrete Products, Inc.
1204 West Main Street
New Iberia, LA 70560
(318) 365-2053

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

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Vital Records Registry of the Office of Public Health, Department of Health and Hospitals has amended the rule governing the purchase of vital records to agree with statutory fees set forth in R.S. 40:40 and 40:2403 and has modified records issuance procedures to require proper identification of applicants for vital records in accordance with R.S. 40:32 et seq. The promulgation of rules is authorized by R.S. 40:33C.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 117. Availability of Records

Section 11707. Copies of Certified Records

A. Certified Records through the Mail

Certified copies of records in the custody of the state registrar may be purchased by writing to Vital Records Registry, Box 60630, New Orleans, LA 70160. Release of these records is possible when the requirements as set forth in R.S. 40:32 et seq. are met. When writing the requestor shall:

1. Indicate his/her relationship to the person named in the document.
2. Provide the necessary identifying information and information to enable vital records personnel to locate the document:

a. Births - Fees as mandated by the Louisiana Revised Statutes:

- i. name of registrant
- ii. date
- iii. city or parish of birth
- iv. maiden name of mother
- v. name of father

b. Deaths - Fee as mandated by the Louisiana Revised Statutes:

- i. name of deceased
- ii. date of death

- iii. city or parish of death
- c. Marriage - Fee as mandated by the Louisiana Revised Statutes:

(Note: Only records pertaining to a license purchased in Orleans Parish are available through the registry. In all parishes, except Orleans, certified copies of marriage certificates may be obtained from the clerk of court in the parish of license purchase.)

- i. name of bride
- ii. name of groom
- iii. date of marriage

Payment must be made by check or money order. The registry cannot accept responsibility for cash sent by mail.

B. Certified Records at the Service Counter

Certified copies may be purchased by the requestor appearing in person at Room 103, 325 Loyola Avenue, New Orleans, La. between 8:15 a.m. and 4 p.m. Mondays through Fridays (excluding holidays). The requestor must complete a form supplying the pertinent information enumerated in Section 11707 A.2., sign the application form, supply identification in accordance with posted identification requirements and pay the collectible fee as set forth in the Louisiana Revised Statutes. Payment must be made by cash, check or money order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:32 et seq.

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

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health has amended the Death Certificate processing and issuance procedures of local registrars of vital records to comply with provisions contained in R.S. 40:32 et seq. The rule supplants §§ 11901 and 11903. The promulgation of rules is authorized by 40:33C.

Title 48

PUBLIC HEALTH-GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 119. Vital Records Registrars

§11901. Local Registrars

A. Notice of Deaths Filed-Registrar of Voters

1. The first working day of each month the local registrar of vital records in each of the parishes of the state shall prepare on forms provided by the state registrar, in triplicate, by parish of residence of the decedents, separate lists of all the death certificates filed with the local registrar during the previous month.

2. Information included on the registrar of voter's list shall be as a minimum the name of the decedent, date of death,

address of the decedent and parish of residence. The list shall be mailed on the day completed to the local registrar of voters in the respective parishes of residence of the decedents.

B. Accurate and Complete Certificate of Birth and Death

Local registrars of vital records shall not accept for filing or transmittal to the state registrar any Certificate of Live Birth or Death Certificate until said certificate has been accurately and fully completed by the person preparing said certificate, whether it be a physician, funeral director or any other individual.

C. Local Registrars-Death Certificates- Certification-Fees

1. Local registrars, in accordance with law, may for ten days following the date of acceptance of a Certificate of Death issue certified copies of the certificate over their signature and that of the state registrar. The certified copies shall be issued from the original certificate or a copy of the original in their possession. They shall collect the fee provided by law for each certified copy, shall maintain an accurate record of copies issued, to whom issued, and fees collected. Fees collected shall be promptly remitted in accordance with Office of Public Health policies and procedures. A summary of copies issued and fees collected shall be reported to the state registrar on forms provided by him.

2. Copies of said Death Certificates shall only be issued to those persons authorized by law to receive them. Copies of said certificates shall be requested in writing and the request form or letter shall bear the requestor's signature. The statutory fee shall be collected prior to the issuance of the certificates. If checks are tendered in payment of said fees, they shall bear the name, address, phone number and driver's license number or social security number of the person issuing the check; however, this provision shall be waived as to checks issued by funeral homes or directors.

3. Each working day, the local registrar shall promptly transmit to the state registrar by mail all copies of Death Certificates which have exceeded the 10-day holding period at the parish health unit and shall not thereafter retain or issue any copies or certified copies of said certificates. Thereafter, all copies of said Death Certificates shall remain in the possession of the state registrar, and he shall be the only person authorized to issue certified copies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:33 C., R.S. 40:36 A., R.S. 40:37, R.S. 40:38, R.S. 40:50.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April, 1987). Revised and repromulgated by the Department of Health and Hospitals, Office of Public Health, LR 15: (June, 1989)

David L. Ramsey
Secretary

RULE

**Department of Health and Hospitals
Office of Public Health**

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health has adopted the following rule to amend Title 48, Part V. Subpart 45., Chapter 125. Section 12501 of the Louisi-

ana Administrative Code regarding requirements to obtain a marriage license from the Vital Records Registry. The amendment incorporates provisions contained in Acts 345 and 978 of 1988 to eliminate the requirement for medical certificates for the applicants and provides for the issuance of licenses to persons when the parties are to be married in the parish. The promulgation of the rule is authorized by R.S. 40:33(C).

Title 48

PUBLIC HEALTH-GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 125. Requirements for Orleans Parish Marriage Licenses

§12501. Requirements for Obtaining a License to Marry in New Orleans, LA

A. An application for a license may be made by either party (Both parties need not be present). One of the applicants must be a resident of Orleans Parish or the marriage ceremony must be performed in Orleans Parish in accordance with R.S. 9:222.

B. A 72-hour waiting period is required by R.S. 9:241 between time of issuance of license and the ceremony. Permission to waive the waiting period may be granted by a judge of the First City Court and must be attached to the returned license.

C. As required by R.S. 9:225, certified copies of birth records shall be presented for both parties. (This requirement may be waived by a judge of the First City Court for those born outside Louisiana). The certified copies of the birth certificates shall be issued by the proper vital statistics registration authorities of the cities, states or counties of birth. The raised seals or stamps of the agencies or authorities issuing the certificates must be affixed thereto.

D. Marriage between a male and female under age 18 is prohibited by R.S. 9:211, unless as specified below. Applicants over the age of 16 but less than 18 will need the signed consent of both parents or an order from a judge of juvenile court. Females under age 16 will be issued a license only upon the written order of the juvenile court judge.

E. If either party has been divorced, a certified copy of the final decree of divorce shall be presented to the issuing officer. See C.C. Art. 93.

F. A certified copy of a death certificate shall be presented when a widow or widower is applying for a license to marry. See C.C. Art. 93.

G. A marriage license expires and becomes invalid 30 days after the date issued as set forth in R.S. 9:235. An expired marriage license may be reissued upon receipt of the original expired license by the Vital Records office (See R.S. 9:236).

H. Prior to the issuance of a marriage license, the statutory fee(s) set forth in the Louisiana Revised Statutes shall be paid by the applicant(s). Such payment may be made by cash, check or money order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:211, R.S. 9:222, R.S. 9:225, R.S. 9:235, R.S. 9:236, R.S. 9:241, R.S. 40:33 (C) and La. Civ. Code Art. 93.

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

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health has adopted the following rule pursuant to LSA-R.S. 40:41(D) as amended by the 1983 Legislature to provide for the disclosure of vital records for public health research purposes in accordance with rules and procedures established by the state health officer. The rule was published in the *Louisiana Register*, Vol. 10, No. 6, June 20, 1984 and was inadvertently omitted in the April, 1987 (LR 13:246) readoption for codification in the Louisiana Administrative Code. The promulgation of the rule is authorized by R.S. 40:33C and 40:41 D. (1).

Title 48

PUBLIC HEALTH-GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 117. Availability of Records

§11709. Use of Vital Records in Research

A. Definitions

1. *Research*: A systematic epidemiological and/or public health investigation designed to develop or contribute to medical knowledge.

2. *Limited Research*: The investigator or researcher provides the name, date and place of birth/death for all requests and assures that no contact with the subjects or subjects' families will occur.

3. *Department*: Department of Health and Hospitals.

4. *Human Subject*: A person to whom the record pertains or his next of kin as described in LSA-R.S. 40:41(C).

5. *Panel*: Refers to Vital Records Review Panel consisting of the state health officer, the state registrar of vital records and the tumor registry administrator as described in R.S. 40:41(D), along with a representative from Louisiana State University Medical School - New Orleans and a representative from Tulane University Medical School.

B. Panel

1. *Panel Members* - The state health officer, the state registrar, and the tumor registry administrator form the nucleus of the panel and shall be called "Class A" members. One representative each from Louisiana State University, New Orleans and Tulane Medical Schools will be appointed for two-year terms by the state health officer in consultation with the deans of the two medical schools and shall be called "Class B" members. The state health officer may also appoint resource persons, who are not necessarily employed by the department to attend panel meetings and review proposals. These resource persons shall be called "Class C" members.

2. *Panel Quorum* - A quorum shall require the presence of two Class A members and one additional member from either Class A or Class B. Only Class A and Class B members may vote. A majority of the voting members present must concur via roll call vote for the panel to take action on the approval or disapproval of any application.

C. Public Health Research

1. *Panel Records* - Adequate documentation of the panel activities shall be maintained including the following:

- a. copies of all research proposals reviewed, including attachments;
- b. minutes of all panel meetings shall be in sufficient detail

to show attendance at meetings, actions taken by the panel, the vote on the actions including the number of members voting for, against or abstaining, the basis for requiring changes in or disapproving research, and a written summary of controversial issues and their resolution;

c. copies of all correspondence;

d. the records required by these rules shall be retained for at least three years after completion of the research.

2. *Application* - A request for the use of vital records for research shall be in writing and shall be addressed to the State Registrar of Vital Records. The data request must include:

a. a complete experimental protocol including public health objectives, rationale for the study, design detail and scientific basis for selection of subjects;

b. a summary of the protocol;

c. a copy of the informed consent form and an outline of the consent process which meets the consent requirements described in these rules, as provided in Part C. 4;

d. provisions to protect the confidentiality of the data and the privacy of the subjects and their families;

e. resumé of all investigators, listing educational degrees and societies, certifying boards and academic institutions which have recognized their competence by granting membership, diplomate, or title, previous work in the subject area and employment;

f. approval from an institutional review board for this study or approval from an educational department chairman where the applicant is employed by or associated with an institution which requires such approval;

g. affirmation that a report of the findings resulting from the use of the records shall be provided to the state health officer;

h. a signed agreement to indemnify and hold the department and its employees harmless from any liability arising out of authorized or unauthorized access to the vital records.

3. *Confidentiality* - The researcher must establish reasonable administrative, technical and physical safeguards to prevent unauthorized use or disclosure of the records. Information that allows the individual to be identified must be removed or destroyed at the earliest time which is consistent with the purpose of the project.

4. Informed Consent

a. the following basic elements of informed consent must be provided to each subject when the research design calls for personal contact or other follow-up:

i. A statement that the study involves research, an explanation of the purpose of the research, the expected duration of the subject's participation, and a description of the procedure to be followed.

ii. A description of any benefits which may reasonably be expected from the research.

iii. A statement describing the extent to which confidentiality of records identifying the subject will be maintained.

iv. An explanation of whom to contact for answers to pertinent questions about the research and the rights of the subject.

v. A statement that participation is voluntary. Refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled. The subject may discontinue participation at any time without penalty.

b. An investigator shall seek the consent of the subject under circumstances that provide sufficient opportunity to con-

sider whether or not to participate and that minimize the possibility of coercion or undue influence.

c. The information that is given shall be in language understandable to the subject.

d. In obtaining informed consent, no exculpatory language through which the subject is made to waive or appear to waive any of the subject's legal rights, or releases or appears to release the investigator or the sponsor from liability for negligence shall be used.

e. A written document embodying the elements of informed consent as described above must be signed by each subject. The original shall be retained by the investigator's research.

5. Criteria For Approval of Research - The following shall be the criteria for the approval of research.

a. The study objective and design reflect that the proposal is in the best interest of the public health.

b. The selection of subjects is made on a scientific basis.

c. The investigators/researchers are deemed qualified based on their past research, employment and education.

d. Where appropriate, as provided in Part C. 2. f., approval of an institutional review board has been obtained.

e. Provisions to protect the confidentiality of the data and the subjects comply with Part C. 4.

f. The informed consent process and forms, follow the guidelines required in these rules and will be appropriately documented as required.

6. Notification - The panel shall notify requestors in writing of the decision to approve or disapprove the proposed study or of modifications required to secure approval of the research activity. If the committee disapproves a request, it shall include in its written notification a statement of the reasons for its decision and give the investigator/researcher an opportunity to request reconsideration in writing.

7. Requests for Reconsideration - Requests for reconsideration must be filed within 30 days of the date appearing on the notification. The principal investigator/researcher may be invited to appear at the hearing. The decision of the committee after reconsideration is final.

8. Fees - Fees for copies of certificates will be the same as those set forth in R.S. 40:40. The cost per reel for computer tape with no accompanying certificates will be \$100.

9. Exception to Approval Process - Requests for vital records information may be approved by the state health officer or a duly authorized representative without being presented to the panel if the request is for limited research and the investigator/researcher provides the name, date, and place of birth/death for all requests. An affidavit stating that no family members will be contacted and that stringent confidentiality procedures will be followed to protect the data and the privacy of the subject must be submitted. A signed hold harmless agreement and a description of the research design must be submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:33 C. and 40:41 D. (1).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR: 10 (June 1984). Omitted in the re-promulgation by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987). Revised and re-promulgated by the Department of Health and Hospitals, LR 15: (June 1989)

David L. Ramsey
Secretary

RULE

Department of Health and Hospitals Office of the Secretary

In accordance with Act 13 of the First Extraordinary Session of the 1988 Louisiana Legislature, and the Declaration of Fiscal Emergency issued by Governor Roemer, the Department of Health and Hospitals, Office of the Secretary is adopting the following rule, effective July 1, 1989, continuing fees being collected by the Department of Health and Hospitals.

In the **Bureau of Health Services Financing**, the Facility Need Review will maintain the present filing fees of \$1500 for a full review and \$500 for any expedited review, for applications for approval for ICF I and II facilities, ICF M/R's, and free-standing psychiatric facilities. Approval by the Facility Need Review Program is necessary in order to enroll beds in Medicaid.

The Division of Licensing and Certification will continue the following fees for licensing services rendered. These fees will offset the cost of salaries, rent, inspections, travel, monitoring, etc. The fees will be as follows:

1. \$300 increase in licensure of Nursing Homes, Hospitals, Residential Care Providers and home health agencies. This will increase the base fee from \$100 to \$400. The additional \$3 fee per licensed bed remains the same.

2. \$25 processing fee for all initial facility applications. This fee is counted toward the license fee if license is actually issued.

3. \$25 processing a facility replacement license when changes are requested by the facility, which may require re-survey of the facility. (No processing charge when request coincides with regular renewal of license)

4. \$5 processing fee for issuing a duplicate facility license with no changes.

5. \$150 fee for all Adult Day Care, Adult Day Health Care or Day Developmental Training Programs. **All state-owned facilities are exempt from fees.

The Office of Public Health will continue to collect the following regulatory and family health service fees:

1. Safe Drinking Water Program

These annual permit fees will be collected from public water supplies in communities which have six to over 25,000 service connections. The purpose is to generate revenue to support the OPH cost of inspection, monitoring, and bacteriological sampling/analysis mandated by the Sanitary Code.

1. COMMUNITY WATER SUPPLY SYSTEMS PERMITS

(Year round Public Water Systems)	FEES
Number of Service Connections	
6-25	\$ 400
26-125	\$ 500
126-250	\$ 600
251-625	\$ 700
626-825	\$ 800
826-1,250	\$ 900
1,251-2,500	\$1,000
2,501-12,500	\$1,500
12,501-18,750	\$2,000
18,751-25,000	\$2,500
25,001 up	\$3,000

2. Non-Community Water Supply
(Such as Roadside Parks) \$ 100

3. Non-Transient/Non-Community Water Supply
(Serves over 25 of the same persons over six months per year) \$ 400

To aid the public water supplies in meeting their chemical monitoring responsibilities, as required by state and federal law, the Department of Health and Hospitals, Office of Public Health and the Office of Licensing and Certification are proposing to establish a certification program to approve commercial, private, municipal and public water supply laboratories to provide the needed chemical (organic, inorganic and radiological) analytical support for the public water supplies. Each public water supply will be responsible for paying the contract laboratory for the analytical services provided.

Any laboratory interested in pursuing approval to perform chemical monitoring of public water supplies should contact Dr. Henry Bradford, Laboratory Director, DHH/OPH, Box 60630, New Orleans, LA 70160.

2. Milk and Dairy

Annual permit fees of \$90 per permit for dairy farms (producers) and \$300 per permit for milk and frozen dessert plants. The purpose is to generate revenue to partially support Office of Public Health cost of inspection, monitoring, sampling, and laboratory analysis mandated by the Sanitary Code to protect milk consumers from contamination and disease.

3. Retail Food

An annual fee will be charged for each permit issued by the Department of Health and Hospitals to all markets, itinerant markets, and food service establishments as defined in Chapters 22 and 23 of the State Sanitary Code. This will include, but is not limited to, restaurants, bars, lounges, groceries, markets, deli's, mobile food vendors, retail food manufacturers, and itinerant food vendors. All state and local government owned and operated facilities, churches, and non-profit organizations (as defined by the U.S. Internal Revenue Service) are exempt from the fee portion of this rule. All others will be charged according to the following schedule:

First annual permit - \$100

Second, Third, Fourth and Fifth Permits - \$75 each

Sixth Permit on Up - \$50 each

Day Care Centers licensed for:	7 - 15	individuals	\$ 25
	16 - 50	individuals	\$ 50
	51 - 100	individuals	\$ 75
	101 +	individuals	\$100

The purpose of these fees is to generate revenue to partially support OPH cost of inspection, monitoring, sampling and laboratory analysis of foods as mandated by the Sanitary Code to assure safety for human consumption.

4. Food and Drug Control

An annual permit fee of \$150 would be assessed from manufacturers, packers, processors, warehouses and distributors of foods, drugs and cosmetics. Existing permit fees would be increased for product registrations (\$5 increase) and soft drinks bottled out of state (\$10 increase per flavor). These fees would generate revenue to partially support the OPH cost of inspection, monitoring, sampling and laboratory analysis of foods, drugs and cosmetics as mandated by the Sanitary Code to assure their safety for human consumption.

5. Seafood

An annual permit fee of \$150 would be charged to seafood distributors and processing plants, while a \$50 fee will be assessed per shellfish transplant permit granted. These fees would generate revenue to partially support the OPH cost of inspection, monitoring, sampling and laboratory analysis as mandated by the Sanitary Code to assure safety for human consumption.

6. Sewerage

Permit fees from \$50 to \$100 will be charged in order to generate revenues to partially support the OPH cost of providing sewerage program services, i.e. site assessments, plans and specifications reviews, etc., in accordance with the Louisiana's Sanitary Code requirements. These permit fees will become payable and shall be collected in accordance with procedures which will be developed and implemented by OPH.

The categories of sewerage permit fees to be charged are as follows:

For individual-type sewerage treatment systems intended for residential use, i.e., specific tank, mechanical plant and other systems, a one-time fee of \$50 will be charged for each system so manufactured and made available for sale and residential use. This fee will be payable by the manufacturer (or manufacturer-authorized system distributor, franchise, sales or agent thereof; subject to OPH approval).

For sewerage treatment and interrelated systems inspections, (or related request associated with loanmaking procedures for existing residential and commercial properties, i.e., as may be required per FHA, VA, conventional or other lenders and/or underwriters), a one-time fee of \$75 for each inspection (or related request for each sewerage treatment and/or inter-related system identified). This fee will be payable by the individual requesting such inspection or related activity.

For a sewerage hauler license an annual \$50 fee will be payable by each individual so engaged in such business/practice.

For a sewerage installer license an annual fee of \$100 will be payable by each individual so engaged in such business/practice.

7. Operator Certification Program

An annual certification fee of \$10 for the first category in water and/or wastewater and an additional \$5 for each added category would be assessed from certified water and/or wastewater facility operators. The fee would be calculated separately for water and wastewater and would be collected every two years. Existing certificate fees for renewal and duplicate certificates would be increased (\$3 increase). Examination fees would be \$5 per exam for each water and/or wastewater category. These fees would generate an additional revenue in FY 89-90 of \$9,000 to partially support the OPH cost of inspection, monitoring, training, and certification of water and/or wastewater facility operators as mandated by R.S. 40:1141 et seq and the Sanitary Code to assure the protection of the public health and environmental protection.

B. FAMILY HEALTH SERVICES

1. Neonatal Screening (PKU)

A \$12 fee will be collected in parish health units for the initial neonatal screening (PKU, Congenital hypothyroidism, sickle cell anemia, as mandated by LSA-R.S. 1299.1) visit by a patient whose other pediatric services are provided outside of the DHH system.

There will be no charge on repeat testing. The party responsible for the patient shall be assessed the \$12 fee at the time of service delivery. Title XIX patients, and those documenting financial status at or below 100 percent of poverty will not be charged. This fee will generate revenue to partially support OPH costs of administering the neonatal screening in parish health units.

C. DISEASE CONTROL

1. Childhood Immunizations

A \$5 fee will be collected in parish health units for each

childhood vaccination visit by a patient whose other pediatric services are provided outside the DHH system. Title XIX patients, and those documenting financial status at or below 100 percent of poverty will not be charged. This fee will generate revenue to support the OPH cost of administering the vaccine.

2. Annual Influenza Immunization

A \$5 fee will be collected in parish health units for each influenza vaccination given to a high-risk patient. Title XIX patients, and those documenting financial status at or below 100 percent of poverty will not be charged. This fee will generate revenue to support the OPH cost of administering the vaccine.

3. Treatment of Sexually Transmitted Diseases

A \$5 fee per initial visit will be collected in parish health units from patients medically evaluated and treated for a sexually transmitted disease (STD). There will be no charge for a test of cure follow-up visit. Title XIX patients, and those documenting financial status at or below 100 percent of poverty will not be charged. Sexual contacts of suspected cases of STDs will not be charged unless examination reveals that disease is present and treatment is provided. This fee will generate revenue to partially support the OPH cost of administering STD diagnosis and treatment.

4. International Immunizations

A \$10 fee will be collected in parish health units for administering international (foreign travel) immunizations. In addition there will be a charge for the parish health unit's current cost of yellow fever, cholera and typhoid vaccines.

Title XIX patients and those documenting financial status at or below 100 percent of poverty will not be charged. This fee will generate revenue to partially support the Office of Public Health cost of administering and purchasing the vaccine.

5. Injections and Blood Sugar Analyses

A \$5 fee will be collected at each visit in parish health units for costs related to the provision of allergy/vitamin injections and blood sugar analyses. When such services are performed, Title XIX patients and those documenting financial status at or below 100 percent of the poverty level will not be charged. This fee will generate revenue to partially support the OPH cost of administering these specific services.

D. Special Sector Lab Services - Genetics Screening

A \$12 fee will be charged to private hospitals, clinics and physicians for each initial specimen they send to the DHH/OPH Central Laboratory and on which screening for PKU, congenital hypothyroidism and sickle cell is performed.

The purpose is to generate revenue to partially support the cost of laboratory testing and follow-up by OPH staff which is a service mandated by R.S. 40:1299.1,2,3.

The Office of Hospitals, Emergency Medical Services will continue to charge applicants taking the practical portion of the National Registry Emergency Medical Technician Certification Examination fees based on the level and type of exam attempted. The fees will be as follows:

BASIC EMERGENCY MEDICAL TECHNICIAN

(Ambulance and Non-Ambulance)

Full Practical Exam \$30

Retest Practical Exam \$15

ADVANCED EMERGENCY MEDICAL TECHNICIAN

(Intermediate and Paramedic)

Full Practical Exam \$50

Retest Practical Exam \$25

These fees are expected to generate \$35,000 during FY 89/90 and are intended to supplement reduced federal block

grant funds in order to maintain the current level of service causing any burden on the state general fund.

David L. Ramsey
Secretary

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register*, Vol. 15, No. 4, dated April 20, 1989.

Case Management for chronically mentally ill is defined as:

— development of an initial service plan which includes the evaluations necessary to determine the recipient's service needs;

— arrangements for and compilation of ID Team or other evaluative materials;

— coordination and participation in the development of a comprehensive service plan for each recipient which includes both formal and informal services;

— training and support of the recipient in the use of personal and community resources identified on the care plan;

— periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs; and

— maintenance of documentation of each service provided to a recipient.

This service will be reimbursed when provided to chronically mentally ill individuals subject to the limitations specified below.

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

A. If a recipient is aged 18 or older on the date the service is provided:

(1) There must be a documented need for assistance with two or more of the following services:

Educational, vocational, social, financial, physical health, residential, recreational or basic life skills; and

(2) Either:

(a) the individual must meet the definition of "chronically mentally ill adult" as defined by the Office of Mental Health; or

(b) the individual must require alternate disposition in accordance with the Nursing Home Reform Act as a chronically mentally ill individual as defined by DHH, Office of Mental Health.

B. If age 17 or younger, or if age 21 or younger and attending Special Education classes on the date the service is provided the individual must meet the definition of "severely emotionally disturbed child" as defined by DHH, Division of Mental Health.

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

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

E. Payment for case management services under this pro-

vision will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

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

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

H. The maximum number of units of service to be reimbursed by the state for each individual covered by this provision in a calendar year shall be limited in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

2. Standards for Participation

The provider of case management services must:

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

B. be licensed by the Bureau of Health Standards of the Department of Health and Hospitals to provide case management services in the state;

C. be dually enrolled as both a Title XIX mental health center and provider of case management services;

D. be approved by the Division of Mental Health as having a comprehensive and adequate plan for the delivery of services in accordance with Standards for Case Management for the Chronically Mentally Ill;

3. Standards for Payment

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

A. Insure that all case management services are provided by individuals under the supervision of a Qualified Mental Health Professional as defined by the division of Mental Health who meet one of the following education and experience requirements:

(1) an individual with at least a bachelor's degree from an accredited institution and one year of experience in a human services field;

(2) a licensed RN with two years of experience in public health nursing or a human services field;

(3) an individual with a high school diploma who has a minimum of two years supervised experience in Community Support System work with the chronically mentally ill;

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

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

D. Insure that the one case manager for each recipient under this provision visits the recipient on site at his place of residence at least once per month for the first 90 days of service and at least every 90 days thereafter.

E. Insure that the individual assigned as the case manager has at least weekly contact with the recipient or his/her legal representative and that these contacts are documented in progress notes and address the efficacy of the care plan;

F. Insure that the case manager assigned to serve the recipient as well as any other employee of the case management provider providing services keep sufficient records to document services being provided;

G. Insure that appropriate professional consultation is available to each case manager at all times;

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

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

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

K. Abide by the provisions of the Provider Agreement entered into with the Bureau of Health Services Financing.

4. General Provisions

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

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

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

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

David L. Ramsey
Secretary

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register*, Vol. 15, No. 4, dated April 20, 1989.

Case Management for HIV disabled individuals is defined as:

— development of an initial service plan which identified the evaluations necessary to determine the recipient's service needs;

— arrangements for and compilation of Interdisciplinary Team or other evaluative materials;

— coordination and participation in the development of a comprehensive service plan for each recipient which includes both formal and informal services;

— training and support of the recipient in the use of personal and community resources identified on the care plan;

— advocacy on behalf of recipients so that they may receive appropriate benefits or service;

— periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs;

— maintenance of documentation of each service provided to a recipient;

— during such time as the state has an approved Section 1915(c) waiver, monitoring service delivery in order to assess progress, the quality of services and that the services are being provided as ordered by the ID Team;

— for recipients of HIV waiver services, implementation and maintenance of cost containment measures through periodic calculation of each recipient's waiver service costs.

This service will be reimbursed when provided to HIV disabled individuals subject to the limitations specified below.

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

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

(1) The recipient must have reached, as documented by a physician, a level 70 on the Karnofsky scale at some time during the course of HIV infection;

(2) The recipient must require services from multiple health/social/informal services providers;

(3) The recipient must be unable to arrange the necessary services.

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

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

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

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

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

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

H. These services shall be limited to certain geographical areas in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

2. Standards for Participation

The provider of case management services must:

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

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

C. have one or more documented years providing case management services to HIV disabled individuals.

3. Standards for Payment

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

A. Insure that all case management services are provided by individuals who are licensed to practice in Louisiana or individuals under the supervision of licensed professional staff who meet one of the following education and experience requirements:

(1) an individual with at least a bachelor's degree from an accredited institution and one year of experience in a human services field;

(2) a licensed RN with two years of experience in public

health nursing or a human services field;

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

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

D. Insure that the one case manager for each recipient under this provision visits the recipient on site at his place of residence in accordance with the plan of care;

E. Insure that the individual assigned as the case manager maintains contact, in accordance with the Standards for Payment, with the recipient or his/her legal representative and that these contacts are documented in progress notes and address the efficacy of the care plan;

F. Insure that the case manager assigned to serve the recipient as well as any other employee of the case management provider providing services keep sufficient records to document the services being provided;

G. Insure that appropriate professional consultation is available to each case manager at all times;

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

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

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

K. Abide by the articles of the Provider Agreement entered into with the Bureau of Health Services Financing.

4. General Provisions

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

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

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

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

David L. Ramsey
Secretary

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana*

Register, Vol. 15, No. 4, dated April 20, 1989.

Case Management for pregnant women is defined as:

— development of an initial service plan which identifies the evaluations necessary to determine the recipient's service needs;

— arrangements for and compilation of Interdisciplinary Team or other evaluative materials;

— coordination and participation in the development of a comprehensive service plan for each recipient which includes both formal and informal services;

— training and support of the recipient in the use of personal and community resources identified on the care plan;

— advocacy on behalf of recipients so that they may receive appropriate benefits or service;

— periodic reassessment of the recipient's services to insure that they continue to meet the individual's needs;

— maintenance of documentation of each service provided to a recipient.

This service will be reimbursed with provided to pregnant women subject to the limitations specified below.

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

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

(1) the recipient must have been determined medically eligible by the Medicaid Agency for extra perinatal care;

(2) the recipient must require services from multiple health/social/informal services providers;

(3) the recipient must be unable to arrange the necessary services.

B. The recipient may receive services on an inpatient or an outpatient basis.

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

D. A recipient will not be forced under this provision to receive case management services for which she may be eligible.

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

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

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

H. These services shall be limited to certain geographical areas in accordance with the Title XIX State Plan agreement with the Health Care Financing Administration.

2. Standards for Participation

The provider of case management services must:

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

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

C. have been certified by the Office of Public Health as having adequate programming and administration to provide the service effectively and efficiently.

3. Standards for Payment

In order to be reimbursed by the state, the provider of

case management services must:

A. Insure that all case management services are provided by individuals who are licensed to practice in Louisiana or individuals under the supervision of licensed professional staff who meet one of the following education and experience requirements:

(1) an individual with at least a bachelor's degree from an accredited institution and one year of experience in a human services field;

(2) a licensed RN with two years of experience in public health nursing or a human services field;

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

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

D. Insure that the one case manager for each recipient under this provision visits the recipient on site at his place of residence in accordance with the Plan of Care;

E. Insure that the individual assigned as the case manager maintains contact, in accordance with the Standards for Payment, with the recipient or his/her legal representative and that these contacts are documented in progress notes and address the efficacy of the care plan;

F. Insure that the case manager assigned to serve the recipient as well as any other employee of the case management provider providing services keep sufficient records to document the services being provided;

G. Insure that appropriate professional consultation is available to each case manager at all times;

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

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

J. Insure that each recipient has freedom of choice with regard to providers of any service including case management services;

K. Abide by the articles of the Provider Agreement entered into with the Medicaid agency.

L. Collect data which is used by the Medicaid Agency to evaluate the effectiveness of the services provided in accordance with Bureau of Health Services Financing guidelines.

4. General Provisions

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

B. Providers of case management services shall maintain time sheets which are completed by their case managers to document the provision of service they have provided. A unit of service will be defined for each provider as one month. Time sheets shall contain the dates and times of service provision and be retained for audit as prescribed by the Standards for Payment.

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

D. Standard provisions concerning such procedures as audit, submittal of cost reports, etc. contained in the Standards

for Payment shall be adhered to by providers of Case Management services.

David L. Ramsey
Secretary

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register*, Vol. 15, No. 4, dated April 20, 1989.

The reimbursement methodology for inpatient hospital services shall incorporate a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients (DSH). This provision shall be implemented in the following manner:

1. Qualifying criteria for a Disproportionate Share Hospital:

a. the hospital has at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligibles. In the case of a hospital located in a rural area (i.e. an area outside of a Metropolitan Statistical Area), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures; or

b. the hospital treats inpatients who are predominantly individuals under 18 years of age; or

c. the hospital did not offer nonemergency obstetric service to the general population as of December 22, 1987; and

d. the hospital has a utilization rate in excess of either of the below-specified minimum utilization rates:

(1) *Medicaid Utilization Rate* - means a fraction (expressed as a percentage), the numerator of which is the hospital's number of Medicaid (Title XIX) days and the denominator of which is the total number of the hospital's inpatient days for a cost-reporting period. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean plus one standard deviation, of the Medicaid utilization rates for all hospitals in the state receiving payments; or

(2) *Low-income Utilization Rate* - means the sum of:

(a) The fraction (expressed as a percentage), the numerator of which is the sum (for the period) of the total Medicaid (Title XIX) patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments, and the denominator of which is the total amount of patient revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period; and

(b) The fraction (expressed as a percentage), the numerator of which is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in (2)(a) above, which are reasonably attributable to inpatient hospital services; and the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less

than zero. The above numerator shall not include contractual allowance and discounts (other than for indigent patients not eligible for Medicaid), that is, reductions in charges given to other third party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. Hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent.

2. Payment Adjustments for Disproportionate Share Hospitals

The higher of the below-specified payment adjustment factors shall be applied to the cost limits and then to the total allowable Medicaid inpatient costs for those hospitals qualifying as disproportionate share providers (DSH) as specified above for inpatient hospital services provided on or after July 1, 1988:

a. Medicaid Utilization Rate - for each percentage, or portion thereof, in excess of the Medicaid mean plus one standard deviation, a payment adjustment factor of one percent shall be applied; or

b. Low-income Utilization Rate - for each percentage, or portion thereof, of the low income utilization rate defined above, in excess of 25 percent, a payment adjustment factor of two percent shall be applied; or

c. Medicare DSH Rate - that percentage determined by the Medicare intermediary as a qualifying provider's disproportionate share adjustment factor for the purposes of Medicare reimbursement in accordance with rules established under Section 1886(d)(5)(F)(iv) of the Social Security Act.

Adjustment of the cost per discharge limitation and per diem limitations for carve-out units (NICU/PICU/Burn/Transplants) shall be the product of the applicable limit and the appropriate disproportionate share adjustment factor. This disproportionate share payment adjustment shall then be the product of the appropriate disproportionate share adjustment factor and the hospital's Medicaid total allowable inpatient costs.

David L. Ramsey
Secretary

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register*, Vol. 15, No. 4, dated April 20, 1989.

RULE

The Bureau of Health Services Financing shall follow the criteria developed and published at 42 CFR 418.3 - .310 by the Health Care Financing Administration for the licensure and regulation of Hospice care provided to individuals in Louisiana.

David L. Ramsey
Secretary

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register* Vol. 15, No. 4, dated April 20, 1989.

INSURANCE NOTIFICATION AND PAYMENT PROCEDURES

I. Notification Instructions For Payment By Insurance Carriers

A. Simplified Notification for Payment

Medical bills bearing either of the following annotation stamps shall constitute notification by the department of payment due for services rendered by a Medicaid provider or state facility. Any health insurance claim filed by an insured individual for payment of a medical bill which bears such annotation shall be paid, not to exceed the individual's policy coverage limit, to the provider or facility indicated in the annotation. This requirement shall apply to insurance companies authorized to operate in Louisiana in accordance with R.S. 46:164.1.A.(2).

For claims payable to state facilities, payment shall be limited to the amount annotated on the state facilities' annotation stamp, with any remaining payment payable to the claimant. For claims payable to Medicaid providers, payment shall be limited to the amount indicated on any bill bearing the provider's Title XIX stamp.

For all claims, an explanation of benefits shall accompany payment made to the Medicaid provider/state facility or the facility/provider control number shall appear on the payment instrument. The explanation of benefits shall include the facility/provider control number(s), when annotated on a medical bill(s) submitted by an insured. A copy of the explanation of benefits shall be sent to the claimant with notice that payment has been made as required under R.S. 46:446.1.

1. When the medical bill bearing an annotation stamp is for a Medicaid Provider, the carrier shall contact the Department of Health and Hospitals, Bureau of Health Services Financing, Third Party/Recovery Unit, Box 94065, Baton Rouge, LA 70804 or phone (504) 342-9495 to determine the state's interest in the case. If the claimant has filed a claim and retained an attorney, the reimbursement may be negotiated through the claimant's attorney and the department or provider, where the medical services are for hospitalization.

2. When a medical bill bearing an annotation stamp is for a state facility, the carrier shall contact the collection representative designated by the facility on the annotation stamp to determine the state's interest in the case. If the claimant has filed a claim and retained an attorney, the reimbursement may be negotiated through the claimant's attorney and the department.

3. When multiple medical bills bear annotation stamps from both state facilities and Medicaid providers, the carrier shall contact the Department of Health and Hospitals, Bureau of Health Services Financing, Third Party/Recovery Unit, Box 94065, Baton Rouge, LA 70804 or phone (504) 342-9495 to determine the state's interest in the case. If the claimant has filed a claim and retained an attorney, the reimbursement may be negotiated through the claimant's attorney, the department, and the provider's attorney when a portion of the claim is for hospitalization.

C. Non-Annotated Bills From State Hospitals

Until January 1, 1990, when a carrier receives medical bills from the following state facilities which do not bear an annotation stamp attached to an insured's claim, notification must be made to the collection representative at the address listed below. If the claimant has filed a claim and retained an attorney, reimbursement may be negotiated through the claimant's attorney and the facility or the department.

State Hospitals

Central Louisiana State Hospital Box 5031 Pineville, LA 71361-5031 (318)	LSU Medical Center 1541 Kings Highway Shreveport, LA 71130 (318) 674-5000
Charity Hospital of New Orleans 1532 Tulane Avenue New Orleans, LA 70140 (504) 568-3211	S. Louisiana Medical Center 1978 Industrial Blvd. Houma, LA 70360 (504) 868-8140
E.A. Conway Memorial Hospital 4864 Jackson Street Monroe, LA 71201 (318) 387-8460	University Medical Center Box 4016-C Lafayette, LA 70502 (318) 261-6000
Earl K. Long Memorial Hospital 5825 Airline Highway Baton Rouge, LA 70805 (504) 358-1002	Villa Feliciana Hospital Box 438 Jackson, LA 70748 (504) 634-7793
Huey P. Long Regional Medical Center Box 5352 Pineville, LA 71361-5352 (318) 448-0811	Walter O. Moss Regional 1000 Walters Street Lake Charles, LA 70601 (318) 477-3350
Lallie Kemp Charity Hospital Highway 51 South Box 70 Independence, LA 70443 (504) 878-9421	Washington-St. Tammany Regional Medical Center 400 Memphis Street Bogalusa, LA 70427 (504) 735-1322

MEDICAID PROVIDER NO. (7 digits)
(Optional Control Number)
Services have been provided under Louisiana Medicaid and are payable under R.S.46:446.1 to:

PROVIDER NAME
ADDRESS
CITY/STATE/ZIP

STATE FACILITY NO. _____
(Optional Control Number)
Payment in the amount of : \$ _____
for services rendered by the State of Louisiana are due under R.S. 46:446.1 to:

FACILITY NAME
ADDRESS
CITY/STATE/ZIP

Any additional authorization needed may be obtained from:
(collection representative) at (phone number).

B. Notification of Claims Involving Accidents, Insurance Settlements, or other Factors.

Any claim submitted by an individual which is subject to settlement of an accident claim which includes stamped medical bills shall be reported as follows:

Psychiatric Hospitals

Central La. State Hospital Over 65
W. Shamrock
Pineville, LA 71360
(318) 484-6200
East Louisiana State Hospital
Box 498
Jackson, LA 70748
(504) 634-2651
Greenwell Springs Hospital
Box 549
Greenwell Springs, LA 70739
(504) 261-2730

N.O. Adolescent Hospital
210 State Street
New Orleans, LA 70118
(504) 897-4616
S.E. LA State Hospital
Box 3850
Mandeville, LA 70448
(504) 626-8161

David L. Ramsey
Secretary

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register*, Vol. 15, No. 4, dated April 20, 1989.

The Bureau of Health Services Financing shall follow the criteria developed and published (State Medicaid Manual, HCFA Policy Issuances, etc.) by the Health Care Financing Administration for making preadmission and annual review determinations for recipients who have mental illness or mental retardation who seek admission or continued residence in a nursing facility (SNF, ICF-I, or ICF-II).

David L. Ramsey
Secretary

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register*, Vol. 15, No. 4, dated April 20, 1989.

RULE

An individual shall be determined to meet the requirements for the SNF level of care in a long term care facility when the following criteria, based on current needs, are met. These criteria are meant to be objective, self-explanatory and universally applicable.

1. The individual requires nursing, psychosocial or rehabilitation services, i.e., services that must be performed by or under the supervision of professional health personnel; e.g., registered nurse, licensed practical nurse, physical therapist, occupational therapist, speech pathologist or audiologist, or a combination thereof.

2. The individual requires such services on a regular basis

(seven days per week). Rehabilitation services must be at least five days per week.

3. The daily skilled services can be provided only on an inpatient basis in a skilled nursing facility.

The following services are those which are considered to require the supervision of professional personnel (including, but not limited to):

1. Intravenous, intramuscular, or subcutaneous injections.

2. Levine tube and gastrostomy feedings.

3. Insertion, sterile irrigation and replacement of catheters as adjunct to active treatment of a urinary tract disease.

4. Application of dressings involving prescription medications and sterile techniques.

5. Nasopharyngeal or tracheostomy aspiration.

6. Treatment of decubitus ulcers, of a severity Grade 3 or worse, or a widespread skin disorder.

7. Heat treatments (moist) specifically ordered by a physician as part of active treatment done by physical therapist.

8. Initial phases of a regimen involving administration of medical gases such as bronchodilator therapy.

9. Rehabilitation nursing procedures, including the related teaching and adaptive aspects of nursing: i.e. - Bowel and bladder training.

10. Care of a colostomy during the early postoperative period in the presence of associated complications.

11. Observation, assessment and judgment of professional personnel in presence of an unstable or complex medical condition and to assure safety of the recipient and/or other residents in cases of active suicidal or assaultive behavior.

12. Therapy (at least five times per week):

A. Physical therapy

B. Speech therapy

C. Occupational therapy (in conjunction with another therapy nursing service).

Documentation must support that skilled services were actually needed and that these services were actually provided on a daily basis.

David L. Ramsey
Secretary

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register*, Vol. 15, No. 4, dated April 20, 1989.

RULE

PROVIDER IDENTIFICATION INSTRUCTIONS FOR BILLINGS

A. Each Medicaid provider in the state of Louisiana, when filing a third party claim for a health care service for a Medicaid recipient shall type/stamp/write the word "MEDICAID" in the space on the claim form designated for other insurers, along with the Medicaid identification number, if known.

Notification can be sent to the insured individual of billed charges and payments made.

B. Each Medicaid provider enrolled in the Louisiana Title XIX program shall annotate every statement of medical charges, bill, or copies of bills issued to Medicaid recipients clearly identifying that services have been rendered under Medicaid unless such services have been paid for by the recipient. The provider's annotation shall be in the form of a three inch by three inch stamp in the following format:

<p>MEDICAID PROVIDER NO. (7 digits) (Optional Control Number) Services have been provided under Louisiana Medicaid and are payable under R.S. 46:446.1 to:</p> <p>PROVIDER NAME ADDRESS CITY/STATE/ZIP</p> <p>Any additional authorization needed may be obtained from Louisiana Medicaid at (504) 342-9495.</p>
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An optional provider control number may be utilized to promote identification of client billings. Such control numbers may be client specific (client number, SSN, Drivers License, etc.) or billing specific as needed by the provider to allow rapid identification.

C. The Medicaid provider is required to file an adjustment/void on paid claims. When submitting a new claim, show the TPL payment and attach the explanation of benefits provided by the insurance carrier.

David L. Ramsey
Secretary

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register*, Vol. 15, No. 4, dated April 20, 1989.

The service limit of 15 hospital days per year per recipient shall not be applicable to infants (birth to one year) receiving inpatient services in a hospital qualifying as a disproportionate share provider.

David L. Ramsey
Secretary

RULE

**Department of Labor
Office of Employment Security
Board of Review**

The Department of Labor, Board of Review, adopted rules for appealed claims of the Louisiana Board of Review as follows.

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

Chapter 1. Appealed Claims for Board of Review

§101. Office and Officers of the Board of Review

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§103. Time and Place of Meeting of the Board

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§105. Quorum

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

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

Whenever these rules prescribe a time for the performance of any act, Saturdays, Sundays and legal holidays (half-holiday is considered a legal holiday) in the state of Louisiana shall count as any other days, except that when the time prescribed for the performance of an act expired on a Saturday, Sunday or a legal holiday in Louisiana, such time shall extend to and include the next succeeding day that is not a Saturday, Sunday or such legal holiday, provided that, when the time for performing any act is prescribed by Statute, nothing in these rules shall be deemed to be a limitation or extension of the statutory time fixed.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§109. Appeals to the Administrative Law Judge (Appeals Tribunal)

A. The party appealing from the agency's initial determination shall file, at an office or itinerant point of the Louisiana Office of Employment Security, a notice of appeal (Form LBR-

1), setting forth information required therein within 15 days after date notification was given or was mailed to his last known address.

B. It is hereby further provided that any letter written by claimant or employer to the Louisiana Office of Employment Security or the board disputing the determination or appeal decision may be accepted in lieu of a formal form of appeal, Form LBR-1, provided said letter is received by any office of the Louisiana Office of Employment Security or by the board within 15 days after notification, was given or was mailed to his last known address.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§111. Notice of Hearing

A notice of hearing (Form LBR-2 or Form LBR-2T) shall be mailed to all parties (as defined in Rule No. 507) to the appeal at least 10 days prior to the date of the hearing, specifying the place and time of the hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§113. Postponements, Continuances, Reopenings and Rehearings

A. A hearing may be postponed or continued by the administrative law judge for good cause, either upon his own motion or upon the request of a party. A party's request for postponement or continuance shall be made in writing to the administrative law judge whose name and address appear on the notice of hearing.

B. If a claimant or employer fails to appear at a scheduled hearing (of which he received timely notice), the administrative law judge, at his discretion, may continue the hearing to a later date or reopen it. Where good cause is shown by either party, the administrative law judge shall continue the hearing to a later date or reopen it. A request for such continuance or reopening shall be made in writing, mailed or delivered to the office where the appeal was filed, or to the administrative law judge whose name and address appear on the notice of hearing, within seven days after the decision of the administrative law judge was mailed to such party.

C. Where a party shows to the satisfaction of the administrative law judge that he did not receive timely notice of the hearing, the administrative law judge shall grant a rehearing.

D. Notice of the time and place of a postponed, continued, or reopened hearing, or of a rehearing, shall be given to the parties or their representatives.

E. Any request by a party for postponement, continuance, reopening, or rehearing, received after the decision of the administrative law judge was mailed to such party, shall not be treated as an appeal of the decision to the Board of Review. The administrative law judge shall respond to all such requests, and inform the appellant of further appeal rights to the board. A copy of that request and the administrative law judge's response shall be incorporated in the file. If the case is appealed to the Board of Review, they shall render a decision on the merits of the case or remand it to the administrative law judge for either a full hearing and decision or additional information.

F. If the appellant fails to appear at the scheduled time for the hearing, or fails to respond to a scheduled time for the telephone hearing, or within fifteen minutes thereafter, the adminis-

trative law judge shall proceed with the hearing and render a decision on the basis of the record.

G. The term "party" or "parties" as used in these rules shall mean the claimant or the employer only.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§115. Conduct of Hearing Before Administrative Law Judge

A. The administrative law judge shall preside over the hearing. All testimony shall be given under oath or affirmation. The administrative law judge shall have the right to question and cross-examine all witnesses. Each party to the appeal, or their representatives, shall have the right to question their own witnesses and to cross-examine the opposing parties and witnesses.

B. Only testimony pertinent to the issue involved in the appeal shall be admitted by the administrative law judge.

Technical rules of evidence need not be complied with so long as all parties are given an opportunity to fully present their case.

C. Hearsay testimony is admissible, but may only be considered by the administrative law judge in making his decision to substantiate or corroborate other direct evidence.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§117. Authority to Separate Witnesses (Placing Witnesses under the Rule)

Either party or the administrative law judge may require that a witness be excluded from the hearing room. Witnesses who are excluded from the hearing shall be instructed not to discuss the case with anyone except the attorney or representative of the party on whose behalf they have been called. This shall not apply to the parties to the appeal or their attorney or representative.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§119. Additional Testimony

The administrative law judge may take such additional testimony as he deems necessary for a fair determination of the issues upon notice to all parties to the appeal as provided in §111.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§121. Stipulation of Facts

Parties to an appeal, with consent of the administrative law judge, may jointly stipulate the facts, in advance, in writing, or at the hearing. The administrative law judge may decide the appeal on the basis of the stipulation or, if he deems necessary, he may hold a hearing and take further testimony after giving notice as provided in §111.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§123. Decision of Administrative Law Judge

The administrative law judge shall render a decision as

soon as reasonably possible on all issues involved. This decision will be in writing and will contain a statement of the facts found, the reasons therefor, and the conclusion reached. Copies of the administrative law judge's decision will be mailed to the parties to the proceeding, as defined in §113.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§125. Appeals to Board

A. Any party aggrieved by the decision of the administrative law judge may, within the time and the manner specified in §109, file an application for appeal to the board.

B. Upon receipt thereof, the board may, on the basis of the evidence previously submitted to the administrative law judge, affirm, modify, or reverse the findings and conclusions of the administrative law judge.

C. If the board deems it necessary to take additional evidence or decides to hear oral argument, a hearing shall be fixed and all parties shall be notified thereof as provided in §111.

D. The board may, at its discretion, remand the case to the administrative law judge for the taking of such additional evidence as the board may direct. Notice thereof shall be given as provided in §111.

E. Either party may submit written briefs to the board for its consideration at any time before the case is taken under advisement.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§127. Notification of Appeal

All applications for appeals shall be acknowledged and the opposing party shall be duly notified.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§129. Decision of the Board

A. The board shall, as soon as possible, announce its decision, including its findings of fact and conclusions in support thereof, or it may adopt the decision of the administrative law judge as its own.

B. The decision shall be in writing and shall be signed by the members of the board who considered the appeal. If the decision is not unanimous, the decision of the majority shall control. Dissenting opinions may be filed setting forth the reason for dissent. Copies of the board's decision will be mailed to the parties as defined in §113.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§131. Issuance of Subpoenas

Requests for subpoenas must be submitted in writing. They shall contain the name and address of the witness and a statement of what is intended to be proven by his or her testimony. Such request must be received by the administrative law judge or board at least 72 hours prior to the time for which the hearing is scheduled. If a request is timely made but service is not perfected or cannot be perfected in time for the appearance of the witness, this shall be grounds for a postponement.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§133. Representation before the Administrative Law Judge and Board

Any individual may appear for himself, and/or may be represented by counsel or other duly authorized agent, in any proceeding before the administrative law judge or board. Any partnership may be represented by any of its members or a duly authorized representative. Any corporation or association may be represented by an officer or a duly authorized representative.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§135. Disqualification of Representative

The administrative law judge or the board may refuse to allow any person to represent others in any proceeding before them whom they find guilty of contumacy or unethical conduct, or who intentionally and repeatedly fails to observe the pertinent provisions of the Louisiana Employment Security Law, LSA-R.S. 23:1471, et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:

§137. Availability of Rules

Copies of these rules shall be made available at all area offices of the Louisiana Office of Employment Security and may be inspected by any interested party. Copies of these rules may be requested from the board by parties having need thereof.

Bernard J. Francis, Sr.
Administrator

RULE

Department of Labor Office of Employment Security

Regulations for the Administration of the Employment Security Law are as follows.

Title 40

LABOR AND EMPLOYMENT Part IV. Employment Security

Chapter 3. Employment Security Law

§301. Authority

By virtue of the authority vested in the Administrator of the Office of Employment Security of the State of Louisiana by the Louisiana Employment Security Law, R.S. 24:1471-1713 (Act 97 of 1936), as amended, and in order to establish uniform procedure under said law, the following regulations have been and are adopted and prescribed and all other regulations now in effect are hereby rescinded, but remain in full force and effect relative to all matters arising prior to the effective date of the hereinafter prescribed and adopted regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§303. Effective Date of Regulation or Amendment, No Vested Rights

A regulation adopted by the administrator shall be published one time by printing in the official journal of the state of Louisiana and shall become effective as of the date indicated in such publication. Certified copies of all regulations so published shall be filed in the office of the Secretary of State, and an official file of such regulations shall be maintained in the office of the Legal Unit of the Department of Labor and shall be accessible for examination at all times during business hours. The text of all regulations shall be printed and made available for distribution to the public. Any regulation may be changed, rescinded or revoked at any time the administrator may deem necessary and proper and there shall be no vested rights of any kind against any change, rescission or revocation. Such change, rescission or revocation shall become effective upon publication in the same manner as provided for giving effect to any regulation when adopted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§305. Posting of Cards, Statements and Material Relating to the Louisiana Employment Security Law, R.S. 23:1471-1713 as amended

All employers shall follow the instructions issued them by the administrator relative to the posting and maintaining in prominent locations in their places of business where they may be read by the public and all workers, such cards, statements and materials relating to unemployment compensation as are prescribed by the administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§307. Contributions, Interest, Mailing Date of Contributions and Contribution Reports

A. Accrual and Due Date of Contributions

1. Period-October 1, 1940, and Thereafter. On and after October 1, 1940, contributions shall accrue quarterly with respect to wages paid within each calendar quarter for employment occurring on and after July 1, 1940.

2. Contributions due on wages paid during the period beginning July 1, 1940, and ending March 31, 1964, shall become due and shall be paid on or before the twenty-fifth day of the month following the calendar quarter in which such contributions accrue.

3. Contributions due on wages paid on and after April 1, 1964, shall become due and shall be paid on or before the last day of the month following the calendar quarter in which such contributions accrue.

B. Interest

Interest prescribed by law on all over-due contributions shall accrue on and after the day following the due date on any contribution payments up to and including the date of payment.

C. Payment of Contributions by Mail.

Interest prescribed by law on all over-due contributions shall accrue on and after the day following the due date on any contribution payments up to and including the date of payment.

C. Payment of Contributions by Mail

Payment of contributions received through the mail shall

be deemed to have been made and received as of the date shown by the postmark thereon.

D. Accrual and Due Date of Contributions by Employers who become Subject within the Calendar Year

1. With respect to contributions due on wages paid up to and including March 31, 1964, the first contribution payment of an employing unit which becomes an employer under the Louisiana Employment Security Law at any time during the calendar year, shall become due on, and shall be paid on or before the twenty-fifth day of the month following the calendar quarter in which such employing unit becomes an employer.

2. With respect to contributions due on wages paid on and after April 1, 1964, the first contribution payment of an employing unit which becomes an employer under the Louisiana Employment Security Law at any time during the calendar year, shall become due on, and shall be paid on or before the last day of the month following the calendar quarter in which such employing unit becomes an employer.

3. The first contribution payment of an employer becoming liable during a calendar year shall include all contributions with respect to wages paid for employment occurring on and after January 1st of the calendar year up to and including the end of the calendar quarter in which the employing unit becomes an employer. The first contribution payment of an employing unit which (voluntarily) elects with the written approval of the administrator to become an employer shall accrue at the end of the calendar quarter with respect to wages for employment occurring on and after the date on which such election was approved, and shall be due and paid on or before the last day of the calendar month following the calendar quarter during which the conditions of becoming an employer are satisfied.

E. Whereas, due to circumstances beyond the control of the Office of Employment Security of the state of Louisiana it has been impossible to furnish employers with forms for the preparation of contributions and payroll reports for completion and filing with respect to wages paid during the second calendar quarter of 1971 prior to July 20, 1971; and, whereas such delay will not afford employers sufficient time to prepare and file said contribution and payroll reports by July 31, 1971, as prescribed elsewhere in this regulation; notwithstanding any of the other provisions of this regulation, the time for filing contribution and payroll reports with respect to wages paid by employers during the second calendar quarter of 1971 is hereby extended to the twenty-third day of August, 1971. All contribution and payroll reports and remittances due on said reports which are received or postmarked on or before said August 23, 1971, shall be deemed to have been filed timely for all of the purposes of this regulation and for all purposes of the Louisiana Employment Security Law. This Section shall be applicable only with respect to the second calendar quarter of 1971 and no further.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§309. Reserved

§311. Instructions on Reports

Each employing unit shall comply with instructions pertaining to the contents and due date of any report issued or required by the administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§313. Records

Each employing unit shall establish records with respect to employment performed for it as hereinafter indicated and shall preserve such records, including those now existing for a period of not less than five years after the calendar year in which the remuneration with respect to such services was paid.

A. For each worker:

1. Name;
2. Social Security account number;
3. Place in which his services are performed, or if there is no one such place, then his base of operations;
4. Date on which he was hired, rehired, or returned to work after temporary lay-off and date separated from work;
5. His remuneration paid for employment occurring on or after July 1, 1940, and period from which payable, showing separately:

- a. cash remuneration, including special payments;
- b. reasonable cash value of remuneration in any medium other than cash, including special payments;
- c. special payments, included in (a) and (b) above (any payments such as bonuses, gifts, etc.) and the year in which the services for which the payments were made were rendered;

6. Amounts paid him as allowance or reimbursement for traveling or other business expenses, and period for which payable;

7. If he is paid:

- a. On a salary basis, his wage rate, and period covered by such rate;
- b. On fixed hourly basis, his hourly rate and customary scheduled hours per week;
- c. On fixed daily basis, his daily rate and customary scheduled days per week;
- d. On piece rate or other variable pay basis, method by which his wages are computed.

B. General:

1. beginning and ending dates of each pay period;
2. total amount of remuneration paid in any pay period for employment occurring on or after July 1, 1940;

C. Records shall be maintained in such form that it would be possible from an inspection thereof to determine:

1. earnings by weeks of partial unemployment as defined in Regulation 13(b);
2. whether any week of partial unemployment claimed by an individual is in fact a week of less than full-time work;
3. time lost, due to unavailability for work by each worker who may be eligible for partial benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§315. Reserved

§317. Reserved

§319. Identification of Workers

A. Each worker engaged in employment for an employer shall procure a Federal Social Security account number and report it to every employer by whom he is employed.

B. Each employer shall ascertain the Federal Social Security account number of each worker employed by him in employment subject to the Louisiana Employment Security Law. Each employer shall report the worker's Federal Social Security account number card in any report required by the administrator with respect to a worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§321. Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§323. Separation Notices

A. Individual Separation Notices

1. Under conditions which may disqualify.

Whenever a worker is separated from his employment permanently or for an indefinite period or for an expected duration of seven or more days, under conditions which may disqualify him for benefits pursuant to the provision of R.S. 23:1601, his employer shall within seventy-two hours after such separation give him, or if such delivery is impossible or impracticable, mail to his last known address a "Separation Notice Alleviating Disqualification", Form LDOL-ES 77, on which the employer has entered the required information. Within the same period of time, the employer shall send a copy of such separation notice, certified to by himself or his duly authorized agent, to the administrator.

2. Upon request of Administrator

Upon request of the administrator for separation information covering any worker separated by any employing unit from its employ, such employing unit shall within 10 days following the mailing of such request, completely fill out such notice and return it to the address specified thereon.

B. Mass separation notices

In the event of a separation of 50 or more individuals by an employer for the same reason and about the same time, the employer shall notify the administrator of such separation. Upon receipt of such notice, the administrator shall make full investigation.

C. Labor dispute notices.

1. In case of a separation due to a labor dispute, the employer shall within 48 hours after such separation file with the local employment office nearest his place of business a notice setting forth the existence of such dispute and the approximate number of workers affected.

2. Upon request by the administrator, such employer shall furnish the names and Social Security account numbers of workers ordinarily attached to the department or the establishment where unemployment is alleged to be caused by a labor dispute.

D. It is not the intent of this regulation to deprive any party of the right to protest or to appeal which is statutorily granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§325. Definitions of Week

The term *week* means a calendar week. The term *calendar week* means the seven consecutive days commencing at 12:01 a.m. on Sunday and ending at midnight on Saturday.

A. Week of Total or Part-total Unemployment

1. A week of total or part-total unemployment means the seven-consecutive-day period commencing with the first day of the calendar week in which occurs the day, subsequent to his separating from work, on which an individual registers and files a

claim in person at an office of the Louisiana Office of Employment Security, except as otherwise provided in Paragraphs 2, 3, 4 and 5 of this Section.

2. Except as provided in Paragraph 4 and 5 of this Section, a week of total or part-total unemployment of an individual located in an area served only by the itinerant service of the Louisiana Office of Employment Security shall consist of the calendar week in which the individual became unemployed, provided that such individual registers and files a claim in person with such itinerant service the first day such service is available following the commencement of his total or part-total unemployment; and thereafter each calendar week immediately following such week, provided the individual claims benefits for each week in accordance with regulations.

3. Except as provided in Paragraphs (4) and (5) of this Section, a week of total or part-total unemployment of an individual located in an area not served by a local office or by the itinerant service of the Louisiana Office of Employment Security shall consist of the calendar week in which the individual becomes unemployed, provided that such individual registers and files a claim for benefits by mail in accordance with regulations within seven days after the commencement of such unemployment, and thereafter each calendar week immediately following such week, provided the individual claims benefits for each such week in accordance with regulations.

4. A week of total or part-total unemployment for an individual who fails for good cause to register and file a claim for benefits as specified in Paragraph 1, 2, and 3 of this Section, shall consist of the calendar week in which the individual becomes unemployed, provided that such individual registers in person with the Louisiana Office of Employment Security within a period of seven days after such first day of total or part-total unemployment, or on the next day thereafter on which the itinerant service is available, or by mail within 14 days after the commencement of such unemployment; and thereafter each calendar week immediately following such week, provided the individual claims benefits for each such week in accordance with regulations.

5. A week of total or part-total unemployment of any individual affected by a mass separation or labor dispute shall consist of the calendar week in which the individual becomes unemployed, provided that notice thereof is filed by the individual in person within 14 days next following such first day of unemployment; and thereafter each calendar week immediately following such week, provided the individual claims benefits for any such week in accordance with regulations.

B. Week of Partial Unemployment

1. With respect to a partially unemployed individual whose wages are paid on a weekly basis, a week of partial unemployment shall consist of a calendar week, provided that the administrator may, upon his own initiative or upon application, prescribe as to any individual or group of individuals such other seven-consecutive-day period as he may find appropriate under the circumstances.

2. For the purpose of this regulation, an individual shall be deemed to be partially unemployed during not more than four consecutive weeks of total unemployment if such weeks immediately follow a week of partial unemployment and if in such weeks there is a reasonable expectation of his return to employment with such employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§327. Types of Unemployment

A. Total Unemployment

A totally unemployed individual is one who, during any week performs no services and in which no wages are payable to him.

B. Partial Unemployment

1. A partially unemployed individual is one who during a particular week, earned less than his weekly benefit amount, was employed by a regular employer, and worked less than his normal customary full-time hours for such regular employer because of lack of full-time work.

2. A regular employer is an employer by whom the individual is employed on a regular basis with a reasonable expectation of continuance in that employment and from whom the individual derives the predominant or substantial part of his earnings.

C. Part-Total Unemployment

A part-total unemployed individual is one who, during any week, earned less than his weekly benefit amount and worked less than his full-time hours under any circumstances other than those prescribed under Subsection B above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§329. Registration for Work and Claims for Benefits for Total and Part-Total Unemployment

A. Claims for benefits for total or part-total unemployment shall be made on forms prescribed by the administrator for that purpose. The claim for benefits for total or part-total unemployment shall constitute both the individual's registration for work and his claims for benefits or waiting period credits.

B. Except as otherwise provided in this regulation and Regulation 17 to establish eligibility for benefits or waiting credits for weeks of total or part-total unemployment during any continuous period of unemployment, the claimant shall continue to report in person or by mail, weekly or biweekly, or at more frequent intervals, if directed by the administrator or his representative, to the Office of Employment Security where he registered for work and filed his claim, provided the reporting at more frequent intervals places no unreasonable burden on him or does not unreasonably limit his opportunity to establish his rights to benefits. The claimant may for good cause when unable to report to such office file his continued claim at any other Office of Employment Security. For reasons found to be good cause for any individual's failure to appear at the time specified for reporting at an Office of Employment Security Office, a continued claim may be accepted from such individual, effective as of the first day of his week of total or part-total unemployment, if such continued claim is filed within seven days following the date specified for his reporting. If the failure of an individual to file such a claim at the time specified is found to be without good cause or if the continued claim is not filed within the above mentioned seven days, the continued claim will be disallowed.

C. The continued claim for benefits for total or part-total unemployment shall be made on forms prescribed by the administrator and shall constitute both the individual's registration for work and his continued claims for benefits or waiting period credits.

D. An individual who returns to employment under con-

ditions which no longer render him eligible for benefits or waiting period credits may claim benefits in person or by mail for the week or portion of a week immediately preceding his employment, provided the week or portion of a week follows without interruption an initial claim or a week for which benefits or waiting period credits were claimed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§331. Registration for Work and Claims for Benefits for Partial Unemployment

A. Employer responsibility in the initiation of a first claim for partial benefits in a benefit year.

1. Immediately after the termination of any calendar week in which a worker earned less than 60 percent of his customary full-time weekly wage due to lack of work, his employer shall give such worker a copy of Form LDES-89, "Low Earnings Report and Claim for Partial Benefits", setting forth therein the information required of the employer. If such worker completes and returns Form LDES-89 to his employer, such employer shall promptly mail or otherwise transmit such form to the local office of the Department of Labor, Office of Employment Security through which the employer has a partial claims agreement.

2. Upon receipt of Form LDES-89, the Department of Labor, Office of Employment Security shall promptly notify such worker named therein of his potential rights to partial benefits and shall notify his employer of such worker's weekly benefit amount and benefit year ending date. Upon receipt thereof, such employer shall record such weekly benefit amount and benefit year ending date upon his payroll records.

B. Employer to furnish evidence of subsequent weeks of partial unemployment

After an employer has been notified of the weekly benefit amount and current benefit year ending date of any worker in his employ, such employer, until otherwise notified, shall immediately after the termination of each calendar week which begins within such benefit year and for which such worker's earnings fall below such weekly benefit amount because of lack of work in such week, furnish each such worker with a copy of Form LDES-89, "Low Earnings Report and Claim for Partial Benefits", setting forth the information required therein, including the worker's name and Social Security account number, the ending date of such week, the wages earned therein, and a proper certification as to his having worked less than his normal customary full-time hours because of lack of work in such week. If such worker completes and returns such form to his employer, such employer shall promptly mail or otherwise transmit such form to the local office of the Department of Labor, Office of Employment Security through which the employer has a partial claims agreement.

C. Registration and filing of claims for partial unemployment

A claim for benefits for any individual on Form LDES-89 "Low Earnings Report and Claim for Partial Benefits", or other form designated by the Department of Labor, mailed by him or his employer in his behalf, or delivered to a local office of the Department of Labor, Office of Employment Security shall constitute such individual's notice of unemployment, registration for work, and claim for benefits or waiting period credit, with respect to each such week of partial unemployment covered by the claim provided that such form is executed by such individual and received by the local office of the Department of Labor, Office of

Employment Security through which the employer has a partial claims agreement within seven days following the week to which the form pertains.

D. Extended period for registration and filing of claims for good cause

Notwithstanding the provisions of Part (C) of this regulation, if the administrator finds that the failure of any individuals to register and file a claim for partial unemployment benefits within the time set forth in Part (C) was due to failure on the part of the employer to comply with any of the provisions of Parts (A), (B) and (C) of this regulation, or to coercion or intimidation exercised by the employer to prevent the prompt filing of such claim, or to failure by the Department of Labor, Office of Employment Security to discharge its responsibilities promptly in connection with such partial unemployment, the administrator shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of his potential rights to benefits and his earnings during the period of such partial unemployment, provided that the period during which such claim may be filed shall not be extended beyond the 13-week period subsequent to the end of the actual or potential benefit year during which such week of partial unemployment occurred.

E. Employer records in connection with partial unemployment

In addition to the requirements set forth in Regulation 7, each employer shall keep his payroll records in such form that it would be possible for an inspection to determine with respect to each worker in his employ who may be eligible for partial benefits:

1. wages earned, by weeks, described in Regulation 13(B);
2. whether any week was in fact a week of less than full time work;
3. time lost, if any, for each such worker, due to his unavailability for work;
4. This regulation applies only to employers with a Partial Employer Agreement with one or more of the Louisiana Employment Security Area Offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§333. Registration for Work and Claims for Benefits for Individuals Located in Isolated Areas, Areas Served on Itinerant Basis, and other Areas

A. Itinerant Service

1. In order to claim benefits or waiting period credits for unemployment, any individual located in an area served only by the itinerant service of the Office of Employment Security shall report in person to such itinerant service office at the first available opportunity therefor, and shall (1) register for work and (2) file a claim for benefits with such service.

2. In order to establish eligibility for benefits or for waiting period credits for weeks of total or part-total unemployment, during a continuous period of unemployment the claimant shall continue to report on the dates specified for reporting to such itinerant point and file continued claims for benefits.

B. Mailed Claims

Claims for benefits for total or part-total unemployment may be filed by mail or forms prescribed by the administrator when the administrator finds such filing to be in the interest of

practicability and not inconsistent with the purposes of the Louisiana Employment Security Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§335. Witness Fees in Appeal Hearing

A witness attending an appeal hearing in obedience to Section 1631 shall be reimbursed his necessary traveling expenses in conformity with agency travel regulations. The regulation shall not be construed as allowing witness fees or mileage to any party interested in the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§337. Payment of Benefits and Change of Address

Benefit payments shall be made by check and delivered to the claimant or mailed to the individual's last known address after determination of the individual's eligibility for payment. Each claimant, upon changing his address, shall immediately notify the Office of Employment Security of such change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§339. Interstate Claims

Interstate claims will be administered under arrangements entered into by the administrator with the appropriate agencies of other states or of the United States in accordance with R.S. 23:1666 of the Louisiana Employment Security Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§341. Regulations for Interstate Charging

A. Louisiana employers shall be charged or non-charged in cases where Louisiana transfers wages earned with Louisiana employers to another state in order that that state pay U.I. benefits.

B. The Louisiana employer will be notified of their potential liability and be given 10 days to protest chargeability. Louisiana will determine if the employer should or should not be charged in accordance with Section 1553 of the Louisiana Employment Security Law based on information supplied by both claimant and employer. Louisiana will not determine claimant eligibility as this is done by the paying state under their U.I. Law. If either claimant or employer disagree with the determination, appeal rights will be given in accordance with Employment Security Law.

C. If the employer fails to respond within the first 10 days or fails to follow through timely with any subsequent appeal, the last decision of the agency will stand, and the employer will have lost all subsequent appeal rights.

D. If it is determined that the employer is to be "non-charged", the benefits paid to claimant will be recouped in accordance with §1553 of the Louisiana Employment Security Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§343. Employer Elections to Cover Multi-State Workers

A. The following regulations, adopted under R.S. 23:1665 of the Louisiana Employment Security Law, shall govern the Louisiana Office of Employment Security in its administrative cooperation with other states subscribing to the Interstate Reciprocal Coverage Arrangement, hereinafter referred to as "the arrangement".

B. Definitions: As used in this regulation, unless the context clearly indicates otherwise:

1. *Jurisdiction* means any state of the United States, the District of Columbia, Canada, or with respect to the federal government, the coverage of any federal unemployment compensation law.

2. *Participating jurisdiction* means a jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence thereto has not terminated.

3. *Agency* means any officer, board, commission or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction.

4. *Interested jurisdiction* means any participating jurisdiction to which an election submitted under this regulation is sent for its approval; and, *interested agency* means the agency of such jurisdiction.

5. *Service customarily performed by an individual in more than one jurisdiction* means services performed in more than one jurisdiction during a reasonable period, if the nature of the services gives reasonable assurance that they will continue to be performed in more than one jurisdiction or if such services are required or expected to be performed in more than one jurisdiction under the election.

C. Submission and Approval of Coverage Elections Under the Interstate Reciprocal Coverage Arrangement

a. Any employing unit may file an election, on Form RC-1, to cover under the law of a single participating jurisdiction all of the services performed for him by any individual who customarily works for him in more than one participating jurisdiction.

b. Such an election may be filed, with respect to an individual, with any participating jurisdiction in which (1) any part of the individual's services are performed; (2) the individual has his residence or (3) the employing unit maintains a place of business to which the individual's services bear a reasonable election.

2. a. The agency of the elected jurisdiction (thus selected and determined) shall initially approve or disapprove the election.

b. If such agency approves the election, it shall forward a copy thereof to the agency of each participating jurisdiction specified thereon, under whose unemployment compensation law the individual or individuals in question might, in the absence of such election, be covered. Each such interested agency shall approve or disapprove the election as promptly as practicable; and shall notify the agency of the elected jurisdiction accordingly.

c. In case its law so requires, any such interested agency may, before taking such action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of, and have acquiesced in, the election.

3. If the agency of the elected jurisdiction, or the agency of any interested jurisdiction, disapproves the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and of its reasons therefor.

4. a. Such an election shall take effect as to the elected jurisdiction only if approved by its agency and by one or more interested agencies.

b. An election thus approved shall take effect, as to the interested agency, only if it is approved by such agency.

5. In case any such election is approved only in part, or is disapproved by some of such agencies, the electing employing unit may withdraw its election within 10 days after being notified of such action.

D. Effective Period of Elections

1. Commencement

a. An election duly approved under this regulation shall become effective at the beginning of the calendar quarter in which the election was submitted, unless the election, as approved, specifies the beginning of a different calendar quarter.

b. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, such earlier date may be approved solely as to those interested jurisdictions in which the employer had no liability to pay contributions for the earlier period in question.

2. Termination

a. The application of an election to any individual under this regulation shall terminate, if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed, so that they are no longer customarily performed in more than one participating jurisdiction. Such termination shall be effective as of the close of the calendar quarter in which notice of such finding is mailed to all parties affected.

b. Except as provided in Subparagraph a, each election approved hereunder shall remain in effect through the close of the calendar year in which it is submitted, and thereafter until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.

c. Whenever an election under this regulation ceases to apply to any individual under Subparagraph a or b, the electing unit shall notify the affected individual accordingly.

E. Reports and Notices by the Electing Unit

1. The electing unit shall promptly notify each individual affected by its approved election, on the form RC-2 supplied by the elected jurisdiction, and shall furnish the elected agency a copy of such notice.

2. Whenever an individual covered by an election under this regulation is separated from his employment, the electing unit shall again notify him, forthwith, as to the jurisdiction under whose unemployment compensation law his services have been covered. If at the time of termination the individual is not located in the election jurisdiction, the electing unit shall notify him as to the procedure for filing interstate benefit claims.

3. The electing unit shall immediately report to the elected jurisdiction any change which occurs in the conditions of employment pertinent to its election, such as cases where an individual's services for the employer cease to be customarily performed in more than one participating jurisdiction or where a change in the work assigned to an individual requires him to perform services in a new participating jurisdiction.

F. Approval of Reciprocal Coverage Elections

The Louisiana Office of Employment Security hereby delegates to its administrator authority to approve or disapprove reciprocal coverage election in accordance with this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§345. Recognition of Heirs of Deceased Benefit Claimants

The heirs of a deceased benefit claimant may make application by submitting a formal affidavit of heirship, to have paid to them all moneys due the deceased at the time of his death. Affidavits must be submitted by all heirs of full age and majority, or if there be minor heirs, the affidavit must be submitted by their authorized representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§347. Transfer of Experience-Rating Record to Successor Where Segregable and Identifiable Part or Portion of the Business is Acquired

The transfer of experience-rating records to employers who acquired a segregable and identifiable portion of a predecessor's business within the meaning of R.S. 23:1539 shall be affected on the following basis:

A. Where the business or unit acquired can be completely segregated and identified during the entire period of its existence, the total payroll and experience-rating record attributable thereto shall be transferred to the successor. In this event the only payroll and experience rating records subject to transfer to the successor are those which are actually segregated and identified.

B. 1. If the business or unit acquired cannot be segregated and identified during the entire period of its existence, the predecessor and/or the partial successor will provide to the administrator the percentage of the operation that was transferred to the partial successor. The percentage must be agreed upon by both the predecessor and the partial successor. This percentage may be determined by dividing the taxable payroll attributed to the portion acquired for three complete fiscal years prior to the acquisition or the number of years the predecessor was in operation prior to acquisition up to three years, by the total payroll attributed to the predecessor operation for the same period of time.

2. The percentage will be applied to the predecessor's total taxable payroll and reserve to determine the taxable payroll and reserve that will be transferred to the partial successor.

3. The names and Social Security Numbers of the individuals transferred to the successor, including any employees terminated at the time of the acquisition, must be provided to the administrator and agreed upon by both the predecessor and partial successor.

4. If any of the above agreements are not received in writing within 90 days from the date of the partial acquisition, the requirements for partial transfer of payroll records to the partial successor have not been met, and none will be transferred.

C. Determining the tax rates for partial successors when the information is received on a timely basis, within 90 days from the date of acquisition.

1. If the successor was not an employer at the time of acquisition, his rate for the balance of the then current contribution year shall be the same as that assigned to his predecessor for said year. If the successor was an employer prior to the date of acquisition, his rate of contribution for the period from such date to the end of the then current contribution year shall be the same as his rate with respect to the period immediately preceding the date of acquisition.

D. Determining the tax rates for partial successors when

the information has not been provided on a timely basis within 90 days from date of acquisition.

1. If the partial successor was not a subject employer at the time of acquisition, his rate for the balance of the then current contribution year shall be the new employer rate or the predecessor rate, whichever is higher.

2. If the partial successor was an employer prior to date of acquisition, his rate of contribution for the period from such date to the end of the then current contribution year shall be the same as his rate with respect to the period immediately preceding the date of acquisition.

E. If an employer has more than one partial succession in a calendar year, the aforementioned procedure will be applied in each case.

F. Partial successors who have not been assigned a tax rate prior to acquisition will be assigned the new employer tax rate or the predecessor's tax rate, whichever is higher, during the 90 day period subsequent to the partial acquisition. Once the proper tax rate is determined, however, it will be applied retroactively.

G. The agency may perform an audit to determine the percentage of taxable payroll and reserve that will be transferred to the partial successor if the administrator finds it necessary to do so.

H. In determining whether or not the unit, or portion of the business acquired by the successor, is segregable and identifiable, each case should be separately considered and analyzed. If the payroll and experience-rating records of the unit, or portion of the business acquired, can be broken down and segregated to permit the proper crediting of wages, contribution of payments and the charging of benefits, as provided in this regulation, the requirements of the law shall be considered as having been fully met. The employer will be required to furnish such additional analysis of his payroll records as may be required in order that proper segregation may be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§349. Contribution and Wage Reports Covering Seamen and Seamen's Wages Paid Under Shipping Articles

A. Pay Period

For the purpose of this regulation the term *pay period* established by "Shipping Articles" means the period of the voyage or engagement of the crew under "Articles of Agreement" pursuant to Title 46 of the United States Code.

B. Current Reports

Notwithstanding any other provision of other regulations, contribution reports and wage reports with respect to wages earned in any pay period established by Shipping Articles shall be submitted as follows:

1. The total amount of such wages shall be included in the wage report and contribution report for the calendar quarter in which such period terminates together with all other wages paid during such quarter.

2. If the pay period established under Shipping Articles includes more than one calendar quarter, the beginning dates of such pay period shall be shown opposite the amount of wages reported.

3. For the purpose of determining eligibility for and the amount of benefits, the wages so reported shall be prorated among the calendar quarters in which the wages were earned according to the length of employment in each of such quarters.

C. Special Reports

The employer shall, upon request of the administrator, promptly furnish a Statement of the wages of a seaman, whenever such statement is necessary in order to determine such seaman's eligibility for and rate of benefits. If such a statement includes wages which have not previously been included in a wage report and have been earned in a pay period extending over more than one calendar quarter, such wages shall be reported and prorated as set forth in Paragraphs 2 and 3 of Subsection B of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§351. Benefit Determination Notice

Each notice of benefit determination which the administrator is required to furnish to the claimant shall, in addition to stating the decision and its reason, include a notice specifying the claimant's appeal rights. The notice of appeal rights shall state clearly the place and manner for taking an appeal from the determination and the period within which an appeal may be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§353. Disclosure of Information

A. No disclosure of information obtained at any time from workers, employers, or other persons or groups in the course of administering the Louisiana Employment Security Law shall be made directly or indirectly, except as authorized by this regulation.

B. Disclosure of any such information is authorized in the following cases for the following purposes:

1. To any properly identified claimant for benefits or payments under a state, territorial, or federal law, or to his duly authorized representative, information which directly concerns the claimant and which is reasonably necessary for the proper presentation of his claim;

2. to an employer or his duly authorized representative to the extent necessary to enable him to discharge his obligations and safeguard his rights under the law;

3. to the Federal Internal Revenue Service to the extent necessary for the administration of the Federal Unemployment Tax Act;

4. to agencies administering public works and public assistance through public employment;

5. to any agency of the state government or of the federal government lawfully charged with the administration of a law providing for old-age assistance, or other public assistance, work relief, pension, retirement, or other benefit payments, but only for purposes reasonably necessary for the proper administration of such law;

6. to state and federal agencies administering laws, whether or not directly related to the employment security program, provided that the information so released is held confidential by the state or federal agency to which it is supplied, its release does not interfere with or delay administration, and the state agency is reimbursed at the discretion of the administrator, for the cost of supplying such information.

7. to applicants, employers, and the public, general information concerning employment opportunities, employment levels and trends, and labor supply and demand, provided such

release or publication does not include information identifying individual applicants, employers, or employing establishments;

8. to all governmental authorities whose functions will aid the employment service in carrying out an amplified and more effective placement service.

C. Duly authorized representative as used in this regulation is defined as a representative authorized as such in writing by the party or parties concerned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§355. Services to Claimants

Claims personnel will give each claimant such assistance as is appropriate and practicable in finding suitable work and at their discretion determine when more complete placement and employment services by employment service personnel are necessary and appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§357. Terms and Conditions Not Applicable to Claims for or Payment of Extended Compensation

A. Section 1600(4) of the Louisiana Employment Security Law, pertaining to a waiting period of one week, is not applicable to claims for extended compensation.

B. All disqualifications for regular benefits apply to extended benefits in the same manner and to the same extent as to regular claims.

C. The forwarding of an Extended Compensation claim notice to a former employer of an individual does not serve to reopen a previously resolved issue or open to adjudication any issue concerning which an employer failed to furnish information within the time provided by Regulation 12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§359. Approved Training Definition

Approved training is training to which an individual has been referred by the Administrator of the Department of Labor or his duly authorized representative. Referral to training will be made to vocational training, basic education or other short term vocationally directed academic courses designed to develop a particular skill. Approval of training in such types of courses may also be given, upon application, if the individual has been accepted as a student at a school or course approved by the Louisiana Department of Education, which is designed to make the individual employable or more employable in an occupation that is in demand and there is reasonable expectation that the individual will be employed upon completion, except no approval will be given to any training course taken primarily for credit toward the degree requirements of Baccalaureate or Advanced degree, and no approval will be given to a training course which will take longer than 104 weeks to complete. No training will be approved for an individual unless it is found that the demands for his present skills are minimal and not likely to improve under present circumstances. The individual in training will be required to furnish reports from the training facility concerning his attendance. Unsatisfactory attendance attested to by the training facility shall constitute grounds for terminating application of the provisions of R.S. 23:1602(1) to the individual unless good cause is

shown for the unsatisfactory attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§361. Types of Employment

For the purposes of R.S. 23:1601(1):

A. *Regular Employment* is employment of an individual on a regular basis with a reasonable expectation of continuance in that employment.

B. *Full-Time Employment* is employment which requires the individual's presence for the major portion of the normal work-day, week, or month. Full-time employment is that employment which normally provides an individual with the major portion of his earnings.

C. *Interim Employment* is employment performed by individuals who are on temporary lay-off or are otherwise separated from their full-time regular employment and expect to return to their full-time regular employment within a reasonable time, not to exceed 90 days.

D. *Part-Time Employment* is employment which requires an individual's presence less than the normal work-day, week, or month and is normally used to supplement income from full-time work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§363. Proof of unemployment by a Principal Officer or Controlling Stockholder, or relative thereof, of a Corporation, Partnership or Proprietorship

A. For the purposes of R.S. 23:1472(19) an individual who was the principal officer or controlling stockholder of a corporation, partnership or proprietorship or related to him in any degree as set forth in Paragraph a thereof, shall be deemed to be "unemployed" if: (1) the corporation, partnership or proprietorship does not appear as an employer in the individual's base period and, (2) he otherwise meets the definition of "unemployed."

B. If the corporation, partnership or proprietorship does appear in the individual's base period as an employer, he shall be deemed to be unemployed if (1) the employing unit is no longer in business or acts beyond the control of the controlling stockholder or principal officer occurred to such an extent to fully justify the individual's inability to perform services judged on the same basis as any employer under similar conditions and, (2) the individual otherwise meets the definition of "unemployed."

C. Principal officer means the president, vice president, secretary or treasurer so designated by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§365. Liability Determination Appeal Rights

A. An employer shall have 90 days from the mailing date of the Liability Determination (original or corrected) to appeal the agency's determination of his employer status.

B. Examples of liability determination include, but are not limited to: new employer, succession, partial succession, business buying business, liability date correction, reinstated accounts, subsidiary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

§367. Assignment or Rates for Corporate Groups

A. If the administrator grants an employer the right to be recognized as a Corporate Group, the rate will be assigned as follows:

B. A new number will be assigned to the parent corporation. The rate for the then current year will be based on the combined experience rating records of all employers that form the Corporate Group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 24:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15: (June 1989).

Phyllis Coleman Mouton
Secretary

RULE

Department of Labor Office of Labor

The Department of Labor, Office of Labor, hereby amends certain rules and regulations under the Administrative Procedure Act (R.S. 49:950 et seq.), for the implementation and administration of the Job Training Partnership Act (JTPA) (Public Law 97-300).

The following are amendments to the Job Training Partnership Act rules and regulations:

Title 40

LABOR AND EMPLOYMENT

Part XIII. Job Training Partnership Act

Chapter 1. General Provisions

§121. Carry-over Balances

Funds obligated for any program year may be expended by each recipient, Service Delivery Area grant recipient or subrecipient during that program year and the two succeeding program years with the following exceptions:

A. Title II-A and Title II-B - Reallocation Policy

1. Section 161(b) of the Job Training Partnership Act provides that no amount of funds "shall be deobligated on account of a rate of expenditure which is consistent with the job training plan." This being the case, the Louisiana Department of Labor (LDOL) is asserting the reverse. If an SDA's rate of expenditure is inconsistent with the job training plan, its new obligational authority (NOA) may be reduced in subsequent program years in order to, in effect, reallocate funds from that program year.

2. Beginning in Program Year 1990 and applying to Program Year 1989, an amount equivalent to 20 percent of the previous year's total funds available will be classified as "allowable carry-out."

3. All other carry-out will be designated as "excess carry-out" and the NOA to the SDA will be reduced by the amount of the excess carry-out. Determination of total carry-out and excess carry-out will be made at the annual close-out of the grant and reallocation of funds will be made to those SDAs which request the funds and have expended more than 80 percent of their total funds available. The reallocation will be based on the degree that SDAs exceed the 80 percent expenditure level.

4. The reduction of the NOA will result in funds being available with cost category levels of 15 percent, 15 percent, and 70 percent respectively for administration, participant support, and training.

5. All SDAs will be subject to these policies and procedures beginning in Program Year 1990.

B. Title III - Reallotment and Reallocation Policy

1. Excess Unexpended Funds

a. The U.S. Department of Labor has established Title III reallotment procedures that have the effect of limiting the amount of unexpended funds that can be carried-over by the state at the end of each program year. Reallotment also rewards states with high expenditure rates by providing additional funds. These procedures are described in §303 of the Job Training Partnership Act, §6305(e) of the Economic Dislocation and Worker Adjustment Assistance Act, §631.12 of JTPA federal regulation, and Training and Employment Guidance Letter (TEGL) No. 4-88 issued by the U.S. Department of Labor.

b. Reallotment will occur around September 1 and will result in an increase or decrease in the state's formula-allotted funds for the current year based on a reallotment process applied to the prior year's Title III funds and expenditures. When reallotment results in an increase in funding, such reallocation is subject to allocation procedures specified in §631.32 of the federal regulations. When reallotment results in a decrease in funding, the procedures that follow will be used to recover funds from substate grantees and, where appropriate, state subcontractors in order to make funds available to the U.S. Department of Labor for reallotment. Any remaining funds would come from the governor's 40 percent funds.

c. Louisiana will apply the same reallotment procedures to substate grantees and state subcontractors that the U.S. Department of Labor applies to the state. Our reallotment policy states that the amount available for reallotment from substate grantees and state subcontractors is equal to the sum of unexpended funds in excess of 20 percent of the prior year's allocation or subgrant amount and all unexpended previous program year funds. For PY 88 allocations and subgrants, 30 percent shall be substituted for 20 percent in the previous sentence. Unexpended reallocated funds at the end of the year will also be subject to the 20 percent limitation on allowable carry forward. Substate grantees and state subcontractors that lose funds through the reallotment process will use their allocation or subgrant amount before reallotment in order to calculate allowable carry forward.

d. In addition, Louisiana will use the reallotment process for substate grantees and, where appropriate, state subcontractors at the end of each program year whether or not the state is subject to a reduction in funding due to reallotment. This will allow the state to deal with significant underexpenditure of funds by individual substate grantees and state subcontractors even when the state maintains a high overall level of expenditures.

e. In the event that Louisiana is not subject to a reduction in funding, but one or more substate grantee(s) or state subcontractor(s) are subject to a reduction based on Louisiana's policy, funds deobligated from such substate grantees will be allocated by formula to the remaining substate grantees who were not subject to a reduction. This allocation will be in addition to any funds reallocated by the U.S. Department of Labor and subsequently allocated to substate areas. Any funds deobligated from state subcontractors as a result of these procedures are subject to regular Title III state obligation procedures.

2. Projected Excess Unexpended Funds

a. Louisiana is subject to a U.S. Department of Labor JTPA Title III reallocation process based on expenditures at the end of each program year. In order to avoid a reduction in funding from such a reallocation, a deobligation procedure has been established.

b. Title III substate grantees and state subcontractors are subject to deobligation of projected excess unexpended funds based on expenditures during the first five months of their subgrant or subcontract period. Projected excess unexpended funds are defined as any amount of projected unexpended funds in excess of 20 percent of a substate grantee's available funds (excluding carry-in funds and any additional funds reallocated during that program year as a result of the U.S. Department of Labor's reallocation process) or 20 percent of a subcontract amount. Projected unexpended funds are total available funds (excluding reallocated funds) less expenditures reported for the first five months and less an amount equal to the higher of the last two months reported expenditure amounts times the number of months remaining in the subgrant or subcontract period. Expenditure amounts used for this process will be those amounts reported as of the official due date specified by the Louisiana Department of Labor's fiscal section. Funds remaining after deobligation will be subject to all cost category limitations.

c. Substate grantees and state subcontractors will have 15 days from the date they are notified of any amount subject to deobligation to provide documentation to the Louisiana Department of Labor why they should not be subject to such deobligation. The Louisiana Department of Labor may reduce the amount to be deobligated based on acceptance of documentation of corrected expenditure amounts, significant recent obligations not reflected in current reported expenditures, or other appropriate justification.

d. All funds deobligated from substate grantees will be allocated by formula to substate grantees whose total projected unexpended funds did not exceed allowable projected unexpended funds. Funds deobligated from state subcontractors are subject to regular Title III state obligation procedures.

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

AUTHORITY NOTE: Promulgated in accordance with Public Law 97-300.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), amended LR 10:546 (July 1984), LR 15: (June 1989).

Phyllis Coleman Mouton
Secretary

RULE

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

The secretary has adopted the following rule:

Pursuant to R.S. 56:700.2., a fee of \$400 is assessed on each mineral lease and each pipeline right-of-way located within the coastal zone of Louisiana, effective June 20, 1989.

Raymond W. Stephens, Jr.
Secretary

RULE

Department of Social Services Office of Eligibility Determinations

The Department of Social Services, Office of Eligibility Determinations, shall adopt the following rule in the Aid to Families with Dependent Children Program. Emergency rulemaking was necessary because federal regulations as published in the *Federal Register* of Tuesday, January 24, 1989, Vol. 54, No. 14, pages 3448-3452, mandate an effective date of January 24, 1989.

Rule

Effective immediately, the individuals who may be included as essential persons are defined as follows:

- A person providing child care which enables the qualified relative to work full time outside the home.
- A person providing full-time care for an incapacitated family member living in the home. (Refer to B-350 for establishing incapacity).
- A person providing child care that enables the qualified relative to receive full-time training.
- A person providing child care that enables a qualified relative to attend high school or General Education Development (GED) classes full time.
- A person providing child care for a period not to exceed two months that enables a caretaker relative to participate in employment search or another AFDC work program.

As a result of this change, the following groups of persons who have been considered as essential persons will no longer be eligible for inclusion in the assistance unit:

- Children not within the degree of relationship to be AFDC eligible who live in the home and who meet all other AFDC requirements. (Recipient Number 63-69)
- The incapacitated non-legal spouse of the qualified relative who is unrelated to anyone in the assistance unit. (Recipient Number 62)

May Nelson
Secretary

RULE

Department of Social Services Office of Eligibility Determinations

The Department of Social Services, Office of Eligibility Determinations, shall adopt the following rule in the Food Stamp Program.

Emergency rulemaking was necessary because federal regulations as published in the *Federal Register*, of Monday, January 30, 1989, Vol. 54, No. 18, pages 4249-4253 mandate an effective date of March 1, 1989 and an implementation date of May 1, 1989.

Rule

Effective May 1, 1989 residents of public institutions who apply for SSI prior to their release from an institution under the Social Security Administration's Prerelease Program for the Institutionalized (42 U.S.C. 1383) shall be permitted to apply for food stamps at the same time they apply for SSI.

When a resident of an institution is jointly applying for SSI and food stamps prior to leaving the institution, the filing

date of the application to be recorded by Office of Eligibility Determinations (OED) on the application is the date of release of the applicant from the institution.

The Office of Eligibility Determinations shall make an eligibility determination and issue food stamp benefits to a resident of a public institution who applies jointly for SSI and food stamps within 30 days (or five days if expedited processing is appropriate) following the date of the applicant's release from the institution. Expedited processing time standards for an applicant who has applied for food stamps and SSI prior to release shall also begin on the date of the applicant's release from the institution. SSA shall notify OED of the date of release of the applicant from the institution.

If, for any reason, OED is not notified on a timely basis of the applicant's release date, OED shall restore benefits to such applicant back to the date of release.

May Nelson
Secretary

RULE

Department of Social Services Office of the Secretary

The Louisiana Department of Social Services (DSS, formerly DHH) has adopted a rule to administer Low-Income Home Energy Assistance Program (LIHEAP) block grant federal funds for FY 1989/90 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981 and with federal regulations as set forth in the *Federal Register* Vol. 47, No. 129, Tuesday, July 6, 1982, pages 29472-29493.

The Department of Social Services will continue to administer LIHEAP in accordance with provisions set forth in Public Law 97-35 and related federal regulations and in accordance with the LIHEAP application to the Department of Health and Human Services and Louisiana's Final State Plan complying with the requirements set forth in Section 2605(c). The Office of Community Services of DSS will continue to have administrative responsibilities for implementation of LIHEAP in SFY 1989/90.

A copy of this application may be obtained by writing directly to Department of Social Services, Office of Community Services.

May Nelson
Secretary

RULE

Department of State Office of the Secretary of State

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Office of the Secretary of State adopts the following schedule of penalties and collection procedure to be applied to foreign

corporations transacting business in this state without a certificate of authority as required by R.S. 12:301. The schedule of penalties and collection procedure of such penalties is made pursuant to the authority of Act 513 of the 1988 Louisiana Legislature, enacted as R.S. 12:314.1.

Title 19 CORPORATIONS AND BUSINESS Part VII. Secretary of State

A. The Secretary of State may investigate any foreign corporation transacting business in this state without a certificate of authority in violation of R.S. 12:301. The Secretary of State may enforce the collection of a civil penalty after due process from such foreign corporations in accordance with the following schedule:

1. A penalty of \$250 for foreign corporations having transacted business within the state without a certificate of authority for a period of time of one year or less, and having net assets of less than \$25,000 at the end of its most recent fiscal year.

2. A penalty of \$500 for foreign corporations having transacted business within the state without a certificate of authority for a period of time greater than one year, and having net assets of less than \$25,000 at the end of its most recent fiscal year.

3. A penalty of \$500 for foreign corporations having transacted business within the state without a certificate of authority for a period of time of one year or less, and having net assets of greater than \$25,000 at the end of its most recent fiscal year.

4. A penalty of \$1,000 for foreign corporations having transacted business within the state without a certificate of authority for a period of time greater than one year, and having net assets of greater than \$25,000 at the end of its most recent fiscal year.

5. A penalty of \$1,000 for foreign corporations having transacted business within the state without a certificate of authority, and failing to furnish requested information on whether its net assets were greater or lesser than \$25,000 at the end of the foreign corporation's most recent fiscal year.

B. Any penalty imposed pursuant to Section A shall be in addition to any fees imposed under Chapter Three of Title 12 of the Louisiana Revised Statutes.

C. If the Secretary of State, upon completion of an investigation of a foreign corporation determines that there is substantive evidence that such foreign corporation has transacted business in the state without a certificate of authority in violation of R.S. 12:301, the Secretary of State shall mail a notice of non-compliance with R.S. 12301 to such foreign corporation.

1. The notice of non-compliance with R.S. 12:301 shall set forth the amount of the penalty for non-compliance, if any, as determined by the Secretary of State. Any foreign corporation being able to show that the notice of non-compliance was sent in error, or that the penalty assessed under Section A, if any, was in error, may submit a letter, accompanied by substantive supporting evidence to the Office of the Secretary of State explaining that the notice of non-compliance was in error or that the penalty assessed, if any, was in error. Such letter and substantive supporting evidence must be addressed to the Secretary of State and must be postmarked, or received by the Office of the Secretary of State, within 10 working days of receipt of the notice of non-compliance.

2. Upon receipt of such letter indicating that the notice of

non-compliance was in error along with supporting evidence, the Secretary of State shall reinvestigate the foreign corporation. If it is found upon reinvestigation that the foreign corporation has never transacted business within this state without a certificate of authority, the Secretary of State shall notify the foreign corporation that the penalty has been withdrawn. If it is found upon reinvestigation that the improper penalty was assessed under Section A, the Secretary of State shall notify the foreign corporation that there was an error in the original assessment and indicate the proper amount of the penalty to be assessed. If upon reinvestigation it is found by the Secretary of State that the foreign corporation has transacted business without a certificate of authority in this state, or that the penalty was correctly assessed, the Secretary of State shall so notify the foreign corporation.

3. If any penalty imposed by the Secretary of State pursuant to the authority of R.S. 12:314.1 is not paid within 45 days of receipt of the notice of non-compliance, or of the result of any reinvestigation, as the case may be, the attorney general shall institute proceedings against the foreign corporation to collect the penalty assessed under Section A.

W. Fox McKeithen
Secretary of State

RULE

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its Plan Documents of Benefits as follows:

The following language was added:

SCHEDULE OF BENEFITS

COMPREHENSIVE MEDICAL BENEFITS

... Deductibles:

... Emergency Room (Waived for immediate admission to a Hospital from the Emergency Room) Per visit (Prior to and in addition to Calendar Year Deductible) \$50

*Percentage payable for treatment of mental or nervous conditions and/or substance abuse while not hospital confined is limited to 50 percent of eligible expenses (subject to applicable limitations of the Fee Schedule). Outpatient mental or nervous conditions and/or substance abuse treatment is further limited to 50 visits per Calendar Year, with a maximum reimbursement of \$20 per visit. ...

Benefits Payable after Satisfaction of Applicable Deductibles: ...

... Professional medical services, not to exceed Fee Schedule Maximum: ...

OTHER MEDICAL BENEFITS

Inpatient Confinement for Mental or Nervous Conditions and/or Substance Abuse is limited to 30 days per Calendar Year. Confinements for the Treatment of Substance Abuse are further limited to the first confinement in a Covered Person's lifetime.

and delete the following language:

Inpatient Confinement for Substance Abuse limited to 30

days per calendar year and the first confinement per lifetime. . . Under Article I, General Provisions, Section I, Definitions, delete the following language and renumber the subsequent paragraphs accordingly:

W. The term Reasonable Expense as used herein shall mean the Customary and Reasonable fee or charge for the services rendered or the supplies furnished in the area where such services are rendered or such supplies are furnished, provided such services or supplies are recommended and approved by a Physician other than the Covered Person.

X. The term Customary and Reasonable as used herein shall mean the following:

1. Customary: a charge is customary when it is the most consistent charge by an individual Physician for a given procedure and when it is the usual fee for a procedure charged by the majority of Physicians with similar training and experience within the same localities as used by the Program to develop statistics.

2. Reasonable: a charge is reasonable when it meets the above criterion or when, in the judgment of the Program, it merits special consideration based upon the complexity of Treatment. . . .

... HH. The term Ambulatory Surgical Facility as used herein shall mean a facility or institution licensed by the state in which it operates, which is equipped to do multi-specialty surgeries under general anesthesia and which allows patients to leave the facility the same day surgery is performed. Such facility shall not engage in overnight bed patient care or be a substitute setting for care routinely and/or normally provided in a Physician's office or clinic setting. . . .

Add the following language:

FF. The term Fee Schedule as used herein shall mean the schedule of maximum allowable charges for professional services adopted and promulgated by the Board of Trustees in accordance with the provision of R.S. 42:851.5, et seq. . . .

II. EMPLOYEES TO BE COVERED . . .

... c. Dependent deferral rule

If a Dependent, other than a newborn child of the plan member or plan member's legal spouse, is confined at home, in a nursing home, Hospital, or elsewhere, by reason of disease, illness, accident or injury on the date he would otherwise become covered under this Plan, the date of that Dependent's coverage shall be deferred until the date confinement terminates or disability ends, whichever is later. . . .

Under Section III, Item K. Miscellaneous Provisions delete the following language and renumber the subsequent paragraphs accordingly:

... 3. For those Covered Persons who have elected to continue coverage pursuant to Section III, C through J, no new Dependents may be added during the period of continued coverage. The only exception shall be eligible for coverage from date of birth, subject to the provisions of Article 1, Section IV, except that newborn Children shall not be eligible as overdue applicants.

Under Article 3, Medical Benefits delete the following language:

... C. Benefits for Eligible Medical Expenses (except non-confining alcoholism and/or substance abuse)

When a Non-Occupational disease, illness, accident or injury (other than non-confining alcoholism and/or substance abuse) requires the Covered Person to incur any of the eligible expenses defined herein, and such service or Treatment is performed or prescribed by a Physician while this coverage is in force with respect to such Covered Person, and after the Deductible Amounts as defined

herein have been satisfied, the Program will pay, subject to applicable limitations of the Fee Schedule: . . .

Add the following language:

- . . . D. Non-confining alcoholism and/or substance abuse
If a Covered Person is treated for alcoholism and/or substance abuse while not confined in a Hospital as a resident patient, benefits shall be limited to 50 percent of the reasonable eligible expenses incurred subject to the applicable limitations of the Fee Schedule, including prescription drugs. . . .
- . . . G. Eligible Expenses
The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule, under Comprehensive Medical Benefits when prescribed by a Physician and Medically Necessary for the Treatment of a Covered Person; . . .
- . . . 8. Subject to the filing requirements of Article 4, Section IV, drugs and medicines approved by the Food and Drug Administration or its successor requiring a prescription and dispensed by a licensed pharmacist, except for birth control medication for whatever reason used or prescribed, and dietary supplements; . . .
- . . . 17. Initial prosthetic appliances (except penile implants) required as a result of conditions caused only by a non-occupational disease, illness, accident or injury. Subsequent prosthetic appliances (except penile implants) shall be eligible only when deemed Medically Necessary and when certification is furnished, acceptable to the Program, by the attending medical doctor. . . .
- . . . 24. Outpatient treatment in connection with the detection or correction by manual or mechanical means of structural imbalance, distortion or subluxation in the human body for purposes of removing nerve interference when such interference is a result of or related to distortion, misalignment, or subluxation of or in the vertebral column, with the following limitations: The Program will pay 80 percent of eligible charges incurred subject to the applicable limitations of the Fee Schedule, said charges not to exceed \$100 for any Covered Person per calendar month. . . .
- . . . H. Treatment of mental or nervous condition and/or Substance Abuse as a Resident Patient . . .

BENEFITS PROVIDED UNDER THIS SECTION H SHALL ALSO BE SUBJECT TO THE ANNUAL AND LIFETIME BENEFIT LIMITATIONS AS SPECIFIED IN THE SCHEDULE OF BENEFITS AND TO APPLICABLE LIMITATIONS OF THE FEE SCHEDULE. . . .

Add the following language:

II. FEE SCHEDULE

- A. This section, Article 3, Section II, Fee Schedule, is effective July 1, 1989.
- B. Act 1009 of the 1988 Regular Legislative Session mandated the Board of Trustees for the State Employees Group Benefits Program (SEGBP) to adopt and promulgate a schedule of maximum fees (Fee Schedule) for medical services, surgical services, and professional services provided in hospitals.
- C. The Fee Schedule sets the maximum fee that the State Employees Group Benefits Program (SEGBP) will pay, notwithstanding deductibles and co-payments, for an eligible medical expense.
- D. The Fee Schedule is geographically divided into five Zip Code areas for the state of Louisiana. The maximum reimbursable fee is limited to the statistical mean of the usual and custom-

ary charges for medical services in the corresponding Zip Code area.

- E. Act 1009 provides that if the medical provider accepts an assignment of benefits, the plan member cannot be billed for any amount of the charge that may exceed the fee schedule.
- F. If an assignment of benefits is not accepted, the plan member can be charged for the amount in excess of the Fee Schedule.
- G. Plan members can find out the maximum allowable charge under the Fee Schedule for a particular service, provided the plan member knows the CURRENT PROCEDURAL TERMINOLOGY (CPT) code for the service and the Zip Code area where the service will be performed, by calling the Claims Service Department of the State Employees Group Benefits Program (SEGBP).
- H. If additional information is needed, please contact our Claim Service Department at (504) 925-6625 or Toll-Free 1 (800) 272-8451 (Louisiana Only).

III. UTILIZATION REVIEW

Pre-Admission Certification, Continued Stay Review, and Second Surgical Opinion.

- . . . C. PAC shall include a second surgical opinion when required by the utilization review organization. Such second surgical opinion shall be rendered by a physician approved by the utilization review organization and the cost for the second opinion will be covered at 100 percent. The utilization review firm may, at its option, require a third opinion which will be covered at 100 percent. Benefits provided for a second or third surgical opinion shall be subject to applicable limitations for the Fee Schedule. . . .

IV. SUPPLEMENTAL EMERGENCY ACCIDENT BENEFITS

- A. When Accidental Bodily Injury requires the Covered Person to receive Treatment and incur an eligible expense within 72 hours of an accident, and services or Treatment as result of such Accidental Bodily Injury are furnished by or at the direction of a Physician while this coverage is in force as to such person, the Program will pay the eligible expense actually incurred, except as set forth below, and not to exceed the maximum amount payable as specified in the Schedule of Benefits for any one Accidental Bodily Injury. . . .
- . . . B. Covered expenses shall include:
 - . . . 8. Subject to the filing requirements of Article 4, Section IV, drugs and medicines, approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist; . . .
- . . . C. Exclusions - no payment shall be made under supplemental emergency accident benefits with respect to: . . .
- . . . 4. Expenses in excess of the maximum allowable under the Fee Schedule. . . .

V. DENTAL SURGICAL BENEFITS

- A. When disease, illness, accident or injury requires the Covered person to undergo any oral surgical procedure listed in the Schedule of Dental Surgical Procedures as herein contained, and the procedure is performed by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) while this coverage is in force as to such person, the Program will pay the eligible expense actually incurred for professional charges for such surgical procedure, including the usual pre-operative and post-operative care, not to exceed the maximum amount payable for the procedure as allowed by the Fee Schedule. No dental surgical benefits, except those procedures listed in the Schedule of Dental Surgical Procedures, will be consid-

ered eligible under this provision.

B. No Deductible Amount shall apply to benefits payable under this Section, and expenses in excess of the amounts shown in the Schedule of Dental Surgical Procedures shall not be considered eligible Out of Pocket Expenses as defined in Article 3, Section I(A) (3).

The following replaces the Schedule of Dental Surgical Procedures:

- C. Schedule of Dental Surgical Procedures
 1. Incision and drainage of intraoral or extraoral abscess;
 2. Alveolectomy/alveoloplasty;
 3. Removal of ankylosed tooth;
 4. Apicoectomy;
 5. Excision of cysts of the jaw (mandible or maxilla);
 6. Excision of epulis fibroma;
 7. Excisional or incisional biopsy;
 8. Excision of one or more impacted teeth;
 9. Mandibular tori;
 10. Excision of torus palatinus;
 11. Tuberosity reduction (soft or bony tissue).

VI. CATASTROPHIC ILLNESS ENDORSEMENT . . .

. . . E. Benefits (subject to Utilization Review)

1. In-Patient Benefits

When a Covered Person received care and Treatment in a Hospital for any of the diseases indicated above, and such care and Treatment is rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the Program will pay the eligible expense actually incurred for any of the following listed services, but not to exceed the maximum amount payable per benefit period specified in the Schedule of Benefits:

2. Out-Patient Benefits and Professional Services

When a Covered Person receives care and Treatment for any of the diseases indicated above, and such care and Treatment is rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the Program will pay the eligible expense actually incurred for any of the following listed expenses, but not to exceed the maximum amount benefit period specified in the Schedule of Benefits: . . .

. . . VIII. EXCEPTIONS AND EXCLUSIONS FOR ALL MEDICAL BENEFITS

No benefits are provided under this contract for:

. . . O. Charges for services, supplies, or Treatment which are in excess of the maximum allowable under the Fee Schedule or any other limitations set forth in the Plan; . . .

. . . S. Artificial organ implants, penile implants, transplantation of other than Homo sapeins (human) organs, in vitro fertilization, and artificial insemination; . . .

T. Air conditioners and/or filters, dehumidifiers, air purifiers, wigs or toupees, heating pads, home enema equipment, rubber gloves, swimming pools, saunas, whirlpool baths, home pregnancy tests, lift chairs, devices or kits to stimulate the penis, exercise equipment, and any other items not normally considered medical supplies; . . .

IX. COORDINATION OF BENEFITS

A. Definitions as applied to this provision

2. Allowable Expense means any Medically Necessary, eligible item of expense, at least a part of which is covered under one of the plans covering the person for whom claim is made. . .

ARTICLE 4

UNIFORM PROVISIONS

. . . IV. FILING CLAIMS FOR PRESCRIPTION DRUGS

In those instances in which the Program is the primary payer of benefits or the only source of medical coverage for a Covered Person, the Program will accept as evidence of the purchase of eligible prescription drugs either the original receipt from the pharmacy or a computer printout of the prescription drugs from the pharmacy dispensing the drugs. Pharmaceutical forms or copies of receipts will not be accepted.

In those instances in which the Program is the secondary payer of benefits for a Covered Person, the Program will accept as evidence of the purchase of eligible prescription drugs a copy of the Explanation of Benefits from the primary payer accompanied by the original or a copy of the receipt from the pharmacy.

The Program shall require a medical statement signed by a licensed Physician, at least once a year, for expenses incurred on a continuing basis for prescription drugs and/or medical supplies. . . .

James D. McElveen
Executive Director

Notices of Intent

NOTICE OF INTENT

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

In accordance with the provisions of R.S. 49.950, et seq., the Administrative Procedure Act, and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, notice is hereby given that the Louisiana Livestock Sanitary Board advertises its intent to amend and/or add to the regulations of the board:

Title 7 AGRICULTURE AND ANIMALS Part XXI. Diseases of Animals Chapter 117. Livestock Sanitary Board Subchapter A. General Provisions §11710. Livestock Video Auction Market Requirements

A. No person, partnership, corporation, or other legal entity, shall operate a market agency (livestock video auction) in Louisiana, without first obtaining a permit from the Louisiana Livestock Sanitary Board. Any legal entity selling Louisiana livestock on a livestock video auction, without a valid livestock video

auction permit, will be in violation of this regulation and subject to adjudication by the Louisiana Livestock Sanitary Board.

B. Any applicant applying for a permit to conduct video sales of Louisiana livestock, must submit an application to the Louisiana Livestock Sanitary Board, which must include the following information:

1. the name and complete address of the applicant;
2. a financial statement of assets and liabilities;
3. proof that the registration requirements of the Packers and Stockyards Administration, United States Department of Agriculture, have been met;
4. a statement, in writing, assuring the Louisiana Livestock Sanitary Board that the livestock video auction will be operated in compliance with the Louisiana Livestock Sanitary Board's laws, rules, and regulations;
5. a statement, in writing, telling how the Louisiana livestock industry will benefit from the proposed sale of livestock by the applicant;

6. an application fee of \$250, which will be retained by the Louisiana Department of Agriculture and Forestry, whether or not the permit is granted;

7. the livestock video auction applicant must agree to establish a custodial account for seller's proceeds, which must meet the following requirements:

a. Accounts

Each market agency shall establish and maintain a separate bank account designated as "Custodial Account for Shipper's Proceeds," or by some similar identifying designation, under terms and conditions with the bank where established, to disclose that the depositor is acting as a fiduciary with respect thereto and that the funds in the account are trust funds.

b. Trust Funds

Each payment made by a livestock buyer to a market agency, is a trust fund until the market agency's custodial account has been paid in full in connection with such purchase. Funds deposited in a custodial account are also trust funds, under both the gross proceeds and net proceeds methods of maintaining the custodial account. The market agency is a fiduciary with respect to the custodial account.

c. Deposits

i. Gross Proceeds Method. Under the gross proceeds method, before the close of the next banking day, after livestock is sold, the market agency shall deposit in its custodial account, the proceeds from sale of livestock that are collected and received on the day of sale, and an amount equal to the proceeds receivable from the sale of livestock that are due from (a) the market agency; (b) any owner, officer, or employee of the market agency; or (c) any buyer to whom the market agency has extended credit. On or before the seventh day following the sale of livestock, the market agency shall deposit in the custodial account, an amount equal to all the proceeds receivable from the sale of livestock, whether or not such proceeds have been collected or received by the market agency.

ii. Net Proceeds Method. In lieu of the gross proceeds method, any market agency may adopt, and thereafter continuously follow, a net proceeds method for making deposits in its custodial account. Under the net proceeds method, the market agency shall make the same deposits, at the same time as required under the gross proceeds method, but shall retain and not deposit the marketing charges, which are due the market agency. (Source: 1985, No. 802, 1)

d. Withdrawals

The custodial account shall be drawn on only for pay-

ment of the net proceeds to the consignor or shipper, or such other person or persons who the market agency has knowledge is entitled thereto, to pay all legal charges against the consignment of livestock which the market agency may, in its capacity as agent, be required to pay for, and on behalf of the consignor or shipper, and when the account is not kept on a net proceeds basis, to obtain therefrom, the sums due the market agency as compensation for its services.

e. Accounts and Records

Every market agency shall keep such accounts and records as will, at all times, disclose the handling of the funds in the custodial account referred to in this Section, including without limitations, such accounts and records as will, at all times, disclose the names of the consignors and the amount due and payable to each, from funds in the Custodial Account for Shipper's Proceeds. These records shall be made available to the Louisiana Livestock Sanitary Board under such rules and regulations as the board may provide.

f. Insured Banks

Custodial accounts required by this Section, shall be established and maintained in banks whose deposits are insured by the Federal Deposit Insurance Corporation.

g. Certificates of Deposit

Any market agency which has established and maintains the separate custodial account referred to in this Section, may invest in certificates of deposits issued by the bank in which such an account is kept, such portion of the custodial funds as will not impair the market agency's ability to meet its obligations to its consignors. Such certificates of deposit shall be made payable to the market agency in its fiduciary capacity as trustee of the custodial funds.

h. Custodial accounts required by the Louisiana Livestock Sanitary Board will be subject to periodic audits by representatives of the Louisiana Livestock Sanitary Board.

C. The Louisiana Livestock Sanitary Board, at a public hearing, is to consider the following factors when considering whether a permit should or should not be granted to an applicant, wishing to receive a permit to sell Louisiana livestock on livestock video auctions:

1. the financial stability, business integrity, and fiduciary responsibility of the applicant;
2. the present market services available in the state;
3. whether the proposed livestock video market would be permanent and continuous;
4. the benefits to be derived by the livestock industry from the establishment and operation of the proposed livestock video auction;
5. the economic feasibility of the proposed livestock video auction.

D. Livestock video auction companies must maintain complete records of all transactions for a period of 12 months. The records must be kept in such a manner that all livestock can be traced from the seller to the purchaser and include the name and complete address of the seller and purchaser. The record must also include the weight, number, and price of the livestock. These records shall be made available at the request of representatives of the Louisiana Livestock Sanitary Board, any time during normal working hours.

E. All sales of cattle by livestock video auctions, must meet the requirements of LAC 7:XXI.11737.

F. The livestock video auction company must notify the Louisiana Livestock Brand Commission of all delivery dates, as soon as the dates are established.

G. The Louisiana Livestock Sanitary Board may cancel the permit of a livestock video auction after an adjudicatory hearing, for any one or more of the following reasons:

1. fraudently misrepresenting the ownership, brands, or weights of livestock, the charges at a sale, the proceeds of a sale, or any other information with respect to a sale;
2. the applicant is unable to meet the registration requirements of the Packers and Stockyards Administration;
3. the applicant has violated the provisions with respect to the custodial account;
4. the applicant has violated any state or federal law or regulation governing livestock video auctions;
5. the applicant has not conducted any sales for a period of one year.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3: 2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 15:

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., July 12, 1989, at the following address: William B. Fairchild, D.V.M., State Veterinarian, Louisiana Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

Bob Odom
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: §11710. Livestock Video Auction
Market Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There would be no costs or savings to state or local governmental units to implement the proposed amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Due to the \$250 application fee, it is estimated that this rule would generate \$500 during fiscal year 89-90, to be added to the general fund.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There would be no economic benefits or costs associated with this rule to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Livestock video auctions could provide a better market for some Louisiana livestock producers. Livestock video auctions will provide competition to stockyards and order buyers. The net effect is that Louisiana livestock producers should have a better market for their products, which has to be positive.

Richard Allen
Assistant Commissioner

David W. Hood
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Forestry**

In accordance with L.R.S 3:4276, the Office of Forestry proposes to increase the prescribed burning fee, for such burning on lands to carry out site preparation work in compliance with the Forestry Incentives Program and other similar forest management programs.

The charge for this service will increase from \$5 per acre to \$8 per acre. All other prescribed burning will continue to remain at \$5 per acre.

Written comments may be submitted through June 5, 1989, to Paul D. Frey, State Forester/Asst. Commissioner, Office of Forestry, Box 1628, Baton Rouge, LA 70821.

Paul D. Frey
State Forester/Asst. Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Increase in Specific Prescribed Burning Fee**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs involved.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that approximately 15 percent of the acres prescribed burned by Office of Forestry will be affected by the proposed increase in prescribed burning fees - this would increase Office of Forestry revenue collections by approximately \$13,841.10.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
For those landowners who request prescribed burning, the initial cost for such burning for site preparation purposes (Forestry Incentives Program, etc.) would increase from \$5 per acre to \$8 per acre. Because of cost-share availability, there will be a net reduction to those landowners due to the 50/50 cost share being applicable. This cost share program became available in the last two years.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will likely be an opportunity to increase interest by private vendors because of this fee increase and that would have a favorable effect on local employment when/if local vendors become more active in this silvicultural forestry practice.

Richard Allen
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

In accordance with L.R.S. 3:4276, the Office of Forestry proposes to increase the fee for marking timber for forestland owners from the current \$5 per acre to \$10 per acre, at its next regular scheduled meeting.

Written comments may be submitted through June 13, 1989, to Paul D. Frey, State Forester/Asst. Commissioner, Office of Forestry, Box 1628, Baton Rouge, LA 70821.

Paul D. Frey
State Forester/Asst. Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Timber Marking Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to any state or local government unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The Office of Forestry marked 1,572 acres of timber in calendar year 1988; this increase in fee will increase revenue collections by approximately \$7,860.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The only individuals or groups who will be affected are those who own forestland and request this agency to mark their timber for them to sell.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule change will have no impact on competition or employment.

Richard Allen
Assistant Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

The State Civil Service Commission will hold a public hearing on Wednesday, July 12, 1989 to consider amending Civil Service Rules. The public hearing will begin at 8 a.m. in the Second Floor Commission Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

The following are proposed amendments to be considered at the meeting:

AMEND RULE.1.19.1

1.19.1 'Layoff Avoidance Measures' mean actions taken by an

appointing authority and approved by the Director and/or the Commission to help prevent a layoff. These include withholding of merit increases, reductions in pay, reductions in work hours and furloughs.

EXPLANATION

This amendment accommodates proposed Rule 17.10.1.
AMEND RULE 17.5(a)

17.5 Layoff Avoidance Measures

(a) Layoff avoidance measures shall consist of withholding of merit increases, reduction in work hours, reduction in rates of pay, and furloughs without pay.

(b) . . .

(c) . . .

EXPLANATION

This amendment accommodates proposed Rule 17.10.1.
PROPOSED RULE 17.10.1

17.10.1 Withholding of Merit Increases to Avoid Layoff

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

(a) Any withholding of merit increases must receive approval of the director, no later than fourteen calendar days after the effective date, based on written certification from the appointing authority that his department does not have sufficient funds to give such increases to all employees. This justification shall include the reasons for the withholding of merit increases, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the proposed effective dates and periods of time involved, and the organizational unit(s) and geographic area(s) affected. If the request or any part thereof is not approved by the director, the employees included in the plan or portion of the plan not approved must be paid their merit increase for that period of time between the proposed effective date and date of the director's determination. In all cases of disapproval by the director, his decision shall be subject to the commission's ratification, at its next regularly scheduled meeting.

(b) Authority for such withholding of merit increases shall not exceed one twelve consecutive month period, subject to Rule 17.6.

(c) Employees whose merit increases are withheld according to the provisions of this Rule shall retain their eligibility for such increases.

EXPLANATION

Rule 17.10.1 is proposed to make broad withholding of merit increases an official layoff avoidance measure. This would require the appointing authority to submit written justification for such an action to the director for approval. The appointing authority would have to certify that his agency did not have sufficient funds for merit increases in order for this layoff avoidance measure to be approved.

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

Herbert L. Sumrall
Director

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

The State Civil Service Commission will hold a public hearing on Wednesday, July 12, 1989 to consider amending Civil Service Rules. The public hearing will begin at 8:00 a.m. in the Second Floor Commission Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

The following are proposed amendments to be considered at the meeting:

PROPOSAL TO AMEND RULE 6.15

6.15 Red Circle Rates

Rates that fall within the range become the employee's authorized individual pay rate. Individual pay rates that fall above the maximum established for the grade become red circle rates and remain in effect for two years or until the range catches up with the rate, whichever comes first; however, eligibility for a red circle rate is lost upon separation from state service or demotion. Individuals whose salary rates are red circled shall not be eligible for any other pay adjustments provided for in the rules. Red circle rates are assigned under the conditions outlined below:

- (a) . . .
- (b) . . .
- (c) . . .
- (d) . . .
- (e) . . .

EXPLANATION

This proposed amendment clarifies the fact that red circle rates should not be allowed to be kept upon separation of any kind or demotion.

PROPOSAL TO AMEND RULE 8.10(d)

8.10 Restricted Appointment

- (a) . . .
 - (1) . . .
 - (2) . . .
 - (3) . . .
 - (4) . . .
 - (5) . . .
 - (6) . . .
 - (7) . . .
- (b) . . .
- (c) . . .

(d) A multiple restricted appointment must be received by the director for approval by him no later than seven calendar days after the effective date of the appointment. Such approved appointments shall be reported to the commission at its next meeting.

EXPLANATION

This proposed amendment to Rule 8.10(d) would require approval of multiple restricted appointments by the director, rather than the Civil Service Commission. A report of all multiple restricted appointments would have to be submitted regularly to the commission. The present provision results in too much delay, and agencies have subsequent SF-1's held up for processing until the commission can act. This amendment will result in more streamlined processing of SF-1's while still reporting all approved multiple restricted appointments to the commission.

PROPOSAL TO AMEND RULE 10.8

10.8 Effect of "Unsatisfactory" Rating

- (a) . . .
- (b) . . .

(c) An employee whose re-rating is not reported to the director as of September 30, shall be considered satisfactory.

EXPLANATION

The addition of Subsection (c) provides a basis in the rules for a practice that Civil Service adopted several years ago. This clarification provides a rule upon which decisions can be based by a Referee/Civil Service Commission.

PROPOSAL TO ADOPT RULE 11.27.1

11.27.1 Leave Prohibited to Assume an Unclassified Position

A probationary employee shall not be granted leave to serve in an unclassified position.

EXPLANATION

This proposed new rule would prohibit an employee's serving in an unclassified position while on probation. This will help assure that the classified position the employee vacated is a permanent, ongoing one not created to serve as a more advantageous "fall-back" position.

PROPOSAL TO AMEND RULE 13.36(b)5 and (f)

13.36 Application for Review of a Referee's Decision.

(a) . . .
(b) To be effective, an application for review of a referee's decision must:

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

5. Specify which pleadings and exhibits offered into evidence are to be submitted to the commission with the application for review. If no pleadings or exhibits are specified, only the referee's decision, the request for appeal and the notice of disciplinary or other action will be submitted to the commission with the application for review; and

- 6. . . .
- (c) . . .
- (d) . . .
- (e) . . .

(f) A quorum of the commission shall review every timely application for review as well as the pleadings and exhibits specified in Subsection (b)5 of this rule. Thereafter, the commission may:

- 1. . . .
- 2. . . .
- (g) . . .

EXPLANATION

Two recent Court of Appeal decisions interpreted the word "documents" in Civil Service Rule 13.36(b)5 as including a transcript of the testimony. This interpretation was contrary to the commission's intent when it adopted Rule 13.36. The amendment is being proposed to clarify the original intent of the rule.

PROPOSAL TO AMEND RULE 17.24(a)

17.24 Department Preferred Reemployment List

- . . .
- . . .

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

1. the job he held in the affected agency or department at the time of such layoff or movement into another position; however, if an employee is displaced to the same job title, he is eligible only for the parish from which he was displaced.

2. equivalent or lower levels of jobs for which he qualifies in his career field, subject to Subsection (d) of this Rule; however, an employee who is displaced, as opposed to actually laid off, shall be eligible to be placed on such list only for jobs down to but not including the GS level to which he was displaced, but shall be eligible for the same job title in the parish from which he was displaced.

- (b) . . .
- (c) . . .
- (d) . . .
- (e) . . .
- (f) . . .
- (g) . . .
- (h) . . .

EXPLANATION

Subsection (a)1 is amended to prohibit an employee who bumped to the same job title in a different parish from getting on the department preferred list for anything other than his original parish and job title. Presently, if an employee bumps from a Clerk 3 position in East Baton Rouge to a Clerk 3 position in East Feliciana, he could ask to be put on the preferred list for numerous parishes. If a Clerk 3 position becomes available in Ascension Parish (he's available for it), and he accepts it, he comes off the list for his home parish of East Baton Rouge. In such cases, employees have complained that they cannot get back to their original work parish. This amendment will allow eligibility back only to one's home parish in such a case.

Subsection (a)2 is proposed for amendment to prohibit a person's going on the preferred list for the same job and pay grade to which he bumped. It is simply "overkill" to allow an employee to bump to a position and then allow him to change within that pay grade from a preferred list. This practice has unnecessarily clogged preferred lists and delayed their being worked, as many employees in this situation do not want to change jobs for the same pay after they have bumped to a position. The one exception to this provision is that if an employee bumps to his same GS level or to the same job title in a different parish, his name may remain on the list to get back to his home parish.

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

Herbert L. Sumrall
Director

NOTICE OF INTENT

**Department of Economic Development
Board of Architectural Examiners**

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the amendment of rule numbered §317. This proposed amendment reduces from \$100 each day to \$75 each

day the amount that each board member receives for attending board meetings and hearings, attending NCARB regional and national meetings, issuing certificates and licenses, reviewing examinations, necessary travel, and discharging other duties, responsibilities, and powers of the board.

PROPOSED RULE

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects**

Chapter 3. Organization

§317. National Council of Architectural Registration Boards

A. The board shall maintain membership in the National Council of Architectural Registration boards (NCARB) and its regional conference. Up-to-date information on the examinations and policies adopted from time to time by NCARB shall be developed by the staff, and reported to the board regularly.

B. The board will cooperate with NCARB in furnishing transcripts of records, giving examinations and rendering other assistance calculated to aid in establishing uniform standards of professional qualification throughout the jurisdiction of NCARB.

C. Effective February 24, 1989, out of the funds of the board, each board member shall be compensated at a rate of \$75 for each day in attending board meetings and hearings, attending NCARB regional and national meetings, issuing certificates and licenses, reviewing examinations, necessary travel, and discharging other duties, responsibilities, and powers of the board. In addition, out of said funds each board member shall be reimbursed actual travel, meals, lodging, clerical, and other incidental expenses incurred while performing the duties, responsibilities, and powers of the board, including but not limited to performing the aforesaid specific activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:333 (September 1978), LR 10:738 (October 1984) and LR 12:760 (November 1986), amended by the Department of Economic Development, Board of Architectural Examiners, LR 15:

Interested persons may submit written comments on this proposed rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

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

**Rule Title: §317 - National Council of Architectural
Registration Boards**

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

This proposed rule reduces from \$100 each day to \$75 each day the amount that each board member receives for attending board meetings and hearings, and discharging other duties, responsibilities, and powers. Assuming the same number of days of meetings, hearings, and other performance of official duties, responsibilities, and powers after

the effective date of this rule change as before, it is estimated that this decrease in per diem will save the board approximately \$1,575 per year.

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

There are no estimated effects on revenue collections of state or local government units.

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

The only persons affected by this decrease in per diem are the board and the board members. Assuming the same number of days of meetings and hearings, and other performance of official duties and responsibilities after the effective date of this rule change as before, it is estimated that each board member will receive on the average \$315 less per year per diem.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Mary "Teeny" Simmons
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the amendment of rule numbered §1101 pertaining to the renewal procedure for individual architects, professional architectural corporations, and architectural-engineering corporations to implement increased fees authorized by Act 583 of the 1988 Regular Session.

PROPOSED RULE

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1101. Renewal Procedure

A. Licenses for individual architects shall expire and become invalid on December 31 of each year. Licenses for professional architectural corporations and architectural-engineering corporations shall expire and become invalid on June 30 of each year. An individual architect, professional architectural corporation, and architectural-engineering corporation who desires to continue his or its license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect, professional architectural corporation, and architectural-engineering corporation to obtain, complete, and timely return a renewal form and fee to the board office, which forms are available upon request from said office.

C. Prior to December 1 of each year the board shall mail to all individual architects currently licensed a renewal form. An

individual architect who desires to continue his license in force shall complete said form and return same with the renewal fee prior to December 31. The license renewal fee for an individual architect domiciled in Louisiana shall be \$50; the license registration fee for an individual domiciled outside Louisiana shall be \$100. Upon payment of the renewal fee the executive director shall issue a renewal license or registration.

D. Prior to June 1 of each year the board shall mail to all professional architectural corporations and all architectural-engineering corporations currently licensed a renewal form. A professional architectural corporation and an architectural-engineering corporation which desires to continue its license in force shall complete said form and return same with the renewal fee prior to June 30. The renewal fee shall be \$50. Upon payment of the renewal fee, the executive director shall issue a renewal license.

E. The failure to renew a license timely shall not deprive an individual architect of his right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$100. The delinquent fee shall be in addition to the renewal fee set forth in the preceding Subsection C.

F. The failure to renew its license in proper time shall not deprive a professional architectural corporation or an architectural-engineering corporation of the right to renew thereafter. A professional architectural corporation or an architectural-engineering corporation who transmits its renewal form and fee to the board subsequent to June 30 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. This delinquent fee shall be in addition to the renewal fee set forth in preceding Subsection D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:150-151.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), LR 10:739 (October 1984), amended by the Department of Economic Development, Board of Architectural Examiners, LR 15:

Interested persons may submit written comments on this proposed rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: §1101 - Renewal Procedure

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

Act 583 of the 1988 Regular Session authorized the board to increase the renewal registration fees and delinquent fees charged to an architect domiciled outside Louisiana. The proposed rule will not impose any significant additional workload on the board, since the board has al-

ways charged a renewal registration fee and a delinquent fee to architects domiciled outside Louisiana. The only difference is the amount of fees being collected.

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

During the last calendar year prior to the enactment of Act 583 of 1988, 1,132 architects domiciled outside Louisiana timely renewed their registration and 104 architects outside Louisiana were delinquent in doing so. Assuming the same numbers of architects renew their registration during the calendar year after the effective date of said Act, the renewal registration fee increase would generate an additional \$56,600 and the delinquent fee increase would generate an additional \$10,400.

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

There will be no effect on architects domiciled in Louisiana. Architects domiciled outside Louisiana will be required to pay a \$100 renewal registration fee (rather than the \$50 which was charged before the effective date of the Act), and such architects who are delinquent in registering will be required to pay a \$100 delinquent fee (rather than the \$50 which was charged before the effective date of the Act).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Because of the fee increase, some architects domiciled outside Louisiana may decide against renewing their registration in Louisiana. However, because the amount of the renewal registration fee increase is only \$50 per architect, it is anticipated that the number of architects domiciled outside Louisiana who will decide not to renew their registration in Louisiana because of this fee increase will be minimal. More likely, architects domiciled outside Louisiana will renew timely and avoid the delinquent fee of \$100 per architect.

Mary "Teeny" Simmons
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

State Exit Exam for All

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education directed that all students be required to take and pass the State Exit Exam and that this become a part of the state standards. Effective implementation date for nonpublic students is 1990-91 for sophomores and 1992-93 graduating seniors. (Bulletin 741 amendment). This was also adopted as an emergency rule, see May, 1989 issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

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

**Rule Title: Requirement of Non-Public School Students
To Take and Pass the State Exit Examination**

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

There are no implementation costs (savings) to local governmental units.

The cost to the state for FY 89-90 is \$7,500 for curriculum and teachers strategy guides.

The cost to the state for FY 90-91 is \$55,975 to administer the tenth grade examination.

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

There are no effects on revenue collections of state or local governmental units by the passage of this action.

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

The non-public school sector will be directly affected by this action but there is no viable way to give any estimated cost. Also the non-public school students could be affected as passage is required of the graduation test.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition among the non-public schools could be heightened, as these scores achieved by these students on these two examinations could be viewed as a benchmark to determine the progress those students have made.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

ECIA Chapter 2 State Application and
ESEA Title II State Application

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the ECIA Chapter 2 State Application and ESEA Title II State Application (FY 7/1/89 - 9/30/92) as submitted and revised on April 25, 1989 by the State Department of Education. (Copies of the documents may be seen in the Office of the State Register, the Office of the State Board of Elementary and Secondary Education in Room 104 of the Education Building, or in the Office of the Bureau of Consolidated Educational Programs, State Department of Education, located at 654 Main Street, Baton Rouge, LA.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m. August 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

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

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

The participating local education agencies (LEAs) will expend approximately \$1,825,761 and the Louisiana Department of Education (LDE) will expend approximately \$101,431 to implement the provisions of FY'90 Louisiana State Plan for Title II, Dwight D. Eisenhower Mathematics and Science Education Act.

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

Participating LEAs will collect approximately \$1,825,761 and the Louisiana Department of Education will collect approximately \$202,862, in federal funds appropriated by the 100th Congress under Public Law 100-297, April 28, 1988.

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

Approximately 902,000 children living in Louisiana will receive benefits through Title II services. An increase of \$522,147 is expected for FY'90. The FY'89 allocation was \$1,506,476.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Title II program provides for the improvement of teacher skills and the quality of instruction in mathematics and science. It allows for the employment of a limited number of full-time and part-time positions for training teachers, improving programs, and administering the Title II program. The program has little effect on competition.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: FYs 1990-92 Chapter 2 State Plan P. L.
100-297**

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

The State Department of Education (SDE) will expend approximately \$450,000 (100 percent federal funding) to administer the Chapter 2 program. This will include (but not necessarily be limited to) monitoring, evaluating, disseminating, processing, technical assistance, conducting conferences and workshops and advisory committee support activities in the execution of their duties relative to Chapter 2. Other programs to be implemented using 100 percent federal funds are: 1) a statewide, effective school program (approx. \$400,000 annually); 2) a consolidated effort among several programs to target the educational needs of students at risk (approx. \$700,000 annually); and c) programs of training and professional development to enhance the knowledge and skills of educational personnel (approx. \$200,000 annually).

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

Participating LEAs will collect approximately \$7.2 million under the Chapter 2 80 percent funds (federal). The SDE will collect approximately \$1.5 million under the Chapter 2 20 percent funds (federal).

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

Approximately 902,000 children living in Louisiana will receive instructional and/or supportive services through the Chapter 2 program. The FY 90 LEA allocation will be approximately \$7.2 million (100 percent federal funds).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Chapter 2 program creates full-time instructional positions in LEAs across the state as well as within the SDE. The program has little, if any, effect on competition.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

State Plan for the Education of
Homeless Children and Youth

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education, approved the State Department of Education's FY'90 Education of Homeless Children and Youth (EHCY) State Plan for submission to the U. S. Department of Education. Copies of this Plan may be seen in the Office of the State Register, Office of the Board of Elementary and Secondary Education, Room 104 of the Department of Education Building, or in the Office of Educational Support Programs, State Department of Education.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Stewart B. McKinney Homeless Assistance
Act**

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

The State Department of Education will expend approximately \$100,247 (100 percent federal funding from the Stewart B. McKinney Homeless Assistance Act) to administer the Homeless Program.

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

Funds under the Stewart B. McKinney Homeless Assistance Act will not be channeled to local school districts. The funds are 100 percent federal and do not affect the state's cash flow. The monies will be used at the administrative level for the tracking and identification of the homeless population.

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

A preliminary survey indicated that there were 4,500 homeless youth in the state of Louisiana. Most local districts put little effort in trying to identify this population. The office of the Homeless realized that, in fact, there are many more homeless children than that. Another survey is underway to account for a more accurate number. \$100,247 is the amount of the grant that will affect these identified children.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

One staff person to direct the Homeless Program is hired under this grant and there is no effect on competition.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

State Plan for Migrant Education

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the State Department of Education's FY'90 State Plan for Migrant Education (ECIA Chapter I Migrant Education) for submission to the U.S. Department of Education no later than April 30, 1989. This was also adopted as an emergency rule. (See May, 1989 issue of the *Louisiana Register*.)

Copies of the State Plan for Migrant Education may be seen in the office of the Board of Elementary and Secondary Education, Room 104 of the Education Building, Baton Rouge, the State Department of Education, Office of Migrant/Indian Education, 631 Main Street, or the office of the *Louisiana Register* located in the Capitol Annex.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: FY-90 Migrant State Plan

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

Participating Local Education Agencies (LEAs) and Community Action Agencies (CAAs) will expend approximately \$3,800,000 and the Louisiana Department of Education (LDE) will expend approximately \$229,000 to implement the provisions of the FY-90 Louisiana State Plan for Migrant Education.

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

Participating LEAs and CAAs will collect approximately \$3,700,000 and the LDE will collect approximately \$229,000 in federal funds.

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

Approximately 6,500 children living in Louisiana for at least a portion of the school year will receive instructional or supportive services through the Migrant Education Programs. A decrease is expected with an anticipated FY-90 allocation of \$3.7 million. The FY-89 allocation was \$4.2 million.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Migrant Education program creates full-time instructional positions for more than 250 persons, most of whom are paraprofessional teaching aides. Approximately 60 additional full-time positions are funded for recruitment personnel, records personnel, and state office staff. A number of part-time or shared-timed positions are also funded with these monies. The program has little if any effect on competition.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2104.A.(1), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Environmental Quality gives notice that rulemaking procedures have been initiated to amend the Louisiana Radiation Regulations, specifically, to add Chapter 14, entitled "Regulation and Licensing of Naturally Occurring Radioactive Materials (NORM)" to LAC 33:XV. In addition, an amendment to Chapter 25 of the Louisiana Radiation Regulations is proposed to add a fee category to the existing schedule. The proposed amendment to Chapter 25 would establish an initial fee of \$100 and an annual maintenance fee of \$100 for each location subject to the general license issued in Section 1410.

The amendment to the Louisiana Radiation Regulations became effective February 20, 1989, under emergency rule procedures. This notice initiates the standard rulemaking procedure for this amendment, and proposes a fee schedule to cover a portion of the cost associated with implementation of the rule.

A public hearing will be held at 10 a.m. on July 7, 1989

in the Conservation Hearing Room, State Land and Natural Resources Building, 625 N. Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendment.

Interested persons are also invited to submit written comments on the proposed amendments. Written comments should be submitted no later than July 10, 1989, to: Louisiana Nuclear Energy Division, Box 14690, Baton Rouge, LA 70898, attn: David Zaloudek. He may be contacted at the address above, or telephone (504) 925-4518. A copy of the proposed amendments may be obtained from the Louisiana Department of Environmental Quality at the address listed in this paragraph.

Paul H. Temple
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Regulations and Licensing of Naturally
Occurring Radioactive Materials**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This estimated cost to the Department of Environmental Quality to implement the proposed rule is \$339,900 for FY 89-90.
There is no anticipated cost to other state agencies or to local governmental units to implement the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that revenue collections to the state (Dept. of Environmental Quality) will increase by approximately \$100,000, based on 1,000 licensees and a license fee of \$100 per license.
There is no anticipated effect on revenue collections for local governmental units to implement the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The estimated cost to affected individuals/companies ranges from \$1.4 million to \$4.78 million. This includes the estimated cost to conduct the required surveys (\$1.3-4.68 million) and the fee proposed to partially offset the implementation cost to the Department of Environmental Quality of the proposed rule (\$100,000).
There is an estimated economic benefit of some portion of the cost of the surveys for individuals/companies contracted to perform such surveys.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Promulgation of this rule should not significantly affect long-term employment or competition in Louisiana. However, each site identified will incur an estimated cost between \$500 and \$1800. A short-term increase in competition among individuals involved in radiation surveys may exist during the initial period the proposed rule is in effect.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

Jane C. Chauvin
Board Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Professional Counselors**

The Louisiana Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act R.S. 49:950 et seq., intends to adopt the Code of Conduct (adjusted from American Association for Counseling and Development Ethical Standards) and Declaration Statement as the ethical rules governing the practice of mental health counseling in the state of Louisiana.

Interested persons may view the Code of Conduct and Declaration Statement in their entirety at the board office: 121B Peabody Hall, LSU, Baton Rouge, LA 70803-4121.

Jane C. Chauvin, Ph.D.
Board Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Code of Conduct and Declaration Statement**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs (savings) to other state or local governmental units as a result of these proposed rules and regulations. The Professional Counselors Board of Examiners is adopting its Code of Conduct for ethical behavior and Declaration Statement. There will be no costs (savings) to the Board of Examiners. The Code of Conduct is adopted from the American Association for Counseling and Development Ethical Standards.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of other state or local governmental units. There will be no difference in collection of fees for the fiscal years ending on June 30, 1989, 1990, nor 1991.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No costs and/or economic benefits will be felt by the individuals licensing. No costs and/or economic benefits will be felt by other persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition in the private sector. All Licensed Professional Counselors will be expected to adhere to the Code of Conduct to maintain their licenses. The Code of Conduct will help to protect the consumer from unethical behavior by the Licensed Professional Counselor.

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Hospitals**

In accordance with Act 13 of the First Extraordinary Session of the 1988 Louisiana Legislature, and the Declaration of Fiscal Emergency by Governor Roemer, the Department of Health and Hospitals plans to adopt the fees listed below. These fees will be effective September 1, 1989 and have been reviewed and approved, in writing, by the Commissioner of Administration as authorized by Executive Order BR 88-5.

A public hearing on the proposed fees has been set for 10 a.m., July 13, 1989 in the Plaza Hearing Room of the Louisiana Insurance Building, 950 N. Fifth Street, Baton Rouge, LA.

The Office of Hospitals, Emergency Medical Services will begin to charge fees for the following services performed:

CERTIFICATION FEES

	First Responder	EMT Basic	EMT Interm.	EMT Paramedic
In-State Certification	\$10	\$15	\$20	\$25
Reciprocity Certification	N/A	\$50	\$75	\$100
Recertification	\$5	\$10	\$15	\$20

EXAMINATION FEES

	Basic	Interm.	Paramedic
Written Exam*	\$10	\$10	\$10
Entire Practical**	\$30	\$40	\$50
Retest Practical**	\$15	\$20	\$25

*Does not include National Registry Fee

**Currently being charged

AMBULANCE CERTIFICATION

Application -	\$25 per provider	
Certification Fee -	Basic Level -	\$30 per vehicle
	Intermediate Level -	\$40 per vehicle
	Paramedic Level -	\$50 per vehicle

CONTINUING EDUCATION

A fee of \$5 shall be charged for application to participate in various continuing education workshops, seminars, and courses offered by the Office of Hospitals, Emergency Medical Services. There shall also be a tuition fee of \$10 per day of instruction for all individuals accepted into these programs.

Exclusions: In accordance with R.S. 1231.2, fees shall not be required for certification or recertification of any certified emergency medical technician who serves as such on a voluntary basis and who receives no compensation of any kind for said services.

The person responsible for responding to inquiries on these fees is Patrick Paulson, Assistant Secretary, Office of Hospitals, 4550 North Boulevard, Baton Rouge, LA 70806.

David L. Ramsey
Secretary

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

Rule Title: Ambulance Certification Fees

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

Estimated implementation costs for this proposed rule change will be \$3,000 annually for printing, supplies and postage.

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

Estimated annual revenue collections for the proposed fee increases are as follows:

EMS Testing Fees	\$45,000
EMS Certification Fees	\$37,845
Continuing Education Fees	\$ 5,500
Ambulance Certification Fees	\$14,800

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

Fees paid by applicants would be imposed or changed as follows: ambulance providers would pay \$25 per provider and \$30-\$50 per ambulance; persons attending continuing education workshops would pay approximately \$10 per day of instruction; and persons taking the National Registry Emergency Medical Technician written exam would pay \$10 more than current charges and those taking the intermediate practical exam would pay \$5-\$10 less. Additionally, fees for certification of EMS personnel would be as follows:

	First Responder	EMT Basic	EMT Intermediate	EMT Paramedic
Initial Certification	\$10	\$15	\$20	\$25
Reciprocity Certification	N/A	\$50	\$75	\$100
Recertification	\$5	\$10	\$15	\$20

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Patrick Paulson
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule.

Currently long term care providers are required to have either a staff pharmacist and medical record practitioners or have formal arrangements for provision of consultation each quarter. The amount of consultation required under the current standards is being reduced to reflect minimal standards required by federal regulations and determined by the bureau to be adequate to maintain high quality health care standards for Title XIX recipients. While the bureau is establishing minimal consultant standards which must be strictly followed by all facilities, providers should establish formal agreements which reflect the specific needs of the facility to maintaining high quality health care standards. For example, we would expect a provider who is experiencing record documentation problems to increase Medical

Record Practitioner consultation until documentation problems no longer exist. Conversely, it would be imprudent for a facility with excellent records to increase consultation. This rule is intended to provide long term care facilities (ICF-I, ICF-II, and SNF) flexibility in maintaining high quality health care standards within the current payment amounts, it will have no effect on requirements for performing drug regimen reviews.

Proposed Rule

Long term care facilities (ICF-I, ICF-II, and SNF) shall have a staff pharmacist and medical records practitioner or make formal arrangements for pharmacist and medical records practitioner consultants to provide at least one hour of consultation each, on a quarterly basis. Minimal consultation requirements shall in no manner change requirements for conducting drug regimen reviews.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau of Health Services Financing, Box 94065, Baton Rouge LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on July 5, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LTC - Minimum Requirements For
Pharmacist And Medical Record Practitioner
Consultation**

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

No fiscal impact is projected to result from adoption of this proposed rule. Implementation costs of \$50 for manual revision and provider notification is projected for FY 89/90. Provision of flexibility to providers in establishing consultation arrangements will have no effect on provider rates. While this rule will result in no change in provider rates, the flexibility provided will help reduce the need for additional rate increases.

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

Implementation costs associated with adoption of this proposed rule will result in increased revenues of \$50 for provision of manual materials and provider notice.

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

This rule maintains high quality health care standards for Title XIX recipients in long term care facilities. There is no projected impact on recipients or providers resulting from this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule.

Currently long term care providers are required to notify the bureau when a vacancy in the nursing home administrator, and/or director of nursing positions occurs. Additionally, vacancies in these positions are required to be filled timely to maintain high quality health care standards mandated by federal regulations. This rule requires facilities to notify the Bureau's Health Standards Section in writing when a vacancy occurs and fill the position within specific timeframes. Failure to comply with the specific requirements of this standard will result in civil money penalties and/or sanctions until compliance occurs or the facility is certified for noncompliance with program regulations. Under this measure, specific waiver provisions for filling the director of nursing position are proposed which follow federal law (OBRA 87). It should be noted that current program standards require the designation of a registered nurse as "director of nursing".

Proposed Rule

If a change occurs in the individual who is the "administrator" or "director of nursing" of a long term care facility (ICF-I, ICF-II, and SNF), notice must be provided to the Bureau's Health Standards Section at the time the change occurs by the facility "administrator" (or in the absence of an "administrator" by the governing body of the facility). Notice shall include the identity of all individuals involved and the specific changes which have occurred. Failure to provide written notice within 10 calendar days, from the date a change occurs, will result in a civil money penalty of \$100 per day per position imposed beginning the eleventh calendar day from the date of change, until written notice is received.

The bureau may allow long term care facilities 30 days to fill a vacancy in the "administrator" position. There shall be no waiver provisions for this position. The governing body of the facility shall appoint a facility designee, charged with the general administration of the facility in the absence of a licensed "administrator".

The bureau shall allow long term care facilities 30 days from the date of change in the position of "director of nursing" to fill a resulting vacancy. Waiver of the 30-day time limit may be granted by the bureau if:

1. The facility demonstrates to the satisfaction of the bureau that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit a director of nursing;

2. The bureau determines that a waiver of the director of nursing will not endanger the health and safety of individuals staying in the facility; and

3. The bureau finds that, for any such periods in which the director of nursing position is not filled, a registered nurse or physician is obligated by written agreement with the facility to respond immediately to telephone calls from the facility.

Any waiver granted by the bureau shall not exceed one year in duration.

Failure to fill a vacancy or notify the bureau in writing that the "administrator" and/or "director of nursing" position (where no waiver has been granted) have been filled by the thirty-first day of vacancy (or expiration of any waiver granted), shall result

in a sanction in the amount of one percent of the facilities monthly Title XIX vendor payment. The sanction shall be applied beginning the thirty-first day of vacancy until written notice is received by the Bureau's Health Standards Section that the vacancy no longer exists. Written notice shall include the identity of the new "administrator" and/or "director of nursing". Failure to include identity information shall result in a civil money penalty of \$100 per day per position until the required information is provided to the Bureau's Health Standards Section in writing.

The bureau shall retain the right to apply any other applicable remedies.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau of Health Services Financing, Box 94065, Baton Rouge LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on July 5, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: LTC - Notice of Change in Long Term Care Facilities

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No fiscal impact is projected to result from adoption of this proposed rule. Implementation costs of \$50 for manual revision and provider notification is projected for FY 89/90. Adoption of specific time limits for notification of changes in "administrator" and "director of nursing" positions is expected to eliminate delays in notification and filling of vacancies. Adoption of waiver provisions for the "director of nursing" and 30 days for filling "administrator" positions is expected to provide sufficient time periods to allow full compliance by providers.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs associated with adoption of this proposed rule will result in increased revenues of \$50 for provision of manual materials and provider notice.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This rule will maintain high quality health care standards for Title XIX recipients in long term care facilities. There is no projected impact on recipients or providers resulting from this proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Labor Office of Workers' Compensation

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 23:1168 the Department of Labor, Office of Workers' Compensation, is hereby giving notice of its intention to adopt rules and regulations.

Comments should be forwarded to Stephen W. Cavanaugh, Director of Louisiana Department of Labor, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040. Written comments will be accepted through the close of business, 4:15 p.m., July 3, 1989.

Oral and written comments will be also accepted at the public hearing to be conducted July 10, 1989, at 9 a.m. The site of this public hearing will be the Louisiana Department of Labor, 1003 N. 23rd Street, Baton Rouge, LA. A copy of these rules may be obtained by contacting Stephen W. Cavanaugh at the above address.

Stephen W. Cavanaugh
Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Self-Insurers

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This program will increase the costs of operation of the Office of Workers' Compensation Administration by \$418,502. This estimate is independent of the income that implementation is expected to generate. Anticipated cost for distribution and mailing is approximately \$5,000 and printing approximately \$10,000. The increased cost in the Office of Workers' Compensation's operation includes salaries and equipment. The additional personnel will need to perform mandated duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Self-insured employers will pay a \$160 fee per application, anticipated applications - 2,000, which will generate approximately \$320,000. In addition, fines and penalties up to \$250 pursuant to R.S. 23:1170 et seq., are expected to generate another \$100,000 (based on estimates by other state administrations).
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Given that employers will be required to purchase workers' compensation insurance pursuant to R.S. 23:1168, the only increase to affected parties will be the application fee for Individual Self-Insured. Self-insured employers will be required to pay a \$160 fee per application, with 200 applications anticipated, which will generate approximately \$320,000.
R.S. 23:1170 provides for a penalty to be assessed against an employer for failure to secure compensation as provided in R.S. 23:1168. Penalties may be assessed up to \$250.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

R.S. 23:1168 is a state law which will require all employers, whether in the public or private sector, to carry workers' compensation insurance. Therefore, all employers subject to the provision of the Louisiana Workers' Compensation Act will be impacted.

Stephen W. Cavanaugh
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Eligibility Determinations

The Department of Social Services, Office of Eligibility Determinations, proposes to adopt the following rule in the Aid to Families with Dependent Children Program.

This policy change is mandated by Public Law 100-485, Sec. 402. The rule entitled "DEFRA Changes in AFDC Program" published in the *Louisiana Register*, Vol. 10, No. 12, December 20, 1984, pp. 1030-1031 shall have items II, III, and VII amended. Additionally, the rule entitled "AFDC Changes" published in the *Louisiana Register*, Vol. 8, No. 1, January 20, 1982 pp.8-9 shall have items I, IA, IB, and IV amended.

PROPOSED RULE

Effective October 1, 1989, the AFDC program will revise the Earned Income Disregards as follows:

1. The Standard Deduction will be \$90.
2. The maximum disregard for child care costs will be \$175 per child over age two per month and \$200 for children under age two per month. This disregard will be calculated after all other disregards are allowed.
3. The earned income tax credit will no longer be considered earned income and will be totally disregarded for AFDC purposes.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Eligibility Determinations, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held July 5, 1989 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: AFDC-Earned Income Disregards

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

We used the following assumptions to estimate implementation cost:

1. That 6 percent of caseload has earned income each month.
2. AFDC Caseload SFY 89/90: average monthly 93,351
SFY 90/91: average monthly 96,431
SFY 91/92: average monthly 99,613
3. That 75 percent of employed require child care for 2 children and that 25 percent of these are paying current maximum and that 5 percent of these are children under age 2.
4. That the above assumptions will compensate for the change in order of calculations.
5. That the FFP Rate will be 73.12 percent.

The cost of implementation is estimated at \$226,729 state and \$725,566 federal in FY 89-90, \$302,077 state and \$821,722 federal in FY 90-91, and \$312,046 state and \$848,840 federal in FY 91-92.

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)

AFDC recipients with earned income could receive increased benefits because of the increased earned income deductions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Howard L. Prejean
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Eligibility Determinations

The Department of Social Services, Office of Eligibility Determinations, proposes to adopt the following rule in the Food Stamp Program.

This rule is mandated by federal regulations as published in the *Federal Register*, Wednesday, February 15, 1989, Vol. 54, No. 30, pages 6989-7017. This provision shall be implemented by October 1, 1989.

Proposed Rule

The Food Stamp Program will implement policy changes in the replacement of benefits as follows:

1. Replacement of benefits

A. Replacement restrictions

Replacement issuances shall be provided only if a household timely reports a loss orally or in writing, and provides a statement of nonreceipt if the original authorization document or allotment has not been returned to OED at the time of the request for replacement. The report will be considered timely if it is made to OED within 10 days of the date an Authorization to Participate (ATP) card is stolen from the household, or an ATP card, coupons, or food purchased with food stamps is destroyed in a household misfortune. To replace an ATP lost in the mail or stolen prior to receipt the report must be made within the period of intended use, unless the original ATP was issued on or after

the twentieth of the month, in which case the period of intended use is the last day of the next month.

B. The Number of Replacement Issuances

The number of replacement issuances which a household may receive shall be limited as follows:

1. OED shall limit replacement issuances to a total of two countable replacements in six months for ATP cards not received in, or stolen from, the mail or ATP cards stolen after receipt.

2. OED shall limit replacement issuances per household to two countable replacements in six months for ATP cards or coupons reported as destroyed in a household misfortune. This limit is in addition to the limit in Paragraph B(1) of this Section.

3. No limit on the number of replacements shall be placed on the replacement of ATP cards or coupons which were improperly manufactured or mutilated or food purchased with food stamp benefits which was destroyed in a household misfortune.

4. The replacement issuance shall not be considered a countable replacement if:

- a) the original or replacement issuance is returned or otherwise recouped by the agency;
- b) the original ATP card is not transacted;
- c) the replacement ATP card is not transacted; or
- d) the replacement is being issued due to an agency issuance error.

5. In order for a replacement to be considered non-countable, the replacement must not result in a loss to the program.

6. Replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

C. Household Statement of Nonreceipt

Prior to issuing a replacement, the agency shall obtain from a member of the household a signed statement attesting to the household's loss. This statement shall not be required if the reason for the replacement is that the original ATP card or coupons were improperly manufactured or mutilated, or if the original issuance has already been returned. The required statement may be mailed to the agency if the household member is unable to come into the office because of age, handicap or distance from the office and is unable to appoint an authorized representative.

If the signed statement or affidavit is not received by the agency within 10 days of the date of report, no replacement shall be made. If the tenth day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the agency shall consider the statement timely received.

D. Time Limits for Making Replacements

Replacement issuances shall be provided to households within 10 days after report of nondelivery or loss or within two working days of receiving the signed household statement whichever date is later. Replacement of mutilated coupons shall be delayed until a determination of the value of the coupons can be made.

II. ATP Card Expiration Date

All ATP cards issued on or after the twentieth of a month shall have an expiration date of the next month.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA on Wednesday, July 5, 1989, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Food Stamp Program -
Replacement Issuances**

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

The estimated implementation cost is \$200 (\$100 state and \$100 federal) to print manual material. There is no cost or savings in Food Stamp benefits as benefits are 100 percent 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)

There is no cost or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Howard L. Prejean
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Bond Commission**

In accordance with the application provisions of the Administrative Procedure Act R.S. 49:950 et seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted on November 20, 1976.

The commission proposes to repeal Rule No. 4 and Rule No. 5 regarding non-traditional tax-exempt bond issues as follows:

4. The commission shall not approve the issuance of any bonds issued for the sole purpose of purchasing an existing facility when the only result of such financing will be a change in the ownership of the existing facility, other than for hospitals.

5. The commission shall not approve the issuance of any bonds for an existing facility unless 25 percent or more of the proceeds of the bonds will be used to construct additions, improvements and betterments thereto, pollution control projects and hospitals excepted.

Interested persons may submit their views and opinions through June 30, 1989, to Sherri A. Dazet, Secretary and Direc-

tor of the State Bond Commission, Third Floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804.

The State Bond Commission shall, prior to the adoption of the rule, afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. Opportunity for oral presentation or argument shall be granted if requested, by 25 persons, by a governmental subdivision or agency, by an association having not less than 25 persons, or by a committee of either house of the Legislature to which the proposed rule change has been referred, as required under the provisions of Section 968 of Title 49. Such hearing shall be held as provided by law.

At least eight working days prior to the meeting of the State Bond Commission at which a rule or rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral or written presentation shall be given to the director of the State Bond Commission. If the presentation is to be oral, such notice shall contain the name or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all State Bond Commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the persons submitting such written statement, who they are representing, and a copy of the statement itself. Such written statement will be sent to all State Bond Commission members prior to the meeting.

The commission shall consider all written and oral submissions concerning the proposed rules. Upon adoption of a rule, the commission if requested to do so by an interested person either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

Mary L. Landrieu
State Treasurer and Chairman

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Repeal of Rule No. 4 and No. 5 regarding non-traditional tax exempt bond issues

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

There will be no estimated implementation costs or savings to state or local governmental units.

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

There will be no estimated effect on revenue collections of state or local governmental units.

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

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT (Summary)

There will be no estimated effect on competition and employment.

Sherri A. Dazet
Director and Secretary

John R. Rombach
Legislative Fiscal Officer

Potpourri

POTPOURRI

Department of Natural Resources Office of the Secretary

Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1, notice is given that six claims amounting to \$18,664.61 were received during the month of May, 1989. During the same month, there were no claims approved, paid or denied.

No written comments were received regarding the notice in the May 1989 Potpourri Section of the *Louisiana Register*. However, in claim number 88-89-285, the amount is \$5,000, not \$5,674.50, and in claim number 88-89-230, the amount is \$5,000, not \$26,000.

Raymond W. Stephens, Jr.
Secretary

**CUMULATIVE INDEX
(Volume 15, Number 6)**

1989

<i>Pages</i>	<i>Issue</i>
3— 54	January
57— 136	February
141— 231	March
237— 346	April
353— 431	May
439— 517	June

AGRICULTURE AND FORESTRY DEPARTMENT

Agricultural and Environmental Sciences, Office of

- Advisory Commission on Pesticides, 76R, 441ER
- Chemistry Lab fee, 77R
- Crop pests, diseases
 - quarantine, 344P
 - Sweet potato weevil quarantine, 427P
- Feed Commission
 - Aflatoxin adulterant standards, 241ER
- Honeybee import, 49P
- Horticulture Commission
 - Landscape architect exam, 134P
 - Retail floristry exam, 134P, 427P
- Nursery certificate fee, 77R
- Seed Commission
 - Hybrid seed corn, 394N
 - Okra seed, 394N
 - Onion bulbs and seed, 394N
 - Rice seed, 394N
 - Soybean seed, 394N
- Seed Irish potato, 78R

Agro-Consumer Services, Office of

- Weights and Measures Commission
 - Registration, 78R

Animal Health Services, Office of

- Livestock Sanitary Board
 - Auction market, 395N
 - Definitions 394N
 - Permanent identification, 396N
 - Poultry slaughter, testing, 396N
 - Reporting contagious diseases, 397N
 - Video auction market, 501N

Forestry, Office of

- Burning fee, 503N
- Seedling prices, 398N
- Timber marking fee, 504N
- Timber stumpage, 5R
- Timberland fire protection, 79R

Management and Finance, Office of

- Central Registry
 - Farm product additions, 110N, 256R
- Meat, poultry, seafood fee, 79R
- Market Commission
 - Market bulletin, 75R

Marketing, Office of

- Crawfish Promotion Research Board
- Crawfish bags, 200N

CIVIL SERVICE DEPARTMENT

Civil Service Commission

- Amends certain rules, 201N
- Appeal disposition, 398N
- Disciplinary actions, 398N
- Layoff avoidance, 504N
- Leave, unclassified position, 505N
- Pay adjustment, 16N, 202N, 281N
- Preferred reemployment list, 505N
- Red Circle pay rate, 505N
- Referee decision review, 505N
- Restricted appointment, 505N
- Suspensions, 398N
- Unsatisfactory rating, 505N

ECONOMIC DEVELOPMENT DEPARTMENT

Architectural Examiners, Board of

- Application for exam, 5R
- Examination, 5R
- Nat'l. Council, Architectural Registration Bd., 506N
- Registration, 5R
- Renewal procedure, 507N

Auctioneers Licensing Board

- Licensing, 257R

Certified Public Accountants, Board of

- Education requirements, 399N, 402N
- Qualifying experience, 403N
- Permits, 404N

Commerce and Industry, Office of

- Finance Division
 - General Provisions, 408N
- Financial fees, 441ER
- Industrial Tax Equalization, 144ER
- LA Capital Companies Tax Credit, 147ER
- LA Industrial Training Program, 406N

Economic Development Corporation

- Minority and Women Business
 - Development, 242ER, 281N, 445R
- Minority Venture Capital Match
 - Program, 60ER, 293N, 464R
- Small Business Innovative Research Program, 405N
- Venture Capital Co-investment
 - Program, 61ER, 289N, 460R
- Venture Capital Match Program, 63ER, 292N, 463R
- Small Business Equity Program
 - Feasibility studies, 64ER, 288N, 459R
 - Loan guaranty, 64ER, 282N, 453R
 - Loan participation, 67ER, 285N, 456R

CR—Committee Report

EO—Executive Order

ER—Emergency Rule

L—Legislation

N—Notice of Intent

P—Potpourri

PPM—Policy and Procedure Memorandum

R—Rule

Financial Institutions, Office of

ABC Financial Services, Inc., 427P
 Fees, assessments, 294N, 465R

Racing Commission

Application form, 7R
 Bleeder medication, 7R
 Disqualified horse recognized as winner, 202N
 Horse registration, 7R, 3ER
 Super six, 8R
 Testing for dangerous substance abuse, 250ER,
 294N
 Twin trifecta, 8R

Real Estate Commission

Appraiser certification, 410N
 Exams, 80R
 License applications, 80R

Used Motor Vehicle and Parts Commission

Procedural changes, 111N, 258R, 375R
 Vehicle service contracts, 295N, 466R

EDUCATION DEPARTMENT**Elementary and Secondary Education, Board of**

8(g) Program, budget, 203N, 468R
 8(g) Calendar, 8R
 8(g) Policy Manual, 16N, 181R, 260R
 Act 832 implementation, 207N, 468R
 Bulletin 741
 Elective/exploratory class list, 442ER
 Elementary class flex time, 442ER
 H.S. credit for correspondence courses, 17N, 260R
 Journalism courses, 17N, 260R
 Local electives, 18N, 261R
 Maximum class size, K-3, 113N, 376R
 Pre-algebra, 80R
 Presidential election holiday, 298N
 Secondary local elective courses, 19N, 261R
 Sex education, 204N, 468R
 State Exit Exam, 373ER, 508N
 Bulletin 746
 Assistant Superintendent standards, 113N, 376R
 Reading specialist certification, 410N
 Bulletin 1191
 Transportation Handbook-Age requirement, 204N, 468R
 Transportation Handbook-Driver experience, 205N,
 468R
 Bulletin 1196
 Competitive food policy, 9R
 Bulletin 1213
 Type "D" buses, 298N
 Bulletin 1794
 Materials of Instruction/Textbooks procedure, 411N
 Child care food program, 9R
 Criterion referenced test/graduation test, 206N, 469R
 ECIA, ESEA application, 508N
 Homeless Children Education, 509N
 Migrant Education, 355ER, 510N
 Nonpublic school standards, 19N, 261R
 Remedial program, 250ER, 412N
 SSD No. 1 reduction in force, 253ER, 411N

Test scores, 69ER
 Test security, 70ER, 207N, 469R
 Teaching certificate denial, 9R

Proprietary School Commission

Licensure exemption, 210N, 377R
 Occupational studies degree assoc., 209N, 376R
 Staff qualifications, 210N, 378R

ENVIRONMENTAL QUALITY DEPARTMENT**Nuclear Energy Division**

NORM, 299N, 510N
 Radiation, 71ER

Solid and Hazardous Waste, Office of

Hazardous Waste Division
 Act 803, 211N, 378R
 Closure requirements, 181R
 Conformity II, 301N, 470R
 Discarded commercial chemicals, 181R
 Ignitable/reactive wastes, 181R
 Incompatible wastes, 181R
 Wastewater exclusions, 181R

Water Resources, Office of

Oil and Gas, 114N, 261R
 Water pollution, 73ER

EXECUTIVE ORDERS

BR 89-1—Amends BR 88-41 — Creating Governor's Special Task Force on Judicial Selection, 59
 BR 89-2—Amends BR 88-20 — Transferring Research Division to Department of Economic Development, 59
 BR 89-3—Amends BR 88-43 — Creating Employee Group Benefits Program Task Force, 59
 BR 89-4—Grants Excess Unused Ceiling to Certain Projects, 59
 BR 89-5—Increases Number of Ex-officio Members in Highway Safety Commission, 60
 BR 89-6—Amends BR 88-46 to appoint members to the Special Task Force from the Senate, 143
 BR 89-7—Creates a Task Force on Criminal Justice, 143
 BR 89-8—Declares a state of emergency for repairs to T.H. Harris Voc.-Tech School, 144
 BR 89-9—Appoints additional members to the Task Force on Criminal Justice, 144
 BR 89-10—Creates task force on disparity in state procurement, 239
 BR 89-11—Creates task force on shrimp management, 239
 BR 89-12—Composition and duties of the Louisiana Historical Records Advisory Commission, 240
 BR 89-13—Amends BR-89-7 to include another member on the task force, 355
 BR 89-14—Organizes the Louisiana Economic Development Cabinet, 355

CR—Committee Report**EO—Executive Order****ER—Emergency Rule****L—Legislation****N—Notice of Intent****P—Potpourri****PPM—Policy and Procedure Memorandum****R—Rule**

- BR 89-15—Creates the Governor’s Task Force on Welfare Reform within the Department of Social Services, 439
- BR 89-16—Establishes state employee awareness about substance abuse, 439
- BR 89-17—Authorizes inmate labor for certain renovations at LTI in Baton Rouge, 440
- BR 89-18—Authorizes inmate labor to repair oxidation pond at LTI in Baton Rouge, 440
- BR 89-19—Declares July 3-4 holidays, 440

GOVERNOR’S OFFICE

Architects Selection Board

Organization, 115N, 262R

Division of Administration

Commissioner’s Office

Uniform fee schedule, 302N

Contractual review, 81R

Risk Management

Insurance, 85R

State Planning

LCDBG final statement, '89, 20N, 182R, 212N, 378R

Elderly Affairs, Office of

Long-term care ombudsman, 213N, 379R

State Plan on Aging, 116N, 150ER, 263R

Title III-C Nutrition, 214N, 384R

Special Commission on Education Services

Award processing fee, 303N

Women’s Services, Office of

Marriage license fees, 117N, 268R

HEALTH AND HOSPITALS DEPARTMENT

Dietetics and Nutrition, Board of

Foreign graduate license, 86R

Embalmers and Funeral Directors, Board of

Embalmer requirements, 9R

Exam, 134P

Family Security, Office of

MAP

Adds drugs to MAC, 414N

Hospitals, Office of

Ambulance certification, 512N

Medical Examiners, Board of

Alternative qualification, 37N, 272R

Licensure, 36N, 271R

Physician records, 34N, 268R

Mental Health, Office of

OMR/MH/PRADA, Block Grant, 11R

Nursing Home Administrators, Board of Examiners for

Certified nurse asst., 3ER, 32N, 194R

Emergency license, 32N, 195R

License refusal, 33N, 195R

Reciprocity, 33N, 195R, 303N

Physical Therapy Examiners, Board of

Fees, 214N, 387R

Licensing/certification, 214N, 387R

Practice, 214N, 387R

Professional Counselors, Board of Examiners of

Code of Conduct/Declaration statement, 511N

Mental health counseling, 413N

Psychologists, Board of

Address display, 87R

Doctoral programs, 86R

License display, 87R

Public Health, Office of

Fee adjustment schedule, 254ER, 304N, 471R

Hemophilia program, 414N

Lead Poisoning Program, 88R

Sanitary Code

Mechanical wastewater treatment plant, 38N, 196R, 306N, 472R

Non-dairy frozen desserts, 88R

Reportable diseases, conditions, 305N, 471R

Sewage treatment, 307N

Temporary food service, 39N, 89R

Vital Records

Copies of records, 308N, 473R

Local registrars, 308N, 473R

Orleans Parish marriage license, 309N, 474R

Paternity, 118N, 272R

Records for research, 310N, 475R

Secretary, Office of

Block grants, 415N

Child placing agency, 222N

Day care center license, 222N

Fees, 312N, 476R

Infectious disease notification, 42N, 196R

LMAC-multiple source drugs, 255ER

LTC income disregards, 92R

LTC vacancy notice, 513N

MAP

Annual resident review, 374ER

Chronic mental illness, 320N, 478R

Facility Need Review Program, 220N, 392R, 416N, 418N

HIV disabled, 322N, 479R

Hospice care, 155ER, 328N, 482R

Infants, service limit, 331N, 485R

Inpatient hospital reimbursement, 326N, 482R

Insurance procedures, 319N, 483R

LTC facility screening, 328N, 484R

LTC medical eligibility for SNF, 329N, 484R

OSS payment increase, 221N, 392R

Preadmission screening, 374ER

Pregnant women, 324N, 482R

Provider ID instructions, 330N, 484R

Psychiatric care reimbursement, 442ER

SNF rate, technology dependent children, 374ER

SNF/TDC reimbursement, 443ER

Medicaid recipient rights, 346P

Medicare catastrophic coverage, 255ER

CR – Committee Report

EO – Executive Order

L – Legislation

N – Notice of Intent

PPM – Policy and Procedure Memorandum

ER – Emergency Rule

P – Potpourri

R – Rule

Need Review Policy, 11R
Pharmacist/Medical records practitioner, 512N
Physician inclusion of podiatrists, 49P
Reimbursement for inpatient hospital services, 155ER
Resident screening, review, 4ER
Sliding fee policy, 92R

INSURANCE DEPARTMENT

Insurance Education Advisory Council

Educational requirements for agents, 419N

JUSTICE DEPARTMENT

Attorney General Office

Electronic Video Bingo, 73ER, 74ER, 223N

LABOR DEPARTMENT

Employment Security, Office of

Board of Review

Claims appeal, 120N, 485R

Employment security law, 122N, 487R

Labor, Office of

Community Services Block Grant, 332N

Job Training Partnership Act, 332N, 496R

Research and Statistics

Data estimates, 134P

Worker's Compensation, Office of

Self-insurers, 514N

LOUISIANA ADMINISTRATIVE CODE UPDATE

October, 1988 -- December, 1988, 47

January, 1989 - March, 1989, 343

NATURAL RESOURCES DEPARTMENT

Conservation, Office of

Hazardous liquid pipeline, 224N, 420N

Injection and Mining Division

Hearing 430P, 430P

Public hearing, 230P, 230P, 231P, 429P

Statewide order 29-N-2, 225N

Statewide order 29-Q-1, 421N

Fishermen's Gear Compensation Fund

Claims, 49P, 135P, 228P, 346P, 427P, 517P

Fee notice, 334N, 497R

PUBLIC SAFETY AND CORRECTIONS DEPARTMENT

Motor Vehicles, Office of

License plate removal, 374ER, 421N

Private Security Examiners, Board of

Amendments, 11R

State Fire Marshal, Office of

Health care facility emergency generator, 95R

Life Safety Code, 96R

REVENUE AND TAXATION DEPARTMENT

Secretary, Office of

Dealer recordkeeping, 124N, 274R

Tax collection alternatives, 122N, 274R

Tax Commission

Residential property appraisal, 430P

Timber stumpage, 5R

SECRETARY OF STATE DEPARTMENT

Secretary, Office of

Foreign corporations, 125N, 338N, 498R

SOCIAL SERVICES DEPARTMENT

Community Services, Office of

Children's trust fund, 129N, 279R

Executive Committee, 423N

LIHEAP, 335N, 498R

Parliamentary Procedure, 423N

Proprietary school, 422N

SSBG, 336N, 431P

Telephone Access Program, 423N

Three-year State Plan, 423N

Eligibility Determinations

AFDC Program

Bona fide loans, 225N, 392R

Child support enforcement, 96R

Earned income disregards, 515N

Error rate, 130N, 279R

Essential persons, 156ER, 337N, 497R

Food Stamp Program

Dependent Care, 14R

Earned income tax credit, 226N, 393R

Foster care, 227N, 393R

Foster children, 74ER

Pre-release applications, 337N, 497R

Public institution residents, 157ER

Replacement issuances, 515N

IFG Program, 444ER

Income tax credit, 74ER

RCA recipients' monthly reporting, 424N

Work requirements, 96R

Licensed Professional Vocational

Rehabilitation Counselors, Board of

General Provisions, 126N, 275R

Secretary, Office of

LIHEAP, 335N, 498R

Public hearing, 52P

CR – Committee Report

EO – Executive Order

ER – Emergency Rule

L – Legislation

N – Notice of Intent

P – Potpourri

PPM – Policy and Procedure Memorandum

R – Rule

**TRANSPORTATION AND DEVELOPMENT
DEPARTMENT**

Maintenance

Driveway permit, 48CR

Secretary, Office of

Ferry toll, 43N, 44N, 444ER, 444ER

Real Estate, 157ER

Traffic and Planning

Outdoor advertising, 15R

Weights and Measures

Airport fuel vendors/distributors, 15R

Fees for manuals, 15R

New product evaluation, 48CR

Project inspections, 48CR

Qualified product list, 48CR

TREASURY DEPARTMENT

Bond Commission

Applications, 4ER, 44N, 197R

Tax-exempt bond issues, 375ER, 516N

State Employees Group Benefits Program

Admission dates, 97R

Dental surgery, 97R

Emergency Room, 130N, 279R

Fee schedule, 131N, 280R, 339N, 499R

HMO's, 97R

Obesity treatment, 99R

Out-patient surgery, 100R

Rate increase, 132N, 280R

Single claim determination period, 133N, 280R

State Employees' Retirement System

Active member trustees, 342N

WILDLIFE AND FISHERIES DEPARTMENT

Fisheries, Office of

Oyster lease rental, 49CR

Oyster lease survey, 197R

Wildlife and Fisheries Commission

Black and Clear Lakes net ban, 15R

Fish seining prohibition, 133N, 281R

Free fishing days, 424N

Hunting seasons, 425N

Lake Bistineau netting prohibition, 426N

Mesh size for nets, 256ER

Refugee, wildlife management areas, 100R

Saltwater gill and trammel nets, 46N, 280R

Seizure, forfeiture, disposition, 426N

Shrimp season, 4ER, 46N, 375ER, 445ER, 445ER

Spotted seatrout, 256ER

Toledo Bend Reservoir-

Black bass prohibition, 227N, 393R

Waterfowl conservation stamp, 105R

Wildlife value guidelines, 45N, 200R

CR – Committee Report

EO – Executive Order

L – Legislation

PPM – Policy and Procedure Memorandum

ER – Emergency Rule

N – Notice of Intent

P – Potpourri

R – Rule

