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Executive Orders

EXECUTIVE ORDER BR 89-38

WHEREAS, the construction of I-49 from Lafayette, Louisiana to Shreveport, Louisiana is nearing completion by the Department of Transportation, State of Louisiana; and

WHEREAS, the right-of-way of I-49 has been acquired through a particularly scenic area of the State of Louisiana; and

WHEREAS, it is to the benefit of the citizens of the State of Louisiana and the traveling public to preserve the uniquely scenic beauty of the countryside which adjoins Interstate Highway 49;

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

Section 1: The Louisiana Department of Transportation and Development shall not issue permits for the installation of outdoor advertising signs on I-49 until such time as a study is completed to determine if a standard policy and procedure can be established by the Louisiana Department of Transportation and Development for installation of alternate devices for informing the traveling public of services provided and historical sites along the interstate highway.

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 8th day of December, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 89-39

WHEREAS, Executive Order BR 89-11 issued on March 30, 1989, established the Governor's Task Force on Shrimp Management; and

WHEREAS, it is necessary to expand the membership of said task force to include those listed below;

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

That said executive order is hereby amended and the Governor's Task Force on Shrimp Management is expanded to include one additional shrimp fisherman from the coastal area of Louisiana and that the composition of the said task force shall be as follows:

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

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 the 21st day of December, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 89-40

WHEREAS, Executive Order (the "executive order") was executed by the governor of the State of Louisiana (the "governor") on September 1, 1988 pursuant to the provisions of the Tax Reform Act of 1986 (the "Act") and provides for the allocation of bonds subject to the private activity bond volume limits of the Act for the calendar year ending December 31, 1989 (the "ceiling"); and

WHEREAS, Section 4.14 of the executive order provides that if the ceiling exceeds the aggregate amount of bonds during any year by all issuers, the governor may allocate such excess to issuers for one or more carryforward projects permitted under Act through the issuance of an executive order; and

WHEREAS, there remains, as of the date hereof, \$67,441,689 of the ceiling which was not used for projects in the calendar year ending December 31, 1989; and

WHEREAS, the governor desires to allocate all of the excess unused ceiling to certain projects which are eligible for a carryforward under the Act:

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

SECTION 1. Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, and in accordance with the request for carryforwards filed by the issuing authorities listed below, there is hereby allocated to said issuing authorities the following amounts of excess unused private activity volume limit under the ceiling for the following carryforward projects:

ISSUER	CARRYFORWARD PROJECT	CARRYFORWARD AMOUNT
Louisiana Housing Finance Agency	Multi-family Mortgage Revenue Bonds (Westview Project-Jefferson Parish)	\$ 3,745,000
Village of Hodge	Renovation of electric utility system (Stone Container Corp.)	\$63,696,689

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 the 29th day of December, 1989.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Real Estate Commission

The Louisiana Real Estate Commission has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B to repeal the following rules to be effective January 20, 1990.

These rule amendments were inadvertently included in the major rule revision of December 1989.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Chapter 21. Trade Names and Names of Licensees

§2109. Corporate License

A license issued in the name of a corporation shall be limited to the legal name of the corporate entity and shall not include any additional trade names or surnames.

§2111. Incorporated License

The trade name of a licensee that is incorporated must be licensed in exactly the same manner and name as it appears on the corporate charter.

§2113. Symbols or Trademarks

Brokers who use franchise, trade, service, or professional names, symbols, or trademarks in connection with their activities, shall register such name, symbol, or trademark with the commission; disclose to the public in all advertising, with the exception of standard picket yard signs, that the said real estate brokerage firm is independently owned and operated.

§2115. No Similar Trademarks

A symbol or trademark utilized under this rule shall not be similar or substantially similar to any other symbol or trademark that is registered with the commission.

Chapter 25. Advertising

§2515. Valuable Consideration to Purchasers

If, in any advertisement, the owner offers any prize, money, cash discount, free gift or other valuable consideration to a purchaser or lessee or any prospective purchaser or lessee, then said advertisement shall clearly disclose that any such prize, money, cash discount, free gift or other valuable consideration is being offered by the owner of the property and not the real estate broker.

Jane H. Moody
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education Revised Certification Fee Schedule

The State Board of Elementary and Secondary Education, at its meeting of December 14, 1989, exercised those

powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and approved the revised certification fee schedule as listed below. This schedule supersedes the fee schedule which was published as an emergency rule in the August, 1989 issue of the *Louisiana Register*.

CERTIFICATION FEE SCHEDULE

(All Certification Fees are Nonrefundable)

INITIAL CERTIFICATION APPLICATION FEE

TEACHING CERTIFICATES \$55

Type C certificate

Temporary Certificate (initial certificate only)

Emergency permit

Temporary employment permit

ANCILLARY CERTIFICATE \$50

VTIE

Full-time, day postsecondary and secondary \$50

Extension postsecondary and secondary \$25

Duplicate certificates \$15

Additional transactions \$25

There will be no certification fee for extension personnel who are certified by the Department of Health and Hospitals (DHH) to teach the EMT programs.

There will be no certification fee for the specialized business/industry training program personnel.

ADDITIONAL CERTIFICATION

ENDORSEMENT/TRANSACTIONS \$25

Additional Endorsement to Certificate

Higher Certificate

Name Change

Adding Degree

Extension

Written evaluations (limit two)

APPEAL EVALUATION \$25

DUPLICATE CERTIFICATE \$15

COPIES OF MATERIAL IN FOLDER \$ 5

Letters - per letter

Transcripts - each university

NTE scores

BULLETIN 746, Louisiana Standards for State Certification of School Personnel

PART A - Teachers, administrators

and ancillary personnel

\$12

PART B - Vocational-technical

personnel

\$ 6

Certified check or money order to be made payable to the Louisiana Department of Education

Fee valid for one year pending completion of transaction or request.

EFFECTIVE DATE: January 1, 1990 (This supersedes policy previously adopted as an emergency rule.)

At its December meeting, BESE amended the revised Teacher Certification Fee Schedule instead of adopting the policy which had been advertised as a notice of intent; therefore, the emergency adoption is necessary in order to continue the fee schedule which has been in effect since September 1, 1989. This was published as an emergency rule in the August, 1989 issue of the *Louisiana Register*.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Department of Employment and Training Office of Employment Security

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 954(2), and under the authority granted to the secretary of labor, notice is hereby given that §361.C of Title 40, Part IV, Chapter 3 is amended to delete from the definition of "Interim Employment" the following language ". . . , not to exceed 90 days". The reason for this change is that the proposed deleted language does not reasonably apply to the definition of interim employment and the agency finds that its application results in an imminent peril to public welfare.

Title 40

LABOR AND EMPLOYMENT Part IV. Employment Security

Chapter 3. Employment Security Law §361. Types of Employment

A. - B. ...

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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:495 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 16:

Bernard J. Francis, Sr.
Assistant Secretary

DECLARATION OF EMERGENCY

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

The Governor's Special Commission on Education Services (GSCES) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to amend and adopt the 1987 Policy and Procedure Manual and all subsequent Loan Program Memorandums (LPM's) for the student loan programs.

The manual and LPM's effective January 20, 1990, repeal and replace the GSCES Manual of 1984. The 1987 Manual reflects provisions of the Higher Education Amendments of 1986 (Public Law 99-498) and the United States Department of Education's November 10, 1986, GSL and PLUS Regulations (*Federal Register*, Vol. 51, No. 217, 40886-40947).

It is necessary to adopt the 1987 Policy and Procedure Manual and repeal the 1984 Policy and Procedure Manual to bring GSCES's policies and procedures in compliance with federal regulations.

GSCES supplies copies of the 1987 Policy and Procedure Manuals and LPM's to participating schools and lenders participating in the commission's federal guaranteed student loan programs. The manuals are maintained in accordance with federal regulations by the issuance of LPM's.

The 1987 Policy and Procedure Manual and LPM's can be viewed from 7:45 a.m. to 4:30 p.m., Monday through Friday at the GSCES, State Retirement System Building, 8401 United Plaza, Suite 250, Baton Rouge, LA 70809.

Jack Guinn
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. 49:953 B, to adopt the following rule in the Medical Assistance Program.

Section 1919 (h)(2)(A)(ii) of the Social Security Act requires that a civil money penalty be assessed and collected, with interest, for each day in which the facility is or was out of compliance with federal, state and Department of Health and Hospitals requirements. Under this statute, the state is required to adopt criteria specifying when and how such remedy is to be applied effective October 1, 1989.

Under prior policy established by La. R.S. 40:2009.1 and 40:2009.11, civil fines of \$100 per day for the first violation and \$1,000 per day for confirmed repeat violations for each day that such violations continue are authorized.

In order to properly administer application of these fines, the Department of Health and Hospitals establishes guidelines concerning severity of violations and other factors which will be considered in assessment of civil fines.

RULE

The Department of Health and Hospitals establishes guidelines concerning factors which will be considered in assessment of civil fines. Specific classifications of violations are defined as follows:

Class A - Violations which create a condition or occurrence relating to the operation and maintenance of a nursing facility which results in death or serious harm to a resident.

Class B - Violations which create a condition or occurrence relating to the operation and maintenance of a nursing facility which created a substantial probability that death or serious physical harm to a resident will result from the violation.

Class C - Violations that create a condition or occurrence relating to the operation and maintenance of a nursing home facility which create a potential for harm by directly threatening the health, safety, rights, or welfare of a resident.

Class D - Violations related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a resident.

Class E - Failure of any nursing facility to submit a statistical or financial report in a timely manner as required by regulation.

I. DEFINITIONS

As used in these regulations, the following definitions will apply, unless context requires otherwise.

Act means a bodily movement, and includes speech and the conscious possession or control of property.

The verb "act" means either to perform an act or to omit

to perform an act.

Actor includes, where appropriate, a person who performs a bodily movement, possesses something or who omits to act.

Bureau means The Department of Health and Hospitals, Bureau of Health Services Financing.

Civil Penalties are an assessment of financial fines against a licensee for violations of regulations.

Conduct means an act or omission and its accompanying mental state.

Department is the Louisiana Department of Health and Hospitals.

Element of the Offense means the conduct, the attendant circumstances, and the result of the conduct that:

- a. is specified in the definition of the offense, or
- b. establishes the kind of culpable mental state required for commission of the offense, or
- c. negates an excuse or justification of the conduct.

Facility/Licensee is a nursing facility which is required to be licensed under R.S. 40:2009.3.

Follow-up Visit is the required visit by surveyors to confirm the completeness and effectiveness of a corrective action plan.

Knowingly means a person acts knowingly with respect to his conduct or the attendant circumstances when he is aware that his conduct is of that nature or that such circumstances exist. A person acts knowingly with respect to a result of his conduct when he is aware that it is practically certain that his conduct will cause such a result.

Law includes statutes and court decisions.

Negligently means a person acts negligently with respect to attendant circumstances or a result of his conduct when he should be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation.

Omission means a failure to perform an act, the performance of which is required by law.

Person, actor, defendant, s/he or her/him includes any natural person and where appropriate, an organization as that is defined in Louisiana Civil Code Art. 24.

Physical harm or physical injury means the impairment of physical condition or the infliction of substantial pain.

Possess means to exercise actual dominion, control or management over a tangible object.

Potential for Harm means a violation which, while not directly resulting in death or serious physical harm or the probability of these, presents a threat to the health, safety, rights, or welfare of the resident.

Probable Harm means a violation in which the act, omission, condition of the patient or a combination of these, serious enough that death or serious physical harm may be expected to occur.

Purposely means a person acts purposely with respect to his conduct or a result thereof when it is his conscious object to engage in conduct of that nature or to cause such a result.

Reasonably believes or reasonable belief means the belief that an ordinary prudent person would form under the circumstances in question and one not recklessly or negligently formed.

Recklessly means a person acts recklessly with respect to

attendant circumstances or a result of his conduct when he consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of a nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the actor's situation.

Regulation means:

- a. any state or federal regulation pertaining to licensure of a nursing facility.
- b. any state or federal regulation relating to Title XIX Medicaid certification.

Scope means the frequency, incidence, or extent of the occurrence of a violation in the facility.

Secretary is the secretary of the Department of Health and Hospitals.

Serious Physical harm or injury means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of the function of any bodily member or organ.

Severity is the seriousness of a violation, that is, the degree of actual or potential negative impact on a resident (as measured by negative outcome of care or rights violations) or the degree to which one's highest practicable physical, mental or psychosocial well being has been compromised.

Statute includes the Constitution and any statute of this state, [any ordinance of a political subdivision of this state,] and any rule or regulation lawfully adopted by an agency of this state.

Violation means:

- a. Class A violations create a condition or occurrence relating to the operation and maintenance of a nursing facility resulting in death or serious physical harm to a resident.
- b. Class B violations create a condition or occurrence relating to the operation and maintenance of a nursing home facility which creates a substantial probability that death or serious physical harm to a resident will result therefrom.
- c. Class C violations create a condition or occurrence relating to the operation and maintenance of a nursing facility which creates a potential for harm by directly threatening the health, safety, welfare, or rights of a resident.
- d. Class D violations shall relate to administrative and reporting requirements that do not directly threaten the health, safety, welfare, or rights of a resident.
- e. Class E violations shall relate to the timely submittal of statistical and financial reports to the Bureau of Health Services Financing. The failure to timely submit a statistical or financial report shall be considered a separate Class E violation during any month or part thereof noncompliance. In addition to any civil fine which may be imposed, the director is authorized after the first month of a Class E violation to withhold any further reimbursement to the long term care facility until the statistical and financial report is received by the Bureau of Health Services Financing.

II. CIVIL FINES

The following listed civil fines pertaining to classified violations may be assessed by the secretary against nursing facilities. In the case of Class A, B, or C violations, the following civil fines shall be assessed. In the cases of Class D or E violations, the secretary, in his discretion, may elect to assess the following civil fines or may allow a specified period of time for correction of said violation. For Class D and E violations, the facility will be given notice of the fine at the time of the first violation and may be given an opportunity to demonstrate compliance before the

fine becomes final. If compliance is demonstrated on the follow-up visit, payment of fine may be waived. In all instances the violation is counted and recorded. If compliance is not demonstrated at the next visit, the penalty for a repeat violation will be assessed. No facility shall be penalized because of a physician's or consultant's nonperformance beyond the facility's control or if the violation is beyond the facility's control, if the situation and the efforts to correct it are clearly documented. It is not the intent that every violation found on a survey, inspection, or related visit should be accompanied by an administrative penalty.

1. Class A violations are subject to a civil fine of \$100 a day. A second Class A violation occurring within an 18-month period from the first violation shall result in a civil fine of \$1000 per day. The third Class A violation shall result in proceedings being commenced for termination of the facility's Medicaid agreement and may result in proceedings being commenced for revocation of licensure of the facility.

2. Class B violations are subject to a civil fine of \$100 a day. A second Class B violation occurring within an 18-month period from the first violation shall result in a civil fine of \$1000 per day. The third Class B violation shall result in proceedings being commenced for termination of the facility's Medicaid agreement and may result in proceedings being commenced for revocation of licensure of the facility.

3. Class C violations are subject to a civil fine of \$100 a day. A second Class C violation occurring within an 18-month period from the first violation shall result in a civil fine of \$1000 per day. The third Class C violation shall result in proceedings being commenced for termination of the facility's Medicaid agreement and may result in proceedings being commenced for revocation of licensure of the facility.

4. Class D violations are subject to a civil fine of \$100 for each violation. Each subsequent Class D violation within an 18-month period from the first violation shall subject the facility to a civil penalty of \$1000 per day.

5. Class E violations are subject to a civil fine of \$100 for each violation. Each subsequent Class E violation occurring within an 18-month period from the first violation shall subject the facility to a civil fine of \$1000 per day.

III. FACTORS IN ASSESSMENT OF CIVIL FINES

In determining whether a civil fine is to be assessed and in affixing the amount of the fine to be imposed the Secretary shall consider:

1. the gravity of the violation including the probability that death or serious physical harm to a resident will result or has resulted;

2. the severity and scope of the actual or potential harm;

3. the extent to which the provisions of the applicable statutes or regulations were violated;

4. the "good faith" exercised by the licensee. Indications of good faith include, but are not limited to:

a. awareness of the applicable statutes and regulations and reasonable diligence in securing compliance;

b. prior accomplishments manifesting the licensee's desire to comply with requirements;

c. efforts to correct; and

d. any other mitigating factors in favor of the licensee.

5. any relevant previous violations committed by the licensee.

6. the financial benefit to the licensee of committing or continuing the violation.

7. approved waivers.

Right to Assess Civil Fines not Merged in other Remedies

Assessment of a civil fine provided by this Section shall not affect the right of the Department of Health and Hospitals to take such other action as may be authorized by law or regulation.

IV. CLASS A VIOLATIONS

Class A violations are:

Violations which create a condition or occurrence relating to the operation and maintenance of a nursing facility which results in death or serious harm to a resident.

The following examples of Class A violations are provided for illustrative purposes only and are subject to the conditions set out in Section III.

1. Death of a Resident

Any condition or occurrence relating to the operation of a nursing facility in which the conduct, act or omission of a person or actor purposely, knowingly or negligently results in the death of a resident shall be a Class A violation.

2. Serious Physical Harm to a Resident

Any condition or occurrence relating the operation of a nursing facility in which the conduct, act or omission of a person or actor purposely, knowingly or negligently results in serious physical harm to a resident shall be a Class A violation.

V. CLASS B VIOLATIONS

Class B violations are those violations which create a condition or occurrence relating to the operation and maintenance of a nursing facility which creates a substantial probability that death or serious physical harm to a resident will result from the violation.

The following examples of Class B violations are provided for illustrative purposes only and are subject to the conditions set out in Section III.

1. Probability of Death or Serious Physical Harm

The following conduct, acts or omissions, when not resulting in death or serious physical harm, but which create a substantial probability that death or serious physical harm to a resident will result therefrom are conditions or occurrences relating to the operation of a nursing facility which are Class B violations:

a. Nursing Techniques. A Class B violation shall exist when good nursing practice is not exercised and this results in the following occurrences:

i. medications or treatments are improperly administered or withheld by nursing personnel;

ii. there is a failure to adequately and appropriately feed residents who are unable to feed themselves or there is use of specialized feeding equipment and substances which are outdated, not protected from contamination or incorrectly used;

iii. there is a failure to change or irrigate catheters as ordered by a physician or there is use of irrigation sets and solutions which are outdated or not protected from contamination;

iv. there is a failure to obtain physician orders for the use, type and duration of restraints; or physical restraints are improperly applied or facility personnel fail to check and release restraint as specified in regulations;

v. staff knowingly fails to answer call lights;

vi. there is a failure to turn or reposition as ordered by a physician or as specified in regulations;

vii. there is a failure to provide rehabilitative nursing as ordered by a physician or as specified in regulations.

b. Poisonous Substances. A Class B violation shall exist when a facility fails to provide proper storage of poisonous substances.

c. Falls by Residents. A Class B violation shall exist when a facility fails to maintain required direct care staffing, follow phy-

sician's orders, provide a safe environment, or address a history of falls on a resident's care plan, and this failure directly causes a fall by a resident. (Examples: equipment not properly maintained, or a fall due to personnel not responding to patient request for assistance.)

d. Assaults. A Class B violation shall exist when a facility fails to maintain required direct care staffing, adequately trained staff, or take appropriate measures when it is known that a resident is combative and assaultive with other residents, and this failure causes an assault upon a resident of the facility by another resident. A Class B violation shall also exist when a faculty fails to perform adequate screening of personnel and this failure causes an assault upon a resident by an employee of the facility.

e. Permanent Injury to a Resident. A Class B violation shall exist when facility personnel improperly apply physical restraints as directed by physician's orders or regulations, and this failure causes permanent injury to a resident.

f. Nosocomial Infection. A Class B violation shall exist when a facility does not follow or meet nosocomial infection control standards as outlined by regulations or as ordered by the physician.

g. Medical Services. A Class B violation shall exist when a facility fails to secure proper medical assistance or orders from a physician and this creates the probability of death or serious harm of a resident.

h. Decubitus Ulcers. A Class B violation shall exist when a facility does not take decubitus ulcer measures as ordered by the physician or facility personnel fail to notify the physician of the existence or change in the condition of such ulcers and such failure creates a probability of death or serious physical harm of a resident.

i. Treatments. A Class B violation shall exist when facility personnel perform treatment(s) contrary to a physician's order or fail to perform such treatments and such treatment creates the probability of death or serious physical harm of a resident.

j. Medications. A Class B violation shall exist when facility personnel knowingly withhold medication from a resident as ordered by a physician and such withholding of medication(s) creates the probability of death or serious injury of a resident; or facility personnel fail to order and/or stock medication(s) prescribed by the physician and the failure to order and/or stock medication(s) creates a probability of death or serious harm of a resident.

k. Elopement. A Class B violation shall exist when a facility does not provide reasonable supervision of residents to prevent a resident from wandering away from the facility and such failure creates the probability of death or serious harm to a resident; or a facility does not provide adequate measures to ensure that residents with an elopement history do not wander away from the facility. (Examples of preventive measures include but are not limited to documentation that an elopement history has been discussed with the family or other caretaker of the resident, alarms have been placed on exit doors, personnel have been trained to make additional effort to watch the resident with such history, and the physician of such resident has been made aware of such history.)

l. Failure to Provide Heating or Air Conditioning. A Class B violation shall exist when a facility fails to reasonably maintain its heating and air conditioning system as required by regulation. Isolated incidents of breakdown or power failure shall not be considered Class B violations under this Section.

m. Natural Disaster/Fire. A Class B violation shall exist when a facility does not train staff in fire/disaster procedures as

required by regulations or when staffing requirements are not met.

n. Life Safety Code System. A Class B violation shall exist when a facility fails to maintain the required life safety code systems. Isolated incidents of breakdown shall not be considered a Class B violation if the facility has immediately notified the Health Standards Section upon discovery of the problem and has taken all necessary measures to correct the problem.

o. Nursing Equipment/Supplies. A Class B violation shall exist if equipment and supplies to care for a resident as ordered by a physician are not provided; or if the facility does not have sufficient equipment and supplies for residents as specified by regulation and these conditions create a probability of death or serious harm to a resident.

p. Call System. A Class B violation shall exist when a facility fails to maintain a resident call system or the call system is not functioning for a period of more than 24 hours. If call system cords are not kept within reach of residents then it will be determined that the facility has failed to maintain a resident call system and this failure creates a probability of death or serious physical harm to a resident.

VI. CLASS C VIOLATIONS

The following conduct, acts or omissions, when not resulting in death or serious physical harm to a resident, or the substantial probability thereof but create a condition or occurrence relating to the operation and maintenance of a nursing home facility which creates a potential for harm by directly threatening the health, safety, rights or welfare of a resident.

The following examples of Class C violations are provided for illustrative purposes only and are subject to the conditions outlined in Section III.

1. Nursing Techniques. A Class C violation shall exist when good nursing practice is not exercised and this results in the following occurrences:

a. medications or treatments are improperly administered or withheld by nursing personnel;

b. there is a failure to adequately and appropriately feed residents who are unable to feed themselves or there is use of specialized feeding equipment and substances which are outdated, not protected from contamination or incorrectly used;

c. there is a failure to change or irrigate catheters as ordered by a physician or there is use of irrigation sets and solutions which are outdated or not protected from contamination;

d. there is a failure to obtain physician orders for the use, type and duration of restraints; or physical restraints are improperly applied, or facility personnel fail to check and release the restraint as specified in regulations;

e. staff knowingly fails to answer call lights;

f. there is a failure to turn or reposition residents as ordered by a physician or as specified in regulations;

g. there is a failure to provide rehabilitative nursing as ordered by a physician or as specified in regulations.

2. Poisonous Substances. A Class C violation shall exist when a facility fails to provide proper storage of poisonous substances and this failure threatens the health, safety, rights or welfare of a resident.

3. Falls by Residents. A Class C violation shall exist when it is determined that falls may occur in a facility as a result of the facility's failure to maintain required direct care staffing or a safe environment (including adequate training of staff) as set forth in regulation and this failure threatens the health, safety, rights or welfare of a resident.

4. Assaults. A Class C violation shall exist when a facility

fails to maintain required direct care staffing or measures are not taken when it is known that a resident is combative and assaultive with other residents and this lack threatens the health, welfare, rights or safety of a resident.

5. **Improper Use of Restraints.** A Class C violation shall exist when facility personnel apply physical restraints contrary to published regulations or fail to check and release such restraints as directed by physician's order or regulations and such failure threatens the health, safety, rights or welfare of a resident.

6. **Medical Services.** A Class C violation shall exist when a facility fails to secure proper medical assistance or orders from a physician and this failure threatens the health, safety, rights or welfare of a resident.

7. **Decubitus Ulcers.** A Class C violation shall exist when a facility does not take decubitus ulcer measures as ordered by the physician and this failure threatens the health, safety, rights or welfare of a resident; or facility personnel fail to notify the physician of such ulcers or change in a resident's condition with regard to decubitus ulcers and this failure threatens the health, safety, rights or welfare of a resident.

8. **Treatments.** A Class C violation shall exist when facility personnel perform treatments contrary to physician's order or fail to perform such treatments and such treatment threatens the health, safety, rights or welfare of a resident.

9. **Medications.** A Class C violation shall exist when facility personnel withhold physician-ordered medication(s) from a resident and such withholding threatens the health, safety, rights or welfare of a resident; or facility personnel fail to order or stock medication(s) prescribed by the physician and this failure threatens the health, safety, rights or welfare of a resident.

10. **Elopement.** A Class C violation shall exist when a facility does not provide reasonable supervision of residents to prevent a resident from wandering away from the facility and such failure threatens the health, safety, rights or welfare of a resident; or a facility does not provide adequate measures to ensure that residents with a history of elopement do not wander away from the facility and such failure threatens the health, safety, rights or welfare of a resident.

11. **Food On Hand.** A Class C violation shall exist when there is an insufficient amount of food on hand in the facility to meet the menus for the next three-day period and this failure threatens the health, safety, rights or welfare of a resident.

12. **Nursing Equipment/Supplies.** A Class C violation shall exist if equipment and supplies to care for a resident as ordered by a physician are not provided; or if the facility does not have sufficient equipment and supplies for residents as specified by regulation and these conditions threaten the health, safety, rights or welfare of a resident.

13. **Call System.** A Class C violation shall exist when a facility fails to maintain a resident call system or the call system is not functioning for a period of 24 hours. If call system cords are not kept within reach of residents then it will be determined that the facility has failed to maintain a resident call system and this failure threatens the health, safety, rights or welfare of a resident.

14. **Heating and Air Conditioning.** A Class C violation shall exist when a facility fails to maintain its heating and air conditioning systems as required by regulation and such failure threatens the health, safety, rights or welfare of a resident. Isolated incidents of breakdown or power failure shall not be considered a Class C violation under this Section.

15. **Natural Disaster/Fire.** A Class C violation shall exist when a facility does not train staff in fire/disaster procedures as required by regulations or when staffing requirements are not

met and this failure threatens the health, safety, rights or welfare of a resident.

16. **Life Safety Code System.** A Class C violation shall exist when a facility fails to maintain the required life safety code systems and this threatens the health, safety, rights or welfare of a resident. Isolated incidents of breakdown shall not be considered a Class C violation if the facility has immediately notified the Health Standards Section upon discovery of the problem and has taken all necessary measures to correct the problem.

17. **Dietary Allowance.** A Class C violation shall exist when it is determined that the minimum dietary needs of a resident are not being met as ordered by the physician.

18. **Resident Rights.** A Class C violation shall exist when facility personnel fail to inform a resident of his Resident Rights as outlined in regulation; or facility personnel fail to allow a resident to honor or exercise any of his rights as outlined in regulation or statute.

19. **Sanitation.** A Class C violation shall exist when it is determined that regulations relating to sanitation are not met and this failure threatens the health, safety, or welfare of the resident.

20. **Administrator.** A Class C violation shall exist when it is determined that facility does not have a licensed administrator for 30 or more consecutive days as required by regulation.

21. **Director of Nurses.** A Class C violation shall exist when it is determined that facility does not have a Director of Nurses (DON) as required by regulation for 30 or more consecutive days unless a waiver has been granted by the department.

22. **Notice of Staff Vacancy.** A Class C violation shall exist when it is determined that a facility does not have a licensed administrator or a director of nurses and has not notified the bureau within 10 days as required by regulation.

VII. CLASS D VIOLATIONS

Class D violations are related to administrative and reporting requirements that do not directly threaten the health, safety, rights or welfare of a resident.

The following examples of Class D violations are provided for illustrative purposes only and are subject to the conditions outlined in Section III.

1. **Quarterly Staffing Reports.** A Class D violation shall exist when a facility does not submit quarterly staffing reports within 10 days following the deadline given for submission of these reports.

2. **Overbedding.** A Class D violation shall exist when a facility is found to exceed its licensed bed capacity.

3. **False Reporting.** A Class D violation shall exist when it has been determined that a report, physician's orders, nurses' notes, patient account records, staffing records, or other documents or records which the facility is required to maintain have been intentionally falsified.

4. **Resident Trust Funds.** A Class D violation shall exist when it is determined that the facility's records reflect that resident trust funds have been misappropriated by facility personnel or if a resident has been charged for items which the facility must provide at no cost to the resident.

5. **Denial of Access to Facility.** A Class D violation shall exist when it is determined that personnel from the Louisiana Department of Health and Hospitals, the United States Department of Health and Human Services, or any other agency personnel authorized to have access to any nursing facility have been denied access to the facility; or any facility document or record.

6. **Reporting of Unusual Occurrences/Accidents.** A Class D violation shall exist when it has been determined that any

facility did not report any unusual occurrences or accidents in a timely manner as mandated by regulation.

7. Residents' Council. A Class D violation shall exist when a facility fails to comply with the establishment and operation of a Residents' Council as defined by regulation or statute.

VIII. CLASS E VIOLATIONS

Class E violations are defined as the failure of any nursing facility to submit a statistical or financial report in a timely manner as required by regulation.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

Section 1919 (h)(2)(A)(ii) of the Social Security Act requires that a civil money penalty be assessed and collected, with interest, for each day in which the facility is or was out of compliance with federal, state and Department of Health and Hospitals requirements. Under this statute, the state is required to adopt criteria specifying when and how such remedy is to be applied effective October 1, 1989.

Prior to adoption of §1919 (h)(2)(A)(ii) of the Act, nursing facilities violating any state or federal regulation or Department of Health and Hospitals rule where such violation posed a serious threat to the health, safety, rights, or welfare of a nursing home applicant/recipient were liable for civil fines in addition to any criminal action which may have been brought under other applicable law. The facility was afforded the right to request an administrative hearing and judicial review.

Under this rule, the mandatory provisions of the statute are adopted. The following provisions are incorporated into the bureau's regulations.

1. The head of the survey team shall give the facility administrator or his designee oral notice of all alleged violations before leaving the facility.

2. Guidelines for determination of whether a violation is a repeat violation are given.

3. Provision is made for an administrative reconsideration of the existence of the violation(s). This does not include determination of the correction of a violation, and is not in lieu of the appeals process.

4. The administrative hearing shall be limited to those issues specifically contested and shall not include any claim or argument that the violation(s) have been corrected.

5. Administrative appeals not involving alleged violations jeopardizing the health, safety, rights, or welfare of the facility's residents shall be held within 30 days of the receipt of the request.

6. The hearing officer may assess attorney's fees and costs against the facility if it is determined that the facility's appeal was frivolous.

7. Further guidelines concerning repayment of civil penal-

ties for established, including determination of finality of civil fines, the deadline for payment, and consequences if payment is not promptly remitted.

CIVIL FINES

NOTICE, APPEAL AND COLLECTION

I. Notice to Facility of Alleged Violation

A. When the Department of Health and Hospitals has reasonable cause to believe through an on-site survey, a complaint investigation, or other means that there exists or has existed a serious threat to the health, safety, welfare, or rights of a nursing home resident, the department shall give notice of the alleged violation(s) in the following manner:

1. The head of the survey team shall give the facility administrator or his designee oral notice of all alleged violations before leaving the facility.

2. The department shall follow the on-site oral notice with confirmed written notice by certified mail to the facility administrator.

B. The written notice given by the department shall:

1. specify the alleged violation(s);

2. cite the legal authority which establishes such violation(s);

3. cite any sanctions which may be assessed if the violation(s) are confirmed;

4. advise the administrator that the facility has 10 days from receipt of notice sent by certified mail within which to request an administrative appeal and what that appeal must specify;

5. explain that the consequences of failing to timely request an appeal will be that the determination made by the department is final and no further administrative or judicial review may be had; and

6. inform the administrator if the department has elected to regard the alleged violation(s) as confirmed repeat violation(s) or as continuing violation(s) and the manner in which sanctions will be imposed.

C. The Department of Health and Hospitals shall have the authority to determine whether a violation is a repeat violation and shall inform the facility in its notice of that determination. Violations may be considered repeat violations by the Department of Health and Hospitals if the following conditions are found to exist:

1. Where the Department of Health and Hospitals has established the existence of a violation as of a particular date and the violation is one that may be reasonably expected to continue until corrective action is taken, the department may elect when circumstances warrant to treat said continuing violation as a confirmed repeat violation subject to appropriate fines for each day following the date on which the initial violation is established, until such time as there is evidence establishing a date by which the violation was corrected.

2. Where the Department of Health and Hospitals has established the existence of a violation and another violation occurs within 18 months which is the same or substantially similar to the previous violation, the subsequent violation and all others thereafter shall be considered repeat violations subject to fines appropriate for confirmed repeat violations.

D. If the facility does not request an administrative appeal in a timely manner or does not submit satisfactory evidence to rebut the allegations of a violation, the secretary may determine the existence of a violation and assess civil fines as provided in these regulations. The Department of Health and Hospitals shall forward its findings to the facility by certified mail, and any fines

imposed shall commence as of the date such determination is received by the facility.

E. The facility may request an administrative reconsideration of the alleged violations within seven days of receiving notice of the violation. This reconsideration shall be conducted by a designated official of the department who did not participate in the initial decision to impose the penalty. Reconsideration shall be made solely on the basis of documents before the official and shall include the survey report and statement of violations and all documentation the facility submits to the department at the time of its request for reconsideration. Correction of a violation shall not be a basis for reconsideration. A hearing shall not be held. Oral presentations can be made by DHH spokespersons and facility spokespersons. This process is not in lieu of the appeals process, and the time will continue to run for filing of an appeal. The designated official shall have authority only to affirm the decision, to revoke the decision, to affirm part and revoke part, or to request additional information from either the department or the facility. The official shall be without authority to waive any penalty or to compromise the dollar amount of any penalty. The official shall render a decision on the reconsideration within three days from the date of receipt of the facility's request.

F. If the facility requests an administrative appeal, such request shall:

1. state which alleged violations the facility contests and the specific reasons for disagreement; and
2. be submitted to the Department of Health and Hospitals within 10 days of receipt of the secretary's notice sent by certified mail.

The administrative hearing shall be limited to those issues specifically contested and shall not include any claim or argument that the violation(s) have been corrected. Any violations not specifically contested shall become final, and civil fines shall be assessed at the expiration of the time for appeal. All violations/fines not contested shall become final at the expiration of the appeal request time period.

II. Administrative Appeal Process

A. When an administrative appeal is requested in a timely and proper manner, the Department of Health and Hospitals shall provide an administrative hearing in accordance with the provisions of the Louisiana Administrative Procedure Act. The hearing officer conducting the hearing may require the prefiling of any motions by either party no later than the close of business on the third working day prior to the hearing.

B. When it is alleged that the violation(s) jeopardize the health, safety, rights, or welfare of the facility's residents, the requested hearing shall be held within 14 days of the receipt of the request. The hearing officer shall review all relevant evidence and make its final written determination within six days after the administrative hearing.

C. In all other cases, the requested hearing shall be held within 30 days of the receipt of the request. The hearing officer shall review all relevant evidence and make a final written determination within 15 days after the administrative hearing. The hearing officer may continue the matter when such continuance will not jeopardize the health, safety, rights, or welfare of the facility's residents and good cause is proved by the party requesting the continuance.

D. The hearing officer may assess attorney's fees and costs against the facility if it is determined that the facility's appeal was frivolous.

E. At the conclusion of the administrative hearing, the hearing officer shall make specific written findings as to each

alleged violation that was contested by the facility. The hearing officer shall have authority to affirm, reverse, or modify the findings or penalties of the department. The hearing officer shall transmit such findings by certified mail to the facility at the last known address within the time periods stated above in Subsections B and C and by regular mail or hand delivery to the department and other affected parties. Any civil fines assessed shall commence as of the date the findings are received by the facility. Interest on the amount of fines assessed shall begin accruing on the eleventh day following commencement of the fines at the then current rate of judicial interest.

III. Judicial Review

A. If the results of the administrative hearings are adverse to the facility, the facility may request a judicial review of such matter to the Nineteenth Judicial District Court within 15 days of receipt of such findings. Such appeal shall be suspensive.

B. The facility shall furnish, with the appeal, a bond in the minimum amount of one and one-half times the amount of the fine imposed by the Department of Health and Hospitals. The bond furnished shall provide in substance that it is furnished as security that the facility will prosecute its appeal, that any judgment against it will be paid or satisfied from the amount furnished, or that otherwise the surety is liable for the amount assessed against the facility.

C. The appeal shall be heard in a summary proceeding which shall be given precedence over other pending matters.

D. At the conclusion of the judicial review, the court shall enter an appropriate order either reversing, modifying, or upholding the Department of Health and Hospitals' findings. If the Department of Health and Hospitals' findings are upheld, the courts shall order the payment of all fines imposed. Any party aggrieved by the decision may seek further appeals as authorized by the Administrative Procedure Act.

IV. Collection of Civil Fines Assessed

A. Civil fines assessed shall be final if:

1. no timely or proper appeal was requested;
2. the facility admits the violations and agrees to pay;
3. the administrative hearing is concluded with findings of violations and no timely judicial appeal was requested; or
4. the judicial appeal confirms the findings of violations by the facility.

B. When civil fines become final, they shall be paid in full within 10 days of their commencement, unless the department allows a payment schedule in light of a documented financial hardship.

C. If payment of assessed civil fines is not received within 10 days after they are deemed final, the Department of Health and Hospitals shall deduct the full amount plus interest from money otherwise due to the facility as Medicaid reimbursement in its next (quarterly or monthly) payment.

D. No nursing facility may claim imposed fines as reimbursable costs, nor increase charges to residents as a result of such fines. Any audits performed by the Department of Health and Hospitals shall monitor this prohibition.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

Section 1919 (h)(2)(A)(ii) of the Social Security Act requires that civil penalties collected by a state from a facility that is or was out of compliance with a federal, state, or Department of Health and Hospitals regulation shall be applied to certain activities. The activities specified are the protection of the health or property of residents of nursing facilities that the state or the secretary finds deficient, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

In order to implement this requirement, the Residents Trust Fund is established as a fund segregated from other funds of the state or the department and designated exclusively for the uses and purposes specified. All monies of the trust fund shall be deposited in an interest bearing account under the supervision of the state treasurer. Interest on these monies shall be retained in the trust fund.

The trust fund shall be administered by the secretary of the department or his designee. Request for monies from the trust fund may be made by a nursing home administrator or owner, a resident of the facility, or a resident's relative, conservator, guardian or representative, with a decision provided within seven days of the request. The applicant may request immediate consideration by telephone if an emergency exists.

Terms of repayment, if any, shall be determined by the secretary. Failure to repay the funds according to the established schedule may prevent future disbursements to the applicant until all monies are repaid. Repayment shall accrue interest at a rate of two percent above the prime lending rate, unless a different rate is specified in the repayment agreement. Funds owed by the department to a nursing home facility may be transferred into the trust fund in order to reimburse amounts owed.

An annual accounting to the Division of Administration of monies received and disbursed shall be made.

RESIDENTS, TRUST FUND

A. The Residents' Trust Fund, hereinafter referred to as the "trust fund", is hereby established in the Department of Health and Hospitals to receive monies collected from civil fines levied against nursing homes found to have been in violation of regulations of the department. Monies deposited in the trust fund shall be used to support social welfare programs for the aid and support of the needy residents of nursing homes, and to achieve that purpose the department is hereby authorized to enter into cooperative endeavor agreements with public and private entities. The monies deposited shall be segregated from other funds of the state or the department and shall be designated exclusively for the uses and purposes of this Section. All monies of the trust fund shall be deposited in an interest bearing account under the supervision of the state treasurer. Interest on these monies shall be retained in the trust fund.

B. The monies in the trust fund may be used for the following purposes:

1. to protect the health or property of residents of nursing

homes which the department finds deficient;

2. to pay for the cost of relocation of residents to other facilities;

3. to maintain operation of a facility pending correction of deficiencies or closure;

4. to reimburse residents for personal funds lost.

C. Monies from the trust fund shall be utilized only to the extent that private or public funds, including funds available under Title XVIII and Title XIX of the Social Security Act, are not available or are not sufficient to meet the expenses of the facility. The secretary of the department shall conserve the resources of the trust fund and shall only authorize expenditures that are consistent with usual and customary charges. Disbursements may be approved for charges in excess of usual and customary charges if the secretary provides adequate written explanation of the need for such disbursements to the House and Senate Health and Welfare Committees.

D. The existence of the trust fund shall not make the department responsible for the maintenance of residents of a nursing home facility or maintenance of the facility itself.

E. The trust fund shall be administered by the secretary of the department or his designee. Requests for monies from the trust fund may be made by a nursing home administrator or owner, a resident of the facility, or a resident's relative, conservator, guardian, or representative. The applicant must submit a completed fund request form to the secretary of the department. Forms may be obtained from the department, which shall maintain an adequate supply of such forms in all state and parish offices. A decision shall be provided within seven days of the request.

F. If an emergency exists, the applicant may request immediate consideration by notifying the secretary of the department by telephone, indicating the seriousness and immediate nature of the request. The secretary may orally authorize immediate disbursement, but proper documentation of reasons for the disbursement and all completed forms must be filed in the office of the secretary within five days thereafter.

G. The department shall make an annual accounting to the Division of Administration of all monies received in the trust fund and all disbursements of those monies.

H. The terms of repayment, if any, of monies disbursed from the trust fund shall be determined by the secretary of the department and may, where appropriate, be set forth in a contract signed by the secretary and the applicant or other party responsible for repayment.

I. Failure to repay funds according to the established schedule may, at the discretion of the secretary, prevent future disbursements to the applicant from the trust fund until all monies are repaid. Monies due and owing to reimburse the trust fund shall accrue interest at a rate of two percent above the prime lending rate, unless a different rate is specified in the repayment agreement. The secretary may authorize funds owed by the department to a nursing home facility to be transferred into the trust fund in order to reimburse amounts owed by the facility to the trust fund.

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.

Section 1919 (h)(2)(A)(iii) of the Social Security Act requires the appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while there is an orderly closure of the facility, or improvements are made in order to bring the facility into compliance with federal, state and Department of Health and Hospitals requirements. Under this statutory provision, the state is required to adopt criteria as to when and how such remedy is to be applied effective October 1, 1989.

Under this rule, written notice of such temporary management is effective upon receipt by the owner and/or administrator of the facility. Guidelines for establishing an effective date are specified based upon the severity of the condition or practice which may pose a threat to the health, safety, or welfare of recipients, or the consistent pattern of violating residents' rights or financial stability of the institution.

Powers and duties, including financial responsibility for acceptance of payments to the facility, are specified, as are qualifications and compensation, and personal liability of a temporary manager.

Temporary management shall be terminated when it is determined that the conditions which gave rise to the temporary management no longer exist, all of the Title XVIII and XIX residents in the nursing facility have been transferred or discharged and the facility is no longer certified as a provider in the Title XVIII or XIX programs, or the temporary manager has concluded all financial and patient care responsibilities, but not before determination has been made that the party assuming responsibility for continued operation of the facility is capable of competently managing the facility in compliance with all requirements.

Provision is made for administrative hearing in accordance with provisions of the Administrative Procedure Act when requested on a timely basis.

TEMPORARY MANAGEMENT

I. Notice of Appointment of Temporary Manager

A. When the secretary of the Department of Health and Hospitals determines that a nursing facility is in need of a temporary manager, he shall provide written notice which shall include:

1. the date the appointment shall take effect;
2. a statement setting forth grounds for the appointment;
3. the name of the person within the Department of Health and Hospitals who has the responsibility for responding to inquiries about the appointment;
4. the name of the person appointed temporary manager, if such designation has been made;
5. a statement explaining the procedure for requesting a hearing.

B. Notice shall be delivered by hand or by certified mail to the owner and administrator of a nursing facility and shall be effective upon receipt.

II. Grounds; Effective Date of Appointment

A. Appointment of a temporary manager based on one or more of the following grounds will be effective immediately upon receipt of notice, unless a later effective date is specified in the notice:

1. the facility is operating without a current Louisiana license;
2. the licensee has abandoned the facility;
3. the nursing facility is closing within 30 calendar days and the Department of Health and Hospitals has reasonable cause to believe that inadequate arrangements designed to minimize the adverse effects of transfer have been made to relocate its residents;
4. a condition or practice in a facility poses a serious and imminent threat of the health, safety, or welfare of the residents or presents a substantial probability that death or serious physical harm would result therefrom. The facility owner may request approval from the secretary to be put on 23-day fast track in lieu of temporary management. However, such request may only be granted when the secretary determines that an adequate plan to protect the health, safety, and welfare of residents has been devised by the facility to prevent an imminent threat of harm to the facility's residents and when the secretary has provided satisfactory means for the department to monitor subsequent implementation of such corrective measures by the facility.

B. Appointment of a temporary manager based on one or more of the following grounds shall become effective only upon the later of the expiration of the period for seeking appeal or upon the entry of a final administrative determination by the Department of Health and Hospitals or a hearing officer.

1. The nursing facility exhibits a consistent pattern of violating residents' rights established pursuant to Louisiana or federal laws or regulations.
2. The nursing facility is experiencing financial difficulties that present a substantial probability the facility will be compelled to terminate operation.

III. Powers and Duties of Temporary Manager

A. The licensee and administrator shall be divested of administration of the nursing facility in favor of the temporary manager from the effective date of appointment.

B. The temporary manager shall have the following powers and duties.

1. Exercise those powers and perform those duties set out by the Department of Health and Hospitals in accordance with these and any other applicable provisions.
2. Operate the nursing facility in such a manner as to assure safety and adequate health care for the residents.
3. Take such action as is reasonably necessary to protect or conserve the assets or property of the facility for which the temporary manager is appointed, or the proceeds from any transfer thereof, and use them only in the performance of authorized powers and duties.
4. Use the building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to residents and to any other persons receiving services from the nursing facility.
5. Collect payments for all goods and services provided to residents or others during the period of the temporary management at the same rate of payment charged by the owners at the time the temporary manager was appointed or at a fair and reasonable rate as otherwise approved by the Department of Health and Hospitals.

6. Correct or eliminate any deficiency in the structure or furnishings of the nursing facility which endangers the safety,

health, or welfare of residents, provided the total cost of correction does not exceed \$5,000. The Department of Health and Hospitals may order expenditures for this purpose in excess of \$5,000 on application from the temporary manager after notice to the owner and an opportunity for informal hearing by the secretary or his designee to determine the reasonableness of the expenditures.

7. Let contracts and hire employees at rates reasonable in the community to carry out the powers and duties of the temporary management.

8. Honor all leases, mortgages, and secured transactions governing the building in which the nursing facility is located and all goods and fixtures in the building of which the temporary manager has taken possession, but only to the extent of payment which, in the case of a rental agreement, are for the use of the property during the period of temporary management, or which, in the case of a purchase agreement, become due during that same period.

9. Have full power to direct, manage, and discipline employees of the nursing facility, subject to any contract rights they have. The temporary manager shall not discharge employees without authorization from the Department of Health and Hospitals and notice to the owner. Temporary management shall not relieve the owner of any obligation to employees made prior to the appointment of a temporary manager and not carried out by the temporary manager.

10. Preserve all property or assets of residents which are in the possession of a nursing facility or its owner; preserve all property or assets and all resident records of which the temporary manager takes possession; and provide for the prompt transfer of the property, assets, and records to the new placement of any transferred resident. An inventory list certified by the owner and temporary manager shall be made at the time the temporary manager takes possession of the nursing facility.

IV. Procedure for Payments to Temporary Manager

As soon as possible after the effective date of appointment of the temporary manager but in no event later than 10 days thereafter, the owner or administrator shall inform the temporary manager of the names and addresses of all persons owing money to the facility and of the amounts owed. The temporary manager shall be the proper recipient of all funds due and owing to the facility from and after the effective date of appointment, regardless of whether such funds are for goods or services rendered before or after the effective date of appointment, and the owner or administrator shall immediately transfer to the temporary manager any such funds received by either of them after the effective date of appointment. The temporary manager shall notify persons making payments to the home of the appointment of a temporary manager.

A person who is notified of the Department of Health and Hospitals' appointment of a temporary manager and of the temporary manager's name and address shall be liable to pay the temporary manager for any goods or services provided by the temporary manager after the date of the appointment, if the person would have been liable for the goods and services as supplied by the owner. The temporary manager shall give a receipt for each payment and shall keep a copy of each receipt on file. The temporary manager shall deposit amounts received in a separate account and may make disbursements from such account. The temporary manager may bring an action to enforce liabilities created by the foregoing provisions. A payment to the temporary manager of any sum owing to the nursing facility or to its owner shall discharge any obligation to the nursing facility to the extent of the payment.

V. Qualifications and Compensation of a Temporary Manager

The Department of Health and Hospitals shall appoint to serve as a temporary manager any person qualified by education and the requisite experience in nursing home administration and who is licensed in accordance with Louisiana law. A temporary manager shall have no financial or fiduciary interest in the facility or any affiliated entities. No temporary manager shall be appointed who is affiliated with a management firm under an order of decertification in Louisiana or another state. The Department of Health and Hospitals shall set the necessary expense of the temporary management. Said compensation shall be in line with the prevailing wage in the nursing home field and shall be charged as an expense to the facility for which the manager is appointed. The department may seek reimbursement for such expenses by deducting the appropriate amount from funds due or payable to the facility.

VI. Personal Liability of Temporary Manager

A temporary manager may be held liable in a personal capacity for the temporary manager's gross negligence, intention acts, or breach of fiduciary duty, but otherwise, the acts and omissions of such temporary manager will be defended and discharged by the department. The Department of Health and Hospitals shall secure a bond to cover any acts of negligence or mismanagement committed by the temporary manager when not covered by the facility's insurance.

VII. Termination of Temporary Management

The Department of Health and Hospitals may terminate a temporary management when it determines that the temporary management is no longer necessary because the conditions which gave rise to the temporary management no longer exist, all of the Title XVIII and XIX residents in the nursing facility have been transferred or discharged and the facility is no longer certified as a provider in the Title XVIII or XIX programs, or the temporary manager has concluded all financial and patient care responsibilities. However, the department shall not terminate a temporary management without first determining that the party assuming responsibility for continued operation of the facility is capable of competently managing the facility in compliance with all requirements of federal and state law.

VIII. Notice of Appeal

Within seven days from its receipt of certified mail notice, the nursing facility may appeal the decision to appoint a temporary manager by delivering notice to the person within the Department of Health and Hospitals who has responsibility for responding to inquiries about the appointment and to the Department of Social Services, Appeals Bureau, 755 Riverside Mall, Baton Rouge, Louisiana 70802.

IX. Administrative Hearing

If an appeal is requested on a timely basis, a hearing officer from the Department of Social Services, Appeals Bureau shall conduct an administrative hearing in accordance with provisions of the Administrative Procedure Act. Such hearing shall be held within 10 days of the receipt of the request. The hearing officer shall review all relevant evidence and make a final determination in such matters no later than seven days after the conclusion of the administrative hearing.

X. Administrative Hearing Conclusions

At the conclusion of an administrative hearing, the hearing officer shall make specific findings of fact and conclusions of law regarding each alleged condition concerning the appointment. The hearing officer's findings shall be delivered by hand or shall be posted via certified mail to the owner and administrator of the nursing facility or to its counsel no later than seven days after the hearing and shall constitute a final administrative deter-

mination of the matter. Either the department or the nursing facility may seek judicial review of the determination in accordance with the provisions of the Administrative Procedure Act.

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 Food Stamp Program.

Emergency rulemaking is necessary because, through error, this provision was omitted when provisions with an effective date of October 1, 1989, were published in the *Louisiana Register*, Vol. 15, No. 8, pages 629-630. Federal regulations as published in the *Federal Register* of Wednesday, February 15, 1989, Vol. 54, No. 30, pages 6990-7017, mandated a January 1, 1990, implementation date.

RULE

Effective January 1, 1990, households who have applied for initial month's benefits after the fifteenth of the month, completed the application, provided all required verification, and have been determined eligible to receive benefits for the initial month of application and the next subsequent month shall receive their prorated allotment for the initial month of application and their first full month's allotment at the same time.

May Nelson
Secretary

DECLARATION OF EMERGENCY

Department of the Treasury Bond Commission

The Louisiana State Bond Commission amended the commission's rules as originally adopted on November 20, 1976.

The commission amended Rule No. 15 of the original commission rules and increased the maximum amount of authorized lines of credit as follows:

15. Line of credit—A line of credit is an authorization to a State agency to proceed with a project and draw from the State Treasury funds for the project prior to the sale of bonds for that project. The maximum amount of lines of credit which may be authorized by the commission shall be \$140,000,000. Bonds shall be issued to replenish lines of credit granted in the fiscal year in which the line of credit was granted. No lines of credit may be granted for a project unless and until either the bonds have been sold, lines of credit have been granted, or a certificate of impossibility and impracticality has been issued for all projects of higher priority as stated in the comprehensive capital budget adopted by the legislature. The maximum amount of lines of credit provided herein shall not apply in cases where the commission shall deem an item to be an emergency matter.

Monies advanced on a line of credit for any project shall be spent only in accordance with the description in the bond authorization act authorizing bonds to be issued for that project.

Prior to the execution of any contract or agreement obligating the expenditure of monies received by any State department or agency or any other entity from line of credit funds, the Attorney General's office shall be requested to review such proposed contracts or agreements for the sole purpose of determining whether expenditure of funds thereunder is for the purpose of furthering the applicable project adopted by the Legislature. If given, such prior approval by the Attorney General's office shall be in writing to the appropriate State department, agency or other entity with a copy to be furnished to the State Bond Commission.

Should the Attorney General's office determine that the proposed expenditure of line of credit funds not be in order, no funds may be used to pay obligations which may be incurred if such contracts are executed after an adverse conclusion by the Attorney General's office.

All approvals of lines of credit shall be conditioned on compliance by the State department, agency or other entity with the aforementioned procedure, and it shall be their duty to request approval from the Attorney General's office, stating to which bond act and to which project the contract or agreement in question pertains. Failure to comply with such procedure by any such department, agency or other entity shall result in the immediate revocation of the line of credit, and all information regarding the possible expenditure of line of credit funds for other than authorized purposes shall be forwarded immediately by the commission to the Attorney General's office and the District Attorney's office.

This emergency rule is necessary to ensure continued construction and funding of all projects heretofore begun and contained in Priority 1 of the current Capital Outlay Act, Act No. 822 of the 1989 Regular Session of the Louisiana Legislature and a number of projects contained in Priority 2 of said Act.

This rule is effective immediately.

Mary L. Landrieu
State Treasurer and Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B) and 967(D) of the Administrative Procedure Act, and under the authority of R.S. 56:326.1 and R.S. 56:326.3, the Wildlife and Fisheries Commission hereby finds that preliminary estimates of current levels of fishing mortality on black drum are higher than desirable and accordingly adopts the following emergency rule.

Effective at 12 noon on October 12, 1989, there is hereby established for the recreational taking and possession of black drum, within and without state waters, a minimum size limit of 14 inches total length, and for the commercial taking and possession of black drum, within and without state waters, a minimum size limit of 18 inches total length. There is further hereby established for the commercial taking of black drum, an interim quota of 300,000 fish. The secretary of the Department of Wildlife and Fisheries is hereby authorized to enact an emer-

gency closure, upon 72-hours notice, when Louisiana commercial landings reach 300,000 fish.

The Wildlife and Fisheries Commission recognizes that black drum landings have increased significantly from 1984-1988 and finds that preliminary estimates of current levels of fishing mortality are higher than desirable. The Wildlife and Fisheries Commission acknowledges the importance of stabilizing fishing mortality rates at a level which will maintain an age structure that would ensure a healthy fishery in the future.

Warren Pol
Chairman

DECLARATION OF EMERGENCY

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

Pursuant to R.S. 49:953 B et seq. and R.S. 56:315 the Louisiana Wildlife and Fisheries Commission declares those areas within a one-quarter-mile radius of the Lambert, Grand Bayou, Mangrove, and Peconi water control structures (otherwise identified as structures number 5, 1, 8 and 4 respectively), and the area within a one-eighth-mile radius of the water control structure on No Name Bayou, all within the Calcasieu Lake system; the area within a one-quarter-mile radius of the mouths of West Cove Bayou, West Cove Canal and the Sabine Refuge Headquarters Canal where they empty into Calcasieu Lake; and the area within a one-quarter-mile radius of the mouths of Three Bayous and Willow Bayou where they empty into Sabine Lake to be shrimp sanctuaries and closed zones, and that all netting of fish by any means or method, including but not limited to trawls, butterfly nets, gill nets, seines, or trammel nets, is hereby prohibited, with the exception of hand cast nets effective 12:01 a.m. December 21, 1989. The commission finds this action necessary to protect the fisheries resources and to prevent imminent peril to the public welfare as a result of same.

Warren Pol
Chairman

DECLARATION OF EMERGENCY

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

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, R.S. 49:967, R.S. 56:497 and the authority the Wildlife and Fisheries Commission has granted to the secretary of the Department of Wildlife and Fisheries, the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

The 1989 shrimp season in Zone III (that portion of Louisiana's inshore waters from the Louisiana - Texas state line to the western shore of Vermilion Bay and Southwest Pass at Marsh Island), the portion of Louisiana's offshore territorial waters from

Freshwater Bayou to Bayou Lafourche to the outer limit of Louisiana's territorial waters will close at 12:01 a.m., December 22, 1989.

The 1989 shrimp season in Zone I (that portion of Louisiana's inshore waters from the Louisiana - Mississippi state line to South Pass of the Mississippi River) and that portion of Louisiana's offshore territorial waters from the Louisiana - Mississippi state line to South Pass of the Mississippi River to the outer limit of Louisiana's territorial waters will close at 12:01 a.m., January 1, 1990.

The secretary finds that shrimp in these areas are small, most are not of legal size count and water temperatures are such that growth will be slow, if any. Continued harvest of these shrimp may affect the numbers of larger, more valuable white shrimp available in the spring of 1990.

Virginia Van Sickle
Secretary

Rules

RULE

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

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 201. Timber Stumpage

§20101. Stumpage Values

The Office of Forestry and Tax Commission, as required by R.S. 3:4343, adopted the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1990:

- 1. Pine Sawtimber \$166.61 per M bd. ft.
- 2. All Hardwoods \$ 75.49 per M bd. ft.
- 3. Pine Pulpwood \$ 17.22 per Cord
- 4. Hardwood Pulpwood \$ 5.80 per Cord

Paul D. Frey
State Forester

Mary K. Zervigon, Chairman
Tax Commission

RULE

Department of Economic Development Office of Financial Institutions

Title 10 BANKS AND SAVINGS AND LOANS

Part I. Banks

Chapter 23. Director's Examination Requirements

§2301. General Procedure for Conducting Director's Examinations

A. R.S. 6:290, amended by Act No. 414 of the Regular Session, 1989, requires that every 12 months, the board of directors of each state bank shall have an examination made of the financial condition of the bank and its subsidiaries. Institutions may obtain Director's Report of Examination forms from the Office of Financial Institutions, Post Office Box 94095, Baton Rouge, LA 70804-9095. They may make said examination by employing an independent certified public accountant, their respective accounting firms, or by the use of an in-house auditor and clerical staff. All such audits of a bank must meet the minimum standards promulgated by the commissioner of financial institutions. To meet the auditing standards, the board of directors shall employ the methods of auditing described in this Section.

B. Audit Committee. An audit committee of not less than two members of the board of directors who are *not* officers shall be responsible for examining or securing the examination of the condition of the state bank at least once each 12 months and submit a written report of such examination to the board of directors, who shall record the report in their minutes and deliver a copy of the report to the commissioner. The commissioner shall establish minimum standards for such examinations. Responsibility and authority for either internal or external audit programs should be maintained by the audit committee and/or the board of directors.

C. The audit committee may employ an independent certified public accountant, or a firm including such accountants to perform certain auditing functions for a state bank during each year, according to generally accepted auditing standards. The commissioner may establish minimum standards for such auditing functions. The report of the accountant shall be submitted to the board of directors, and a copy of the report shall be delivered to the commissioner within 10 days after its presentation.

D. The audit committee may choose an internal audit. If an internal audit is selected, the report must include a statement that the minimum standards were met within the applicable calendar year. The internal auditors must be independent with duties separate and apart from the operations of the bank. Any bank personnel used to assist the auditor cannot be used to audit their own work in any manner. The internal auditor shall report directly to the bank's board of directors or the audit committee.

E. An opinion audit by an independent certified public accountant will meet the minimum external audit requirements of the director's examination. If an opinion is rendered on consolidated financial statements of the state bank's parent company, no opinion will be required for the state bank on a separate basis. Under these circumstances, the state bank shall submit audited consolidated financial statements for the parent, as well as financial statements for the state bank on a separate basis, before consolidating adjustments. The following reports are required in addition to any audited financial statements submitted:

1. schedule of loans and investments regarded as total or

partial losses;

2. loans subject to criticism;

3. loans amounting to as much as or more than 25 percent of total equity and reserves of the bank;

4. affidavit of the board of directors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16: (January 1990).

§2302. Minimum Standards for Director's Examination

A. Qualifications

1. Internal Auditor

A qualified internal auditor is deemed to be a person who is a certified public accountant and is duly registered and in good standing as such under the laws of this state, a certified internal auditor, a chartered bank auditor or an individual who has functioned as an internal auditor in banking for a minimum period of two years, and who recognizes and adheres to the rules of conduct and (personal) standards established for the professional designation(s) he or she holds. Any certified public accountant functioning as an internal auditor must adhere to the rules of conduct and standards applicable to the CPA in practice.

When a bank's internal audit function is staffed by one person, that person must be qualified as defined above. When the internal audit function is staffed by two or more persons, at a minimum, the individual directly responsible for supervising the function must be qualified as defined above.

2. Certified Public Accountant

A qualified certified public accountant is deemed to be a person who holds a current license to practice under the laws of this state.

3. Member of Examining Committee

A qualified member of an examining committee is deemed to be a person who is a member of the board of directors, but not an officer or employee of the bank which he or she will examine.

B. Independence. The internal auditor or the certified public accountant must state specifically in his or her report of examination that he or she has met the tests of independence specified below and that he or she is in fact independent.

1. Internal Auditor

To be acceptable to the commissioner, the examination must be conducted or directly supervised by a qualified internal auditor who is, in fact, independent as defined in the Standards for the *Professional Practice of Internal Auditing* by the Institute of Internal Auditors and/or the *Statement of Principle and Standards for Internal Auditing in the Banking Industry* by the Bank Administration Institute. An internal auditor will not be considered independent if:

a. he or she is employed by or accountable to anyone other than the board of directors of the bank, and bank holding company when applicable;

b. his or her salary and annual bonus are set by anyone other than the board of directors of the bank, or bank holding company when applicable;

c. his or her duties consist of non-audit responsibilities within the bank holding company;

d. he or she has any proprietary interest in any partnership, firm or corporation which controls the bank, directly or indirectly, except that he or she may own and/or have a beneficial interest (including any shares of a retirement and/or incentive plan) of up to a maximum of one percent of the total

outstanding shares of the bank or bank holding company which employs the auditor;

e. he/she has any loan (including overdrafts, cash items, unposted items, drawing against uncollected funds, or any other such items) to or from the bank or bank holding company or any officer, director, or principal stockholder thereof. This latter proscription does not apply to the following loans from a financial institution, which are free from classification by bank regulatory authorities, when made under normal lending procedures, terms, and requirements:

i. loans which are not material in relation to the net worth of the borrower; and

ii. home mortgages; and

iii. other secured loans, except those secured solely by a guarantee of the borrower.

f. he or she is a member of the immediate family of an officer, director, attorney, or employee of the bank. The foregoing points are not to be construed as all-inclusive criteria in judging the independence of an internal auditor, as other conditions may also contribute to the lack of independence. It is the responsibility of the board of directors to determine if there are any unusual relationships or affiliations which the internal auditor may have with the bank and to have any questions as to his or her independence resolved before he or she proceeds with the examination. Any unusual relationships should be disclosed to the Office of Financial Institutions.

2. Certified Public Accountant

To be acceptable, the examination must be completed by a certified public accountant, or firms including such accountants which are independent. A certified public accountant will not be considered to be independent if, for example:

a. during the period of his/her professional engagement, or at the time of issuing his/her report, he/she, or the firm

i. has or was committed to acquire any direct or material indirect financial interest in the bank or the related bank holding company; or

ii. was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the bank or bank holding company; or

iii. has any joint closely held business investment with the bank of any officer, director, or principal stockholder thereof which was material in relation to his/her or the firm's net worth; or

iv. has any loan (including overdrafts, cash items, unposted items, drawing against uncollected funds, or any other such items) to or from the enterprise or any officer, director, or principal stockholder thereof. This latter proscription does not apply to the following loans from a financial institution, which are free from classification by bank regulatory authorities, when made under normal lending procedures, terms, and requirements:

(a). loans which are not material in relation to the net worth of the borrower; and

(b). home mortgages; and

(c). other secured loans, except those secured solely by a guarantee of the borrower.

(d). during the period covered by the examination, during the period of the professional engagement, or at the time of issuing a report, he/she or the firm:

i. was connected with the bank or bank holding company as a promoter, underwriter or voting trustee, a director or officer, or in any capacity equivalent to that of a member of management or of an employee; or

ii. was a trustee for any pension or profit-sharing trust of the bank or a bank holding company.

c. during the period covered by the examination or at the time of issuing a report, he/she or the firm performs any operating functions for the bank.

3. The foregoing points are not intended to be all-inclusive. Other conditions may also contribute to a lack of independence. The certified public accountant must adhere to the American Institute of Certified Public Accountants' rules for independence, unless further restricted by the commissioner's guidelines. It is the responsibility of the certified public accountant to disclose any unusual relationships or affiliations which he/she may have with the bank and to have resolved any questions as to his/her independence before proceeding with the engagement. These usual relationships should be fully described in the accountant's report to the board of directors of the bank.

4. Member of Examining Committee

a. To be acceptable, the examination must be completed by qualified directors who are in fact reasonably independent. A director serving as a member of the Examining Committee will not be considered to be independent if:

i. he or she is related to active officers or employees of the bank; or

ii. he or she has outstanding loans with the bank and such loans have been criticized by one of the examining agencies.

b. The foregoing points are not to be construed as all-inclusive criteria in judging the independence of a member of the Examining Committee, as other conditions may also contribute to a lack of independence. It is the responsibility of the board of directors to disclose any other unusual relationships or affiliations which such a member may have with the bank and to have any questions as to his or her independence resolved before proceeding with the examination program.

C. Standards for Acceptability

An examination of a state bank, to be acceptable, must be made in accordance with the minimum examination procedures outlined in Subsection D, Scope of Examination. The examiner should prepare and maintain working papers which provide a record of the examination procedures applied and the pertinent conclusions reached. The commissioner of financial institutions has the responsibility to determine whether an examination is acceptable. He or she also has the authority to reject any examination which does not conform in all respects to prescribed requirements. If, at any time, it is found that the examining committee, internal auditor, public accountant or certified public accountant has not followed recognized rules of ethics or conduct, or has not met the minimum standards of the commissioner of financial institutions, the examination will be rejected. Any misstatement of facts or circumstances or any misrepresentation of any kind knowingly made will not only cause an examination to be rejected, but will also form a basis for the temporary or permanent disqualification of the individual(s) from conducting similar examinations. If the report of examination is rejected, the commissioner of financial institutions will cause an acceptable examination to be made. Institutions may obtain Director's Report of Examination forms from the Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095.

D. Scope of Examination

1. General

a. The examination procedures listed below are minimum procedures to be performed under provisions of R.S. 6:290. The scope of the examination, the extent to which accounts must be tested, and the examination comments required will

vary according to the adequacy of the internal control structure. Banks having sound, established internal control structures may find these minimum requirements sufficient. Circumstances may be encountered which make it necessary to expand certain procedures, apply alternate procedures, or extend the examination procedures to additional areas. Throughout the minimum examination procedures, the words "tests" and "selected" are used without specific definition. For each situation in which such terminology is used, sample sizes should vary based on the strengths and weaknesses of the internal control structure. The report should indicate in some appropriate manner the extent and/or basis of the tests.

b. Statistical or statistically based sampling may be used if it is the most cost-effective method of verifying the accuracy of a given population. For purposes of defining populations, each bank must be considered on its own. Affiliated banks/banks with common ownership may not be combined to obtain larger populations for sampling purposes. The examiner should refer to the *AICPA Statement on Auditing Standards on Audit Sampling* for a discussion of statistical sampling.

c. Statistical sampling may be used in lieu of the stated 10 percent samples for loan and deposit confirmations. However, the sampling method and parameters as well as the nature of the internal control evaluation and testing performed throughout the period should indicate a basis for such reliance.

d. Unless otherwise stated, all test procedures are to be performed from the previous examination date, with samples taken from throughout that period. Also, throughout the minimum procedures, the word "review" is used without any specific definition. As used herein, the word "review" is not the same definition as used in accounting literature to describe a level of service accountants provide to their clients. It is intended to mean either a survey, inspection, or examination as appropriate in the circumstances.

2. Objective

a. The examination is intended to obtain an understanding of the bank's operating procedures and internal control structure and to examine the bank's accounting for assets and liabilities.

b. The first objective will be accomplished through obtaining an understanding of the bank's internal control structure. This review is intended to both provide recommendations for bank management and to identify areas where minimum procedures need to be extended. The examination will not necessarily detect or prevent fraud. The detection and prevention of fraud is generally accomplished through the use of an adequate accounting system with appropriate internal accounting control. That is a responsibility of the bank's management. The second objective will be accomplished through performance of certain agreed-upon procedures testing the bank's accounting records. These tests include a review for compliance with generally accepted accounting principles and/or regulatory accounting principles where material. These procedures are not sufficient for the purpose of expressing an opinion on the bank's financial statements, and thus do not include all of the procedures and tests that would be performed under generally accepted auditing standards. Accordingly, no opinion need be expressed on the financial information in the report.

3. Minimum Examination Procedures

a. General

i. Commence the examination on a surprise basis. Assume control over the assets and records to be examined until procedures have been completed.

ii. Review minutes of board of directors since the last examination; determine that formal resolutions of an accounting nature have been followed.

iii. Compare the general ledger accounts to the most recent internal daily statement; review examination date transactions reflected in the general ledger accounts; investigate any unusual transactions.

iv. Review the latest report of supervisory examiners received by the bank. This should include the commercial examination and the trust, compliance, and/or EDP examinations, if applicable.

b. Internal Control Structure

The examination will not necessarily detect or prevent fraud. The detection and prevention of fraud is generally accomplished through the use of an adequate accounting system with an appropriate internal control structure. The organization or person conducting the audit will be required to make an in-depth study of the bank's internal control structure. This shall be done through the use of a questionnaire on internal control similar and equivalent to that contained in the American Bankers Association Controlled Group Bonding Plan. Any "no" answers should be justified in the comments section of the questionnaire. The completed questionnaire should be signed by the auditor and a member of the audit committee. The completed questionnaire need not be submitted with the director's examination report; however, it must be maintained for documentation purposes. All material weaknesses in the internal control structure should be addressed in the director's report.

c. Content, Submission and Review of Audit Reports

i. The auditor shall make a report of his findings to the bank's board of directors or the audit committee. The auditor must submit a statement with his report that the minimum standards have been met. The report shall list all material exceptions noted in performance of the minimum standards. Any material deficiencies noted in the bank's internal control structure shall be listed in the report. If an external auditor relies on any work performed by an internal auditor, the extent of such reliance shall be listed in his report. A copy of such report will be maintained on file at the bank for inspection by examiners of the Office of Financial Institutions. The organization or person conducting the audit will be required to maintain audit work papers for a period of five years and shall make them available to the Office of Financial Institution examiners upon their request. Workpapers recorded on microfilm will satisfy this requirement.

ii. The report submitted to the Office of Financial Institutions shall include the following:

(a). The date or dates on which the audit was conducted.

(b). A year-end statement of condition submitted by the auditor, bank or trust company.

(c). A year-end statement of income submitted by the auditor, bank or trust company.

(d). A schedule of loans and investments regarded as total or partial losses.

(e). A schedule of loans which appear to the examining committee to be subject to criticism.

(f). A schedule of all loans amounting to as much as or more than 25 percent of total equity capital and reserves of the bank and state how secured.

(g). A statement of the Board of Directors' response to the findings and recommendations of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of

Economic Development, Office of Financial Institutions, LR 16: (January 1990).

§2303. Audit Program

A. Asset Accounts

1. Cash, Cash Items, Clearings, and Exchanges (including automatic teller machines and related settlement accounts).

a. Count cash on a test basis and reconcile totals with the general ledger account.

b. Balance all categories of cash items and reconcile totals to the general ledger account; investigate any unusual or non-current items; trace disposition of selected amounts.

c. Confirm totals of clearings and exchanges direct with drawee banks or paying agents; trace disposition of selected incoming and outgoing return items.

d. Review and test the following:

i. procedures for safeguarding teller's cash during operating hours and relief and vacation scheduling;

ii. procedures for quarterly internal surprise cash counts. If the internal cash counts are performed adequately on a quarterly basis, the examiner need not count cash as a part of this examination;

iii. adequacy of dual control procedures over vault items;

iv. adequacy of review tellers' over and short activity.

2. Due from Banks

a. Obtain confirmation of balances as of the examination date.

b. Reconcile bank statements to the related general ledger accounts as of the examination date. Use subsequent statements to identify items that clear in a normal time period. Investigate all items still outstanding after that. Obtain a special cut-off statement as considered necessary.

c. Trace disposition of selected incoming and outgoing return items recorded by correspondents on examination date and at least two days thereafter.

d. Review control procedures for the origination of entries (i.e., incoming and outgoing wire transfers, IACHA items, etc.) and safeguarding of unissued drafts.

3. Investment Securities (and other assets considered as investment securities, plus Federal Funds Sold, Securities Purchased Under Agreement to Resell, and Banker's Acceptances)

a. Reconcile subsidiary records for investments to the general ledger account and test significant reconciling items. Confirm with safekeeping agent, or if held in-house, physically inspect and check for proper safeguards.

b. On a test basis, verify correctness and authorization of original entries by references to minutes of investment committee or board of directors, and to purchase, sale, and maturity advices.

c. Reconcile accrued interest receivable subsidiary records to general ledger accounts and test significant reconciling items. Test the reasonableness of the individual balances by recalculating the accrued interest for a sample from each category of investment securities.

d. Test income recorded by investment category through comparison to average asset balances and investigate unusual fluctuations between balances and/or calculated rates.

e. For all securities, excluding marketable equity and trading account securities, reconcile unamortized premium and discount subsidiary records to general ledger accounts and test significant reconciling items. Test the reasonableness of the balances by recalculating the unamortized portion and comparing the recalculation to the bank's recorded unamortized premium/discount for a sample of investment securities.

f. Determine that the lower of cost or market values were appropriately applied to marketable equity securities, as well as assets held in trading accounts.

4. Commercial, Agricultural, Installment, Real Estate, Student, Credit Card Loans, and Discounts and Commercial Paper (and other assets considered as loans)

a. Reconcile subsidiary records for each loan category to the general ledger account and test significant reconciling items.

b. Reconcile accrued interest receivable subsidiary records to general ledger accounts and test significant reconciling items. Test the reasonableness of the individual balances by reviewing the accrual rates, recalculating the accrued interest, and comparing the recalculation to the bank's recorded accrued interest for a sample from each category of loans.

c. Test income recorded by loan category through comparison to average asset balances and investigate unusual fluctuations between balances and/or calculated rates.

d. Review and test the accrual procedures for manual systems by:

i. recalculating outstanding principal balances from loan rate records to the general ledger account for the date of the accrual;

ii. recalculating daily accruals on a test basis;

iii. reviewing related journal entries;

iv. reviewing the most recent note-by-note calculation of accrued interest and the related adjustment to the general ledger;

v. other steps as considered necessary.

e. Reconcile unearned income subsidiary records to general ledger accounts and test significant reconciling items. Test the reasonableness of the individual balances by recalculating the unearned income and comparing the recalculation to the bank's recorded unearned income for a sample of loans.

f. Direct confirmation with borrowers.

i. Mail negative confirmation requests to at least 10 percent number and dollar of each loan category, excluding participation loans purchased and sold.

ii. Confirm all participation loans purchased and sold. For participation loans purchased, secure a 100 percent positive confirmation with the selling bank. For participation loans sold, secure a 100 percent positive confirmation with the purchasing bank; negatively confirm 10 percent of the total balances with the borrower.

iii. Any positive confirmation request not acknowledged shall be followed by a second confirmation request. A listing of significant positive confirmation requests not acknowledged after mailing of both a first and second request shall be included in the report.

g. Review the allowance for loan losses.

i. Reconcile subsidiary records for charged-off loans to control record and test significant reconciling items.

ii. Check all significant charge-offs for proper authorization by the board of directors.

iii. Review test control procedures for loan charge-offs and recoveries.

iv. Mail confirmation requests to a selected number of customers whose loans have been charged-off, including some from prior years.

v. Trace details of activity recorded on individual charged-off loan records to the allowance for loan loss general ledger account on a test basis.

h. Compare the following information, where applicable, from subsidiary records to the loan document for all categories of loans on a test basis:

- i. name(s) of borrower(s);
- ii. original amount of loan (and current balance, if applicable);
- iii. original interest rate (if interest rate has changed, trace to appropriate supporting documentation for the change);
- iv. note date.

i. Schedule loans to officers, directors and their related interests and notate if any are on the institution's watch list.

5. Fixed Assets

a. Reconcile cost and accumulated depreciation subsidiary records to the related general ledger accounts and test significant reconciling items.

b. Test significant purchases and dispositions since the previous examination for proper authorization, classification, and recording, by reference to supporting documentation.

c. Review and test procedures for recording depreciation expense and related allowance for depreciation.

6. Other Assets

a. Reconcile pre-paid expense subsidiary records to the general ledger accounts and test significant reconciling items. Determine the reasonableness of the balances by comparing the original cost to supporting documentation, reviewing the amortization rate, recalculating the prepaid expense, and comparing the recalculation to the bank's recorded pre-paid expense on a test basis.

b. Reconcile the subsidiary records for other real estate and other tangible property to the general ledger accounts and test significant reconciling items. Review and test the accounting procedures for the recording of other real estate or other tangible property, including income and expense attributable to such property.

c. Evaluate transactions concerning the sale and financing of other real estate. Have transactions involving 100 percent financing or financing at less than market interest rates been properly booked in conformity with current accounting standards?

d. Review procedures for recording commercial and standby letters of credit issued to third parties and balance to the control record. Confirm on a test basis with the customer.

e. Review the calculations and propriety of deferred income tax charges as of the prior fiscal year-end and compare to the recorded amount.

f. Determine if the bank is involved in one or more of the following activities and, if so, perform the procedures indicated below:

i. Lease Financing

Test for compliance with generally accepted accounting principles.

ii. Discount Brokerage

Review and test procedures (including segregation of duties) over the execution of trades.

iii. Insurance and/or Real Estate Agency

Determine how the agency is owned. If the bank owns the agency, review and test significant assets and liabilities as considered appropriate. Review the adequacy of the accounting system.

iv. Real Estate Subsidiary

g. Review and test the propriety of any other asset accounts. Confirm and/or trace to supporting documentation as appropriate.

B. Liability Accounts

1. Deposits

a. Reconcile the subsidiary records for all deposit accounts by category to the general ledger account and test all

significant reconciling items.

b. Review unposted items and debit and credit rejects, and follow through to ultimate return or posting for all significant items.

c. Mail negative confirmation requests to at least 10 percent number and dollar of each deposit category. Include a sample of due to bank accounts.

d. Reconcile subsidiary records for accrued interest payable to the general ledger accounts and test all significant reconciling items. Test the reasonableness of the individual balances by recalculating the accrued interest and comparing the recalculation to the bank's recorded accrued interest for a sample from each category of deposit accounts.

e. Test interest expense recorded by each deposit category through comparison to average liability balances and investigate unusual fluctuations between balances and/or calculated rates.

f. Review procedures for classifications of dormant and/or inactive accounts, as well as method of control over activity in such accounts. Test one day's reporting and supervisory review of activity.

g. Review procedures for the issuance and control of certificate of deposit forms as outstanding, voided, or redeemed. For at least two days subsequent to examination date, prove the total of all certificates redeemed by day. Review selected redeemed certificates for authorized signature and endorsements. Trace to the trial balance of certificates outstanding as of examination date to test for timely recording.

h. Obtain statement of treasury tax and loan account including any note-option account. Reconcile the statement with the general ledger accounts and test all significant reconciling items. Confirm balance(s).

i. Obtain a list of all internal deposit accounts. Review the controls over and the nature and volume of activity in each account and test as considered necessary.

j. Reconcile subsidiary records for overdrafts and overdraft protection lending accounts to the general ledger and test all significant reconciling items. Make sure that these are included in either the loan or deposit confirmation samples as appropriate. Trace subsequent disposition of selected overdrafts. List in the report all overdrafts and cash items as of examination date, regardless of amount, to employees, officers, and directors, including their related business interests.

k. If any portion of deposit account balances are temporarily invested in a third party's investment accounts, perform the following.

i. Reconcile subsidiary records for the invested deposits to the general ledger account and test significant reconciling items.

ii. Confirm the investment(s) with the third party through a positive verification.

iii. Review procedures for receipt and payment of income and for opening and closing of investment relationships.

iv. Review and test for compliance with the investment agreement.

1. Mail confirmation requests to a selected number of deposit customers whose accounts have been closed since last examination.

2. Official Checks

a. Balance all categories and reconcile totals to the general ledger accounts.

b. For at least two days subsequent to examination date, prove the total of all checks paid by day. Review selected paid

checks for authorized signatures and endorsements and for any unusual payees. Trace to the listing of official checks outstanding as of examination date to test for timely recording.

c. Review procedures for control of unissued checks and test for compliance.

d. Obtain a list of all outstanding official checks payable to the bank. Review the nature and propriety of the checks as considered necessary.

e. Review procedures for classification of dormant official checks; method of control over the checks; and test for compliance.

3. Other Liabilities

a. Review and test the accounting procedures for recording income taxes and determine the reasonableness of the balances by:

i. determining that the prior fiscal year's income tax liabilities were properly recorded;

ii. reviewing the calculation and propriety of deferred income taxes as of the prior fiscal year-end and comparing it to the recorded amount;

iii. recalculating the current fiscal year's provision for income taxes (through the prior month end) and comparing to the recorded amount.

b. Confirm all federal funds purchased by positive verification.

c. Reconcile subsidiary records for other borrowings (including items such as securities sold under agreement to repurchase, notes and mortgages payable, and capitalized leases) to the general ledger account and test significant reconciling items. Confirm each borrowing by positive verification. Test related interest accrual and expense accounts as considered necessary.

d. Reconcile subsidiary records for accrued expenses and deferred revenue accounts to the general ledger accounts. Determine the reasonableness of the balances by reviewing the accrual rate, recalculating the balance and comparing the recalculation to the bank's recorded accrued expense and deferred revenue accounts on a test basis.

e. Review and test any other liability accounts as to reasonableness and consistency. Confirm and trace to supporting documentation as considered appropriate.

C. Capital Accounts

1. Capital Stock

Reconcile subsidiary records for capital stock to general ledger account. If applicable, request a listing from transfer agent/registrars and reconcile to general ledger. Ascertain that there is adequate control of unissued certificates.

2. Capital Notes and Debentures

a. Reconcile subsidiary records to the general ledger.

b. Review all entries for compliance with terms of the agreement.

c. Test interest paid and interest accrued as applicable.

Check sinking fund payments, if any, for compliance with terms of the agreement.

d. Confirm balances with holders on a test basis.

3. Surplus

Review all entries since last examination for proper authorization by the board of directors.

4. Undivided Profits

a. Review the prior year-end closing entries for propriety on a test basis.

b. Review all interim entries for proper authorization and accuracy.

c. Recompute the last dividend paid and agree to authori-

zation in the board of directors minutes.

D. Other Income and Expense

1. Review other income and expense accounts not tested in connection with balance sheet accounts by comparison with prior periods and investigate unusual fluctuations.

2. Review salary and benefit expenses for comparability with prior periods and overall reasonableness, considering the number of employees and various pay classifications.

E. Other Customer Services

1. Collection Items

a. Schedule selected outstanding items at the examination date; inspect items or confirm with holders.

b. Examine credit or remittance advices, checks, or other evidence of payment applicable to scheduled items paid subsequent to examination date.

2. Safekeeping Department

a. Review accounting procedures for recording items held in safekeeping for customers.

b. Inspect selected items on hand and confirm items held in custody by other banks.

c. Mail negative confirmation requests on a sample of the customer safekeeping accounts.

3. Loan Collateral

a. Inspect selected items on hand and confirm items held in custody by other banks.

b. Mail negative confirmation requests on a sample of the loan collateral accounts.

c. Compare loan collateral with collateral receipts outstanding on a test basis.

d. Review the bank's procedures for receipt, custody, substitution, and release of that collateral.

4. Consignment items

Determine the adequacy of inventory records and control procedures over the unissued reserve supply of travelers checks, United States Savings Bonds, and other consignment items. If no quarterly internal surprise counts are performed or if they are not adequate, count all consignment items and confirm with the issuer(s).

F. Trust Department

1. Reconcile subsidiary records for trust investments and trust cash to the control accounts and general ledger accounts, respectively. Review the procedures to determine if entries are recorded accurately and on a timely basis.

2. Count trust assets or confirm with safekeeping agent on a test basis.

3. Review policies and procedures for identifying overdrafts and uninvested cash balances.

4. Review selected trust accounts and test transactions to supporting records and data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16: (January 1990).

Fred C. Dent
Commissioner

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 October 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 3.01.05

The board adopted the State Plan for the Nutrition and Training Program, FY 1990-91.

Em Tampke
Executive Director

RULE

Department of Employment and Training Plumbing Board

(Editor's Note: This office inadvertently misprinted part of this rule, so we are republishing it.)

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part IV. Plumbers

Chapter 3. Licenses

§309. Fees

- A. ...
10. Special "enforcement penalty fee" imposed under §305 \$500

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1371 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board of Louisiana, promulgated and amended LR 7:588 (November 1981), amended by the Department of Employment and Training, Plumbing Board, LR: 16 (January 1990).

Don Traylor
Executive Director

RULE

Department of Environmental Quality Office of Air Quality and Nuclear Energy Air Quality Division

(Editor's Note: This document was originally published with an incorrect division heading in the December 20, 1989 issue of the Louisiana Register)

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 has amended the Louisiana Air Quality Regulations, LAC 33:III.

LAC 33:III.111 is amended to add a definition of administrator and administrative authority* and changes the definition

of VOC to match the USEPA definition. Definitions are also added for attainment area, non-attainment area, and State Implementation Plan. Regulations in LAC 33:III.2103 are also amended to add requirements for testing and recordkeeping.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 1. General Provisions

§111. Definitions

When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below:

Act—Act No. 449 of 1979, Louisiana Environmental Quality Act. Used to denote Chapter 11, Title 30, Section 1051 et seq. including amendments.

Administrator—The administrator, or authorized representative, of the Environmental Protection Agency.

Administrative Authority—The secretary, or designee, of the Department of Environmental Quality.

*Administrative Authority**—This term refers to both the administrator and the administrative authority. Any alternative or equivalent test methods, waivers, monitoring methods, testing and monitoring procedures, customized or correction factors, and alternatives to any design, equipment, work practices or operational standards must be approved by both the administrator of the U.S. Environmental Protection Agency and the administrative authority before it becomes effective.

Aerosol—A suspension of fine solid or liquid particles in the air.

Affected Facility—(With reference to stationary source), any apparatus to which a standard is applicable.

Afterburner—A secondary burner which is used to oxidize and combust air contaminants to a less damaging form.

Air Contaminants—Particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combination thereof produced by process other than natural.

Air Pollution—The addition of air contaminants to the atmosphere.

Alternative Method (for other than NSPS and LESHAP)—Any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the administrative authority's satisfaction to, in specific cases, produce results adequate for a determination of compliance.

Ambient Air—The outdoor air or atmosphere which surrounds the earth.

Application for Approval of Emissions—An application submitted to the Department of Environmental Quality by any person requesting a certificate of approval (permit) for any change in emissions into the ambient atmosphere.

ASME—American Society of Mechanical Engineers.

ASTM—American Society for Testing Materials.

Asphalt—A dark brown to black cementitious material (solid, semisolid, or liquid in consistency) in which the predominating constituents are bitumens which occur in nature as such or which are obtained as residue in refining petroleum.

Atmosphere—The whole mass of air above the territorial limits of the state of Louisiana.

Attainment Areas—Areas of the state that are not listed as non-attainment areas by the United States Environmental Protection Agency.

Non-Attainment Areas—An area (parish or group of par-

ishes) declared to be not complying with a Federal National Ambient Air Quality Standard and listed in the *Federal Register* as a non-attainment area subject to a State Implementation Plan call.

Automobile—A passenger car or passenger car derivative capable of seating not more than 12 passengers.

Automobile and Light-Duty Truck Assembly Plant—A facility where automobile and/or light-duty truck bodies, frames and parts are assembled for eventual inclusion into a finished product ready for sale to vehicle dealers excluding the following operations: (1) wheel coatings, (2) anti-rust coatings, (3) trunk coatings, (4) interior coatings, (5) flexible coatings, (6) sealers, (7) plastic parts coatings. Excluded from this definition are customizers, body shops, and other repainters.

Bubble Concept—An alternative emission plan whereby a facility with multiple sources of a given pollutant may achieve a required total emission by a different mix of controls from that mandated by regulation. Some sources may be assigned more restrictive limits, while others would meet less restrictive ones, provided the resulting total emissions are equivalent. Such a concept may permit a more expeditious compliance plan.

Bulk Plant—A facility having a daily throughput of 20,000 gallons (76,000 liters) or less of gasoline.

Bulk Terminal—A facility having a daily throughput of more than 20,000 gallons (76,000 liters) of gasoline.

Carbon Monoxide (CO)—Colorless, odorless gas which is an oxide of carbon.

Class II Finish—A finish which complies with the requirements of NBS Voluntary Product Standard PS 59-73.

Combustion Unit—Any boiler plant, furnace, incinerator, or flare, or any other item of equipment designed or used for the combustion of fuel or waste material.

Commenced—An owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

Component—(Relating to Fugitive Emission Control) A piece of equipment, including, but not limited to pumps, valves, compressors, and pressure relief valves which has the potential to leak organic compounds.

Condensate—Hydrocarbon liquid separated from natural gas which condenses due to changes in temperature and/or pressure and remains liquid at standard conditions.

Construction—Fabrication, erection, or installation of an affected facility.

Continuous Monitoring System—The total equipment, required under the emission monitoring sections in applicable subparts, used to sample and condition (if applicable), to analyze, and to provide a permanent record of emissions or process parameters.

Control Equipment—Any device or contrivance used to prevent or reduce air pollution.

Cross-recovery—The practice of combining the spent liquors from a soda-based semi-chemical pulping process, such as NSSC with a kraft mill black liquor prior to burning in a recovery furnace. Less than seven percent semi-chemical liquor, on a quarterly basis, based on equivalent air-dry pulp production, will not be classified as cross-recovery.

Cutback Paving Asphalt—Asphalt cement which has been liquefied by blending with petroleum solvents (diluent). Upon exposure to atmospheric conditions the diluents evaporate, leaving the asphalt cement to perform its function. Products made for this use are designated SC (Slow Cure), MC (Medium

Cure) and RC (Rapid Cure) liquid asphalt and are manufactured to meet ASTM Specifications D-2026-72, D- 2027-72 and D-2028-72 or similar paving asphalt specifications.

Department—Air Quality Division, Office of Air Quality and Nuclear Energy, of the Department of Environmental Quality.

Distance for Source to Property Line—The horizontal distance measured in feet from the centerline of a source to adjacent land or water which is not owned or controlled by the person emitting air contaminants from the source.

Downwind Level—The concentration of air contaminants in the atmosphere as measured at any downwind point beyond the downwind boundary of a property, at which point the level of air contaminants is affected by any emission or emissions from the property.

Dry Cleaning Facility—A facility engaged in the cleaning of fabrics in an essentially non-aqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning and drying by tumbling in the air stream. The facility includes but is not limited to any washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves used in this service.

Dwelling—A building or other shelter in which people live.

Effluent Water Separator—Any tank, box, sump, or other container in which any volatile organic compound floating on or entrained or contained in water entering such tank, box, sump, or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

Emission—A release of air contaminants into the outdoor atmosphere.

Emission Inventory—A tabulation of data detailing the types, amounts, quantities and sources of emissions.

Emulsified Asphalt—An emulsion of asphalt cement and water which contains a small amount of an emulsifying agent; a heterogeneous system containing two normally immiscible phases (asphalt and water) in which the water forms the continuous phase of the emulsion, and minute globules of asphalt form the discontinuous phase.

Equivalent Method (for other than NSPS and LESHAP)— Any method of sampling and analyzing for an air pollutant which has been demonstrated to the administrative authority's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

Final Repair—The surface coating applied to correct top coat imperfections.

Flexographic Printing—The application of words, designs and pictures to a substrate by means of a roll printing technique in which both the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

Flue—Any duct, passage, stack, chimney, conduit, or opening arranged to conduct air contaminants into the open air.

Fossil Fuel—Natural gas, petroleum, coal and any form of solid, liquid, or gaseous fuel derived from such materials.

Fossil Fuel-Fired Steam Generating Unit—A furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

Fuel Burning Equipment—Any stationary contrivance used in the process of burning fuel or combustible material for the primary purpose of producing heat or power by indirect heat transfer.

Fugitive Dust—Solid, airborne, particulate matter emitted from any source other than through a stack.

New Design Furnace—An existing straight kraft recovery furnace with both welded-wall or membrane wall construction and emission-control-designed air systems, for which design specifications, purchase contract or manufacturer's warranty specifies a capability for continuous total reduced sulfur (TRS) emissions equivalent to the New Source Performance Standards (*Federal Register*, February 23, 1978, Part V).

Garbage—All putrescible waste matter except sewage and recognizable industrial by-products. It includes putrescible vegetable matter, animal offal, and animal carcasses.

Gasoline—A petroleum distillate having a Reid vapor pressure of 27.6 kPa (four pounds) or greater.

Gas/Vapor Service—A component is in gas/vapor service if it contains a process fluid that is in the gaseous state at operating conditions.

Good Performance Level—An operating level reached when no more than two percent of the valves in VOC service at a facility are leaking at a rate of 10,000 parts per million by volume (ppmv) or greater as determined by Reference Method 21 "Determination of Volatile Organic Compound Leaks" in the Division's Source Test Manual.

Graphic Arts (Printing)—The formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage.

Hardboard—A panel manufactured primarily from inter-felted lignocellulosic fibers which are consolidated under heat and pressure in a hot-press.

Hardwood Plywood—Plywood whose surface layer is a veneer of hardwood.

Heat Input—The aggregate of heat content of all fuels whose products of combustion pass through a stack or stacks.

Heat Sensitive Material—Materials which cannot be exposed to temperatures greater than 80° to 95°C (180° to 200°F).

Hydrocarbon—Organic compounds, the molecules of which consist primarily of carbon and hydrocarbon atoms.

Impairment of Visibility—Impairment of visibility exists whenever horizontal visibility at or near ground level is reduced to three times the stopping distances presented below:

- 20 mph 43 ft. to stop
- 30 mph 79 ft. to stop
- 40 mph 126 ft. to stop
- 50 mph 183 ft. to stop
- 60 mph 251 ft. to stop
- 70 mph 328 ft. to stop

Incinerator—An engineered apparatus capable of withstanding heat and designed to efficiently reduce solid, semisolid, liquid, or gaseous waste at specified rates and from which the residue contains little or no combustible material. "Tepee" burners, "Conical" burners and "jug" burners are not considered as incinerators.

Installation—An identifiable piece of processing equipment, manufacturing equipment, fuel burning equipment, incinerator, or other equipment or construction capable of creating or causing emissions.

Isokinetic Sampling—Sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

Leak—(Relating to Fugitive Emission Control) An organic compound concentration exceeding 10,000 parts per million by volume (ppmv) or the dripping of process fluid having a true

vapor pressure greater than 0.147 psia at 68°F (20°C).

Light-Duty Truck—A motor vehicle rated at 8,500 pounds gross weight or less which is designed primarily for the purpose of transportation of property or is a derivative of such vehicle.

Low Organic Solvent Coating (LOSC)—Coatings which contain less organic solvent than the conventional coatings used by the industry. Low organic solvent coatings include water-borne, higher solids, electrode position and powder coatings.

Malfunction—Any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

Micrograms per Cubic Meter ($\mu\text{g}/\text{m}^3$)—A weight to volume ratio used to measure the mass of an air contaminant present in a given volume of air.

Modification—Any change in a facility including, but not limited to, a physical change, a change in the method of operation, a change in the raw materials or feedstocks used for products manufactured which increases the amount of any air pollutant emitted by such facility or which results in the emission of any air pollutant not previously emitted, except (1) routine maintenance repair and replacement shall not be considered physical changes and (2) an increase in production rates (up to capacity) or hours of operation shall not be considered a change in the method of operation.

Monitoring Device—The total equipment required under the monitoring of operations sections in applicable subparts, used to measure and record (if applicable) process parameters.

Multiple Chamber Incinerator—Any incinerator which has two or more refractory lined combustion furnaces in series, physically separated by a refractory wall, interconnected by gas ducts or ports, and employing adequate parameters for maximum combustion of the material to be burned.

Natural Finish Hardwood Plywood Panels—Panels whose original grain pattern is enhanced by essentially transparent finished frequently supplemented by fillers and toners.

Natural Gas Processing Plants—Facilities engaged in the separation of natural gas liquids from field gas and/or fractionation of the liquids into natural gas products, such as ethane, propane, butane, and natural gasoline. Excluded from the definition are compressor stations, dehydration units, sweetening units, field treatment, underground storage facilities, liquefied natural gas units, and field gas gathering systems unless these facilities are located at a gas plant.

New Source—Any affected facility, the construction or modification of which is commenced after the adoption of these regulations.

Nitric Acid Production Unit—Any facility producing weak nitric acid by either the pressure or atmospheric pressure process.

Nitrogen Oxides—Compounds whose molecules consist of nitrogen and oxygen.

Nuisance—Anything that unlawfully worketh hurt, inconvenience, or damage.

One-hour Period—Any 60 minute period commencing on the hour.

Opacity—The degree to which emissions reduce the transmission of light and obscure the view of any object in the background.

Organic Solvents—Liquid or gaseous hydrocarbons used

for dissolving one or more other substances.

Outdoor Burning—(Open Burning) Burning of any material without the benefit of equipment primarily designed for the combustion of fuel and/or waste material and/or in such a manner that the products of combustion are emitted directly to the atmosphere without passing through a flue or combustion unit as defined in LAC 33:III.111, "combustion unit."

Owner or Operator—Any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation which directly or indirectly results or may result in emissions of any air pollutant for which a national standard is in effect.

PPM by Volume—(parts per million by volume)—A volume to volume ratio used to express volumetric concentrations of gaseous air contaminants in a million unit volume of air or gas.

Packaging Rotogravure Printing—The printing upon paper, paper boards, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into containers and labels for articles to be sold.

Particleboard—A manufactured board made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure. Particleboard used as furniture component is not covered under this definition.

Particulate Matter—Material discharged into the atmosphere in a finely divided form as a solid aerosol. (See also LAC 33:III.111, Suspended Particulate Matter.)

Penetrating Prime Coat—An application of low viscosity liquid asphalt to an absorbent surface. It is used to prepare an untreated base for an asphalt surface. The prime penetrates the base and plugs the voids, hardens the top, and helps bend it to the overlying asphalt course. It also reduces the necessity of maintaining an untreated base course prior to placing the asphalt pavement.

Person—Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity or their legal representatives, agents or assignees.

Petroleum Refinery—Any facility engaged in producing gasoline, kerosene, distillate fuels oils, residual fuel oils, lubricants, or other products through distillation of crude oils, or through redistillation, cracking extraction, or reforming of unfinished petroleum derivatives.

Pharmaceutical Manufacturing Facility—Any facility which manufactures pharmaceutical products by chemical syntheses.

Photochemical Oxidant—The products of a chemical reaction triggered by sunlight, between various hydrocarbon or organic compounds and the oxides of nitrogen.

Polymer Manufacturing Industry—Operations which convert monomer or chemical intermediate materials obtained from the basic petrochemical industry and the synthetic organic chemical manufacturing industry into polymer products. Such products are polyethylene, polypropylene and polystyrene.

Portland Cement Plant—Any facility manufacturing Portland cement by either wet or dry process.

Premises—That which is within the boundaries or confines of any real property.

Primer—The first surface coating applied to the surface.

Primer-Surfacer—The surface coating applied over the primer and beneath the top coat.

Printed Panels—Panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain

or decorative pattern is printed.

Process Weight—Any total weight of all materials introduced into any specific process which may cause emissions. Solid fuel charge will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not.

Production Equipment Exhaust System—A device for collecting and directing out of the work area VOC fugitive emissions from reactor openings, centrifuge openings and other vessel openings for the purpose of protecting workers from excessive VOC exposure.

Property—Any land owned or controlled by a person.

Proportional Sampling—Sampling at a rate that produces a constant ratio of the sampling rate to that of the stack gas flow rate.

Publication Rotogravure Printing—The printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

Public Nuisance—Any condition of the ambient air beyond the property line of the offending person which is offensive to the senses, or which causes or constitutes an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

Reference Method—Any method of sampling and analyzing for an air pollutant as described in the Air Quality Division's Test Manual.

Refuse—All putrescible waste matter, all nonputrescible waste matter, ashes, animal and vegetable waste and all other waste matter, except sewage, from any public or private establishment, institution, or residence or resulting from construction, building operations, or the prosecution of any business, or trade.

Ringelmann Smoke Chart—The Ringelmann Scale for Grading the Density of Smoke, published by the U.S. Bureau of Mines, or any chart, recorder, indicator or device for the measurement of smoke density which is approved by the administrative authority as the equivalent of the Ringelmann Scale.

Rubbish—All nonputrescible waste matter, except ashes, from any public or private establishment, institution, or residence.

Run—The net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

Shutdown—The cessations of operation of an affected facility for any purpose.

Six-Minute Period—Any one of the 10 equal parts of a one-hour period.

Smoke—Any small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash, and other combustible material, and present in sufficient quantity to be observable.

Soiling Index—A measure of airborne particulates given as coefficient of haze per 1,000 linear feet of air.

Source—Any and all points of origin of air contaminants as defined in "air contaminants", LAC 33:III.111 hereof, whether privately or publicly owned or operated.

Stack or Chimney—Any point in a source designed to emit solids, liquids or gases into the air including a pipe or duct but not including flares.

Standard Conditions—A gas at 21°C or 70°F and 29.92 inches (760 millimeters) of mercury.

Start Up—The setting in operation of an affected facility for any purpose.

State—The state of Louisiana.

State Implementation Plan (SIP)—A Plan required by the Clean Air Act that outlines the actions to be taken by a state air pollution control agency to reduce emissions of the non-attainment pollutant and change the non-attainment area to an attainment area.

Submerged Fill Pipe—Any fill pipe the discharge opening of which is entirely submerged when the liquid level is six inches (15 centimeters) above the bottom of the tank or when applied to a tank which is loaded from the side, means any fill pipe the discharge opening of which is entirely submerged when the liquid level is 18 inches (45 centimeters) above the bottom of the tank. Any nozzle in full contact with the bottom of the tank being filled shall be considered to meet these requirements. In addition, a nozzle which remains below the surface of the liquid in the tank during all normal operations (nozzle shall not be uncovered more than twice per year) shall be considered to meet these requirements.

Sulfation Rate—Used as a measure of the sulphur compounds in the atmosphere. It is the rate at which oxidizable sulphur compounds in the atmosphere convert lead peroxide into lead sulphate.

Sulphur Compounds—All inorganic or organic chemicals having an atom or atoms of sulphur in their chemical structure.

Sulphur Dioxide (SO₂)—An oxide of sulphur.

Sulphur Trioxide (SO₃)—An oxide of sulphur.

Sulfuric Acid (H₂SO₄)—A heavy corrosive oily dibasic acid that is colorless when pure and is a vigorous oxidizing agent.

Sulfuric Acid Production Unit—Any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

Suspended Particulate Matter—Any finely divided solid and/or liquid matter which does not rapidly settle from the ambient air. (See also LAC 33:III.111, Particulate Matter.)

Synthetic Organic Chemical Manufacturing Industry (SOCMI)—The industry that produces, as intermediates or final products, one or more of the chemicals listed in Table 8 of the regulations.

Thin Particleboard—Particleboard with a nominal thickness of 1/4 inch or less. (Nominal 1/4 inch is from 0.210 inch to 0.265 inch).

Top Coat—The surface coating applied for the purpose of establishing the color and/or protective surface, including groundcoat and paint sealer materials.

Transfer Efficiency—The portion of coating solids which is not lost or wasted during the application process expressed as percent of total volume of coating solids delivered by the application.

Undesirable Levels—Undesirable levels of the items defined in "Air Contaminants" LAC 33:III.111 hereof is the presence in the atmosphere, as limited by R.S. 30:1083 (2), of one or more of such items or combinations thereof in quantities and concentrations and of such characteristics, properties, and duration as to appreciably injure human life beyond inconvenience or in quantities and concentrations and of such characteristics, properties, and duration as to materially injure or interfere with the reasonable use of animal or plant life or property. In determining whether or not contaminants create undesirable levels the

department may use appropriate information and data which may include, but not be limited by acceptable national standards, published "safe limit" values and other such information and relationships which may provide a reasonable assessment of the conditions which exist for a particular situation.

Upwind Level—The concentration of air contaminants in the atmosphere determined at some point upwind of the source. This concentration may be considered as the background level.

Variance—A waiver issued under the authority of the Department of Environmental Quality upon application to allow emissions greater than those allowable under the regulations and/or a license to do some act contrary to these regulations.

Volatile Organic Compound—(Effective March 1, 1990)--Any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the administrator of the U.S. Environmental Protection Agency designates as having negligible photochemical reactivity. VOC may be measured by a reference method, an equivalent method, an alternative method or by procedures specified under 40 CFR 60 (1988). A reference method, an equivalent method, or an alternative method, however, may also measure nonreactive organic compounds. In such cases, an owner or operator may exclude the nonreactive organic compounds when determining compliance with a standard.

Waste Classification—Those seven classifications of wastes as enumerated in the I.I.A. incinerator standards.

Weak Nitric Acid (HNO₃)—Acid which is 30 to 70 percent in strength.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division LR 13:741 (December 1987) amended LR 15: (December 1989).

Chapter 21. Control of Emission of Organic Compounds

Subchapter A—General

§2103. Storage of Volatile Organic Compounds

A. No person shall place, store or hold in any stationary tank, reservoir or other container of more than 250 gallons (950 liters) and up to 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound, having a true vapor pressure of 1.5 psia or greater at storage conditions, unless such tank, reservoir or other container is designed and equipped with a submerged fill pipe or a vapor loss control system or is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere.

B. No person shall place, store or hold in any stationary tank, reservoir, or other container of more than 40,000 gallons (151,400) nominal capacity any volatile organic compound having a true vapor pressure of 1.5 psia or greater at storage conditions unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with a submerged fill pipe and one or more of the vapor loss control devices described herein.

C. Internal Floating Roof Acceptable if Vapor Pressure Less Than 11.0 psia. An internal floating roof consists of a pontoon type roof, double deck type roof or internal floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof

edge and tank wall. All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. This control equipment shall not be permitted if the organic compounds have a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions.

D. Conditions Under Which an External Floating Roof is Acceptable. An external floating roof consists of a pontoon type roof, double deck type roof or external floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall and a continuous secondary seal (a rim mounted secondary) extending from the floating roof to the tank wall.

1. A secondary seal is not required if:

a. The tank is a welded tank storing a VOC with a vapor pressure at storage conditions less than 4.0 psia and is also equipped with liquid mounted primary seals, metallic type shoe seals, or equivalent.

b. The storage vessels are external floating roof tanks having nominal storage capacities of 420,000 gallons (1,589,900 liters) or less used to store produced crude oil or condensate prior to lease custody transfer.

c. A metallic-type shoe seal is used in a welded tank which also has a secondary seal from the top of the shoe seal to the tank wall (i.e., a shoe-mounted secondary).

d. An alternate seal or seals can be used in lieu of the primary and secondary seals required herein provided the resulting emission is not greater than that which would have resulted if the primary and secondary seals were installed. The equivalency demonstration will be made to the satisfaction of the administrative authority*.

e. The secondary gap seal measurements shall be made annually at any tank level provided the roof is off its legs. The primary gap seal measurements shall be made every five years to any tank level provided the roof is off its legs.

Conditions not in compliance with LAC 33:III.2103.D.2 shall be recorded along with date(s) of non compliance and LDEQ/AQD shall be notified within seven days. Repairs necessary to be in compliance must be initiated within seven working days of recognition of noncompliance by ordering appropriate parts. Repairs shall be completed within three months of the ordering of the repair parts. However, if it can be demonstrated that additional time for repair is needed, the administrative authority may extend this deadline.

2. The Seal Closure Devices Required in LAC 33:III.2103.D shall:

a. Have no visible holes, tears, or other openings in the seal(s) or seal(s) fabric.

b. Be intact and uniformly in place around the circumference of the floating roof and the tank wall.

c. Not have gap areas, of gaps exceeding $\frac{1}{8}$ inch (0.32 cm) in width between the secondary seal and the tank wall, in excess of 1.0 in² per foot of tank diameter (65cm² per 0.3m).

d. Not have gap areas, of gaps exceeding $\frac{1}{8}$ inch (0.32 cm) in width between the primary seal and the tank wall, in excess of 10.0² per foot of tank diameter (65 cm² per 0.3m).

3. Requirements for Covering Openings. All openings in the external floating roof, except for automatic bleeder vents, run space vent, and leg sleeves, are to provide a projection below the liquid surface. The openings must be equipped with cover, seal, or lid which must be in a closed position at all times except when the device is in actual use. Automatic bleeder vents must be closed at all times except when the roof is floated off or landed on the roof leg supports. Rim vents must be set to open

when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting. Any emergency roof drain must be equipped with a slotted membrane fabric cover or equivalent cover that covers at least 90 percent of the opening.

4. Compliance Required by December 31, 1982. Compliance with the provisions of this regulation shall be achieved by December 31, 1982. However, if it can be affirmatively demonstrated to the administrative authority that additional time is needed, an extension can be granted until December 31, 1983. In all cases compliance must be achieved in the most expeditious manner.

E. Vapor Loss Control System Acceptable When Requirements are Met. A vapor loss control system consists of a gathering system capable of collecting the organic compound vapors and gases and a vapor disposal system capable of processing such organic vapors and gases so as to limit their emission to the atmosphere to the same extent as the provisions of LAC 33:III.2103.C and LAC 33:III.2103.D. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

F. No person shall place, store or hold in any stationary tank, reservoir or other container of more than 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound having a true vapor pressure of 11 psia or greater at storage conditions unless such tank, reservoir or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with submerged fill pipe and vapor loss control system in accordance with LAC 33:III.2103.E.

G. Exemptions. The provisions of this Section (i.e. LAC 33:III.2103) do not apply to existing and new storage tanks used for crude or condensate having a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards. In addition, tanks 420,000 gallons or greater used in activities prior to lease custody transfer are exempt from the provisions of LAC 33:III.2103 unless such tanks are subject to New Source Performance Standards. In addition, the provisions of LAC 33:III.2103 do not apply to JP-4 fuels stored in horizontal, underground tanks. Sources such as existing storage tanks having a nominal capacity of 420,000 gallons (1,589,900 liters) of crude or condensate shall achieve compliance as expeditiously as practicable but no later than December 31, 1987.

H. Compliance Tests

1. Floating Roofs. The seal gap area shall be determined by measuring the length and width of the gaps around the entire circumference of the seal. A $\frac{1}{8}$ inch (0.32 cm) uniform diameter probe shall be used for measuring gaps. Only gaps greater than or equal to $\frac{1}{8}$ inch (.032 cm) shall be used in computing the gap area. The area of the gaps shall be accumulated to determine compliance with LAC 33:III.2103.D.2.c and d. Compliance with the other provisions specified in LAC 33:III.2103.D.2.a and b may be determined by visual inspection.

2. Add-On Control Devices. The following test methods shall be used, where appropriate:

a. test method 1 through 4 (LAC 33:III.6001, 6003, 6009 and 6013 respectively) for determining flow rates, as necessary;

b. test method 18 (LAC 33:III.6071) for measuring gaseous organic compound emissions by gas chromatographic analysis;

c. test method 21 (LAC 33:III.6077) for determination of volatile organic compound leaks;

d. test method 25 (LAC 33:III.6085) for determining total gaseous nonmethane organic emissions as carbon;

e. additional performance test procedures, or equivalent test methods, approved by the administrative authority*.

I. Recordkeeping. The owner/operator of any storage facility shall maintain records to verify compliance with or exemption from LAC 33:III.2103. The records shall be maintained for at least two years and will include, but not be limited to, the following:

1. The results of yearly inspections required by LAC 33:III.2103.D.2.e shall be recorded each year.

2. For vapor loss control systems (LAC 33:III.2103.E) the following information shall be recorded:

a. daily measurements of the exhaust gas temperature immediately downstream of a direct-flame incinerator;

b. daily measurements of the inlet and outlet temperature of a chiller, or catalytic incinerator.

3. The date and reason for any maintenance and repair of the applicable control devices and the estimated quantity and duration of volatile organic compound emissions during such activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division in LR 13:741 (December 1987), amended LR 15: (December 1989).

Joan Albritton
Program Manager

RULE

Office of the Governor Division of Administration Commissioner's Office

Title 4 ADMINISTRATION Part I. General Provisions

Chapter 5. Incentive Award Program

§501. Definitions

A. *Agency* is any unit within government that employs classified state civil service employees and has an identifiable self-contained budget or has its financial records maintained according to an accounting system which identifies, to the satisfaction of the legislative auditor, the expenditures and receipts properly attributable to that unit.

B. *Agency Employee Incentive Award Committee* (agency committee) is a committee created within an agency that has had its structure approved by the State Employee Incentive Award Committee.

C. *Application* is the submittal of a suggestion, on the prescribed form, to an incentive award committee.

D. *Cost Savings* is an actual dollar savings for an agency of government.

E. *Employee* is an individual employed by an agency at the time the suggestion is submitted to an incentive award committee.

F. *Evaluation* is the formal process by which a suggestion is reviewed. The evaluation process may include: preliminary review by an incentive award committee; review by the legislative auditor; reviewing the idea with the suggester; soliciting opinions and/or recommendations from supervisors or other state entities affected by the idea; and an agency or budget unit documentation of the cost savings or revenue generation.

G. *Implementation* is putting to use, putting into operation, and/or placing in effect an employee's suggestion, by a budget unit, agency or governmental entity.

H. *Implemented Suggestion* is a suggestion that is actually implemented and results in cost savings or revenue generation.

I. *Incentive Award Program* shall mean that program which is established in accordance with R.S. 39:366.1 through 366.6.

J. *Louisiana Civil Service League* is a private, non-profit educational organization that is authorized by R.S. 39:366.1 to make awards in the Incentive Award Program.

K. *Revenue Generation* is an economy that increases funds available to an agency of government as a direct result of an implemented suggestion.

L. *State Employee Incentive Award Committee* (state committee) is the committee created within the Division of Administration under the authority of R.S. 39:366.1 that is authorized to do the following:

1. empower agencies to create agency committees;
2. approve the structure of agency committees;
3. provide oversight for agency committees;
4. conduct yearly reviews of agency committees;
5. review incentive award suggestions having a statewide impact;

6. request the legislative auditor to review any incentive award program or suggestion.

M. *Suggester* is a budget unit or employee submitting an application to an Agency Committee or the State Committee.

N. *Suggestion* is an idea that:

1. poses a problem, or opportunity;
2. presents a solution;
3. has been implemented;
4. has been written up on the suggester's own time;
5. has been submitted to the state committee or an agency committee on the prescribed suggestion form;

6. has been signed by the suggester and has the approval of the department secretary or head of the agency employing the suggester.

7. has been received for processing by an agency or state committee.

O. *Transferability* is the feasibility of a suggestion being used in any other budget unit or agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated as a PPM by the Office of the Governor, Division of Administration, Commissioner's Office, LR 13:390 (July 1987), Repealed, LR 15:596 (August 1989), Repromulgated as a Rule, LR 16: (January 1990).

§503. Submittal of Suggestions to Committees

A. All applications must be submitted on the prescribed form. It is solely the responsibility of the suggester to fill out the form completely and accurately.

B. Before an application is formally submitted to an agency or state committee, the department secretary or the head of the agency shall sign the application form and list all partici-

pating employees from the agency. The committees shall rely on this application to determine employees eligible for an award recommendation. If an award recommendation is made, all participants shall be presumed to share the award equally.

C. To qualify for an incentive award recommendation, a suggestion must result in a cost savings or revenue generation.

D. The suggestion, upon submittal, shall become the exclusive property of the state of Louisiana.

E. All suggestions must be the suggester's idea and should not be the result of professional consultation or upon advice of others.

F. All suggestions shall be thoroughly documented and shall contain detailed information so that a cost-benefit analysis can be done to determine the cost savings or revenue generation. If the application does not contain sufficient information for such determination, a committee may require the suggester to submit supplemental information. If the suggester is unable or unwilling to submit the requested supplemental information, an agency or state committee may recommend that the application be declined.

G. All incentive award applications must be completed on the employee's off-duty time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated as a PPM by the Office of the Governor, Division of Administration, Commissioner's Office, LR 13:390 (July 1987), Repealed, LR 15:596 (August 1989), Repromulgated as a Rule, LR 16: (January 1990).

§505. Evaluation of Suggestions

A. Upon receipt of an application the agency or state committee or its staff shall review the submittal for completeness. If an application is complete it shall be evaluated to determine if the suggestion is eligible for the program. Whenever the agency or state committee declines an application, the suggester shall be notified in writing.

B. Applications that are accepted by an agency or state committee shall be forwarded to the head of the agency affected by the suggestion for further documentation of the cost savings or revenue generation. The suggestion shall be sent to the head of the agency with a request for specific documentation. The department or agency head's evaluation must be returned within the time-frame established by the agency or state committee and must be in writing.

C. A committee shall make the final recommendation based on the information supplied it by its staff, the applicant, and agency head. The agency or state committee recommendation shall be final; however, the suggester may submit the same suggestion again if he/she believes the committee was incorrect in its recommendation.

D. Committee members shall evaluate each suggestion based on the following criteria:

EVALUATION CATEGORY	Points
1. Originality	0 to 10
2. Transferability to other budget units or agencies	0 to 10
3. Cost Savings or Revenue Generation	0 to 10
	Points
\$ 0 - 4,999	1
5,000 - 14,999	2
15,000 - 29,999	3
30,000 - 49,999	4
50,000 - 74,999	5

75,000 - 104,999	6
105,000 - 139,999	7
140,000 - 179,999	8
180,000 - 224,999	9
225,000 -	10

E. Each committee member shall use the following evaluation form:

(File Number or Suggester Name) _____ Pts.

Originality _____

Transferability _____

Savings/Revenue _____

Total: _____

Signature of Committee Member

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated as a PPM by the Office of the Governor, Division of Administration, Commissioner's Office, LR 13:390 (July 1987), Repealed, LR 15:596 (August 1989), Repromulgated as a Rule, LR 16: (January 1990).

§507. Incentive Award Recommendations

A. After a suggestion is evaluated, the committee members' evaluations shall be totaled and averaged and an award recommendation shall be made as follows:

Award Recommendation	Points
\$ 200	4 - 8
250	9 - 10
500	11 - 13
750	14 - 16
1,000	17 - 19
2,000	20 - 22
4,000	23 - 25
6,000	26 - 27
8,000	28 - 29
10,000	30

B. If a suggestion does not receive enough points for a cash award recommendation, but is, in the opinion of an agency or state committee, meritorious, the suggester(s) may be recommended for a certificate of special recognition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated as a PPM by the Office of the Governor, Division of Administration, Commissioner's Office, LR 13:390 (July 1987), Repealed, LR 15:596 (August 1989), Repromulgated as a Rule, LR 16: (January 1990).

§509. Submission of Recommendations to the Louisiana Civil Service League

A. After the state committee or an agency committee completes evaluation of a suggestion and determines that an award recommendation should be made, a copy of the application and all documentation of the impact of the suggestion should be forwarded to the Louisiana Civil Service League, 535 Gravier Building, Suite 508, New Orleans, Louisiana 70130. The Civil Service League shall review the suggestion and award recommendation and determine the final award. All award determinations made by the Louisiana Civil Service League are final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated as a PPM by the Of-

Office of the Governor, Division of Administration, Commissioner's Office, LR 13:390 (July 1987), Repealed, LR 15:596 (August 1989), Repromulgated as a Rule, LR 16: (January 1990).

§511. Post Award Activity

A. All files shall be maintained by the appropriate committee for a period of three years after closure in accordance with R.S. 44:36. Suggesters may request to review these records. All scoring tabulations on which an award recommendation is based shall be maintained in the file.

B. After the file is closed the suggester will not be entitled to any further consideration for that suggestion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated as a PPM by the Office of the Governor, Division of Administration, Commissioner's Office, LR 13:390 (July 1987), Repealed, LR 15:596 (August 1989), Repromulgated as a Rule, LR 16: (January 1990).

§513. Miscellaneous

A. Any and all determinations made by the agency or State Employee Incentive Award Committee shall be final.

B. The State Employee Incentive Award Committee reserves the right to amend its rules. All suggestions shall be evaluated under the rules in effect at the time of submittal.

C. The agency and state committees reserve the right to modify a suggestion to provide the suggester a greater opportunity to have his or her suggestion receive a recommendation for an award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated as a PPM by the Office of the Governor, Division of Administration, Commissioner's Office, LR 13:390 (July 1987), Repealed, LR 15:596 (August 1989), Repromulgated as a Rule, LR 16: (January 1990).

Dennis Stine
Commissioner

RULE

Department of Health and Hospitals Office of Human Services

The Department of Health and Hospitals, Office of Human Services, Division of Mental Retardation/Developmental Disabilities is adopting the following rule which was published as a notice of intent in the *Louisiana Register*. Vol. 15, No. 11, dated November 20, 1989.

Title 48

PUBLIC HEALTH

Part IX. Mental Retardation/Developmental Disabilities Services

Chapter 7. Community Services Regions

§701. Community Services Regions

A. The deputy assistant secretary of the Office of Human Services, Division of Mental Retardation/Developmental Disabilities will have fiscal and programmatic responsibility for state operated programs for individuals with MR/DD as well as direct line authority over the community services regional managers of 10 regional community services offices.

B. Parish/parishes included in the 10 regions are as follows:

1. Region I - Orleans, St. Bernard, Plaquemines
2. Region II - Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge, West Feliciana
3. Region III - Assumption, Lafourche, St. Charles, St. James, St. John, Terrebonne, St. Mary
4. Region IV - Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, Vermilion.
5. Region V - Allen, Beauregard, Calcasieu, Jefferson Davis, Cameron
6. Region VI - Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, Winn
7. Region VII - Bienville, Bossier, Caddo, Webster, Sabine, Claiborne, Red River, Natchitoches, DeSoto
8. Region VIII - East Carroll, West Carroll, Caldwell, Franklin, Jackson, Morehouse, Ouachita, Union, Richland, Madison, Lincoln, Tensas
9. Region IX - Tangipahoa, St. Tammany, Livingston, Washington, St. Helena
10. Region X - Jefferson

AUTHORITY NOTE: Promulgated in accordance with Act 1 of the First Extraordinary Session of 1988 of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Human Services, Division of Mental Retardation/Developmental Disabilities LR 16: (January 1990).

David L. Ramsey
Secretary

RULE

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, is adopting the following rule in the Title XIX (Medicaid) Program effective January 20, 1990. The rule, implemented via emergency rulemaking on November 1, 1989, was published in the *Louisiana Register* on November 20, 1989 (Volume 15, No.11, page 947). The rule was published as a notice of intent on November 20, 1989 (Volume 15, No. 11, page 1004).

State Office approval is not needed for certain durable medical appliances, equipment and supplies specified in Chapter XIX if the cost is under \$100. State Office prior approval will continue to be required on those items not specifically included under this section in Chapter XIX regardless of cost.

David L. Ramsey
Secretary

RULE

Department of Public Safety and Corrections Office of State Fire Marshal

The Department of Public Safety and Corrections, Office of State Fire Marshal, hereby adopts regulations to govern in-

spection of remanufactured homes in accordance with Act 356 of the 1989 Regular Legislative Session.

Title 55
PUBLIC SAFETY
Part V. Fire Protection

Chapter 7. Remanufactured Housing

§701. General Provisions and Scope

Whereas manufactured homes built on or after June 15, 1976 have had to be in strict compliance with the Federal Manufactured Home Construction and Safety Standards (24 CFR Chapter XX Part 3280), and whereas these same homes have had at least one owner, and whereas these same homes may undergo some degree of refurbishing or remanufacturing before being resold to the consuming public, it is the intent of the fire marshal to assure the remanufactured home retains a minimum level of safety to life from the hazards of fire and similar habitable conditions. It is not the intent of the fire marshal, for reason of impracticality, to assure that each remanufactured home be completely restored or remanufactured to once again be in full compliance with the Federal Manufactured Home Construction and Safety Standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:912.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:144 (February 1975), repromulgated LR 6:73 (February 1980), repealed and adopted by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§703. Definitions

A. *Serial number* refers to the letters and numbers stamped into the foremost cross member of the remanufactured home by the original manufacturer as a means of identification required pursuant to 24 CFR Chapter XX Part 3280.6.

B. *Label* means the acceptable form of certification by the remanufacturer that, under LAC 55:604 is permanently affixed to each transportable section of each remanufactured home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§705. Inspection Information Plate

A. Each remanufactured home shall have an inspection information plate affixed in a secure manner near the main electrical panel or other readily accessible and visible location. Inspection information plates shall contain not less than the following information:

1. The name and address of the remanufactured housing plant, facility, or location in which the manufactured home was remanufactured.

2. The serial number of the unit and the date the unit was remanufactured.

3. The Louisiana label number.

4. The statement, "This remanufactured home was remanufactured in conformance with the minimum standards for life safety as regulated by the Louisiana Office of State Fire Marshal in force at the time of remanufacture."

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§707. Label

A. A permanent label shall be affixed to each transportable section of each remanufactured home.

B. The label shall be approximately 1½ in. by 3 in. in size and of a self-adhesive metallic type. The labels shall be stamped with a six digit sequential number.

C. The label shall read as follows:

This label is certification of restoration of this manufactured home being in conformance with the minimum standards for life safety regulated by the Office of State Fire Marshal.

D. The label shall be located approximately four feet up the floor and 8 in. away from the opening side of the main entry door, or as near to that location on a permanent part of the exterior of the remanufactured home unit as practicable.

E. Labels shall be affixed only at the end of this last stage of production of the remanufactured home and only to a remanufactured home to which the remanufacturer knows by its inspections to be in compliance with all applicable standards and regulations.

F. The remanufacturer shall keep a monthly record of all remanufactured homes to which labels are affixed and forward a copy of each month's report to the Fire Marshal on or before the tenth day of the following month.

G. A four week supply of labels can be procured by placing an order with the Office of State Fire Marshal on a "Request and Payment for Remanufactured Homes Labels" form. The labels shall be provided to the remanufacturer in a sequentially numbered series.

H. The remanufacturer shall pay a fee of forty dollars for each label ordered by a check made payable to the Office of State Fire Marshal for the total amount of the order.

I. The fire marshal shall reclaim labels where he has reason to believe remanufactured homes are being produced in nonconformance with the applicable standards and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§709. Exit Facilities; Exterior Doors

A. The number and location of exterior doors shall not be diminished below that of the original manufactured design or lower than allowed by 24 CFR Chapter XX Part 3280.105.

B. All exterior doors shall be fully operable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§711. Fire Safety

A. The number and location of smoke detectors shall not be diminished below that of the original manufactured design or lower than allowed by 24 CFR Chapter XX Part 3280.208.

B. All existing smoke detectors installed shall be cleaned and tested in accordance with standard recommended practices and be fully operable.

C. Any new smoke detectors installed for the purpose of replacement of an existing defective detector or as additional protection shall be installed and carry the appropriate labeling as required by 24 CFR Chapter XX Part 3280.208.

D. Flame spread limitations and fire protection requirements shall be those found in 24 CFR Chapter XX Part 3280.203.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§713. Egress Windows

A. All existing egress windows shall be fully operable and appropriately identified.

b. Any new egress windows shall meet the standards for type, performance, dimensions, installation, and identification per 24 CFR Chapter XX Part 3280.404.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§715. Water Distribution and Drainage

A. All water and drainage piping (existing or replacement) shall be tested and inspected by the remanufacturer in accordance with 24 CFR Chapter XX Part 3280.612.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§717. Gas Piping

A. All gas piping shall be tested for leakage by the remanufacturer in accordance with 24 CFR Chapter XX Part 3280.705.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§719. Electrical Systems

A. All electrical conductors and equipment replaced or repaired within or on a remanufactured home shall be in accordance with 24 CFR Chapter XX Part 3280 Subpart I.

b. Each remanufactured home shall have a dielectric, continuity, and operational test in accordance with 24 CFR Chapter XX Part 3280.810.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§721. Quality Assurance

A. The remanufacturer shall prepare and submit to the Fire Marshal for acceptance a quality assurance manual. That manual shall include the manufacturer's quality assurance program, an organizational chart showing the accountability, by position, of the manufacturer's quality control personnel, a description of production tests and test equipment required for compliance with the standards, a station-by-station description of the manufacturing process, a list of quality control inspections required by the remanufacturer at each station, a identification by title of each person who will be held accountable for each quality control inspection. All amendments to the quality assurance manual and all changes in the quality control personnel shall be reported to the fire marshal in writing within 10 days of their occurrence.

B. Labels shall only be affixed by or under the direct supervision of the quality control manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

§723. Inspections

A. The inspectors of the state fire marshal shall routinely review records/files of the remanufacturer's quality control department relative to production line inspections and tests to assure adherence to the quality assurance manual. Quality control inspection reports shall be checked to determine what corrective action the quality control manager has taken on items written up against the applicable standards and regulations.

B. The fire marshal inspector shall inspect each remanufactured home at least once in some stage of production. The inspector shall cite a nonconforming condition on an inspection report.

C. All units on the production line/stations shall be inspected each visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:912.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 16: (January 1990).

Carrol L. Herring
Fire Marshal

RULE

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

The Department of Social Services, Office of Eligibility Determinations proposes to amend the rule published in the *Louisiana Register* on November 20, 1985 regarding income assignment on child support cases.

Rulemaking is necessary because the state enacted legislation to implement provisions of Family Support Act of 1988 which mandates changes in income assignment procedures. La. R.S. 46:236.3 sets forth these procedures. The proposed rule was published as an emergency rule with an effective date of October 1, 1989.

RULE

On new or modified child support orders enforced by the department of Social Services, the court shall order an immediate income assignment unless there is a written agreement between the parties for an alternate arrangement, or the court finds good cause not to require an immediate income assignment.

For support orders existing before October 1, 1989, that are being enforced by the Department, without regard to whether there is an arrearage, the court shall order an immediate income assignment upon motion of the department on its own behalf or if requested on behalf of the obligor or obligee.

The total amount withheld, including the dates withheld, shall be forwarded within ten days.

May Nelson
Secretary

RULE

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

The Department of Social Services, Office of Eligibility Determinations, amended the rule published in the *Louisiana Register* on September 20, 1987 concerning guidelines for setting child support award amounts.

This rule is necessary because the Family Support Act of 1988 mandated the implementation of Mandatory Award Guidelines. R.S. 9:315 through 9:315.14 sets forth the guidelines the state of Louisiana has chosen to use. This rule was published as an emergency rule with an effective date of October 1, 1989.

RULE

Child support award guidelines are to be used in any proceeding to establish or modify child support filed on or after that date. There shall be a rebuttable presumption that the amounts of the child support obtained by use of the guidelines is the proper amount of child support.

The court may deviate from the guidelines if their application would not be in the best interests of the child or would be inequitable to the parties. The court shall give oral or written reasons for the deviation, and the reasons shall be made part of the record of the proceedings.

In determining whether to deviate from the guidelines, the court's considerations may include:

1. that the combined adjusted gross income of the parties is not within the amounts shown in the schedule, including an income less than the lowest sum shown in the schedule;
2. the legal obligation of a party to support dependents who are not the subject of the action before the court and who are in the party's household;
3. the extraordinary medical expenses of a party, or the extraordinary medical expenses for which a party may be responsible;
4. an extraordinary community debt of the parties;
5. the need for immediate and temporary support for a child when a full hearing on the issue of support is pending but cannot timely be held; and
6. any other consideration which would make application of the guidelines not in the best interests of the child or children or inequitable to the parties.

Calculations of the basic child support obligation are derived from each party providing to the court a verified income statement showing gross income and adjusted gross income, together with documentation of current and past earnings. Suitable documentation of current earnings shall include but not be limited to pay stubs, employer statements, or receipts and expenses if self-employed. Documentation shall include a copy of the party's most recent federal tax return. A copy of the statement and documentation shall be provided to the other party. The court shall determine the appropriate gross income if a party is voluntarily unemployed or underemployed.

The amounts of the parties' adjusted gross incomes are combined, and then each party's share of child support is determined by the percentage of his proportionate share of the combined adjusted income amount. The court shall determine the basic child support obligation amount from the Schedule of Basic Child Support Obligations by using the combined adjusted gross income of the parties and the number of children involved in the proceeding.

Net child care costs and the cost of health insurance pre-

miums incurred on behalf of the child shall be added to the basic child support obligation. By agreement of the parties or order of the court, the following expenses may be added to the basic child support obligation:

1. extraordinary medical expenses incurred on behalf of the child;
2. expenses for attending a special or private elementary or secondary school to meet the particular educational needs of the child; and
3. expenses for transportation of the child from one parent to the other.

Income of the child that could reduce the basic needs of the child may be considered a deduction from the basic child support obligation, although income earned by a child while a full-time student even if earned during a summer or holiday break shall not be deducted. Additionally, in cases of joint custody, the court may adjust the calculated order to reflect the period of time spent with the obligor.

The guidelines are not in and of themselves a change of circumstances allowing the modification of an existing order. The law still requires a change in circumstances before an existing order can be modified.

Schedule of Basic Child Support Obligations

Combined Adjusted Monthly Gross Income	Number of Children					
	One	Two	Three	Four	Five	Six or More
600	87	88	89	90	91	92
650	121	122	123	125	126	127
700	155	156	158	160	162	163
750	165	191	193	195	197	199
800	174	225	228	230	232	235
850	182	257	260	262	265	268
900	189	286	289	292	296	299
950	197	305	319	322	326	329
1000	203	315	349	352	356	360
1050	210	325	378	382	387	391
1100	216	335	408	412	417	421
1150	222	345	432	442	447	452
1200	229	354	444	472	477	483
1250	235	364	456	502	508	513
1300	241	374	469	528	538	544
1350	248	384	481	542	568	574
1400	254	394	494	556	599	605
1450	260	404	506	570	622	636
1500	267	414	519	584	637	666
1550	273	424	531	598	653	697
1600	281	435	545	614	670	717
1650	288	446	560	630	688	736
1700	295	458	574	647	705	755
1750	303	469	588	663	723	774
1800	310	481	603	679	741	792
1850	317	492	617	695	758	811
1900	325	503	631	711	776	830
1950	331	513	643	724	790	846
2000	337	522	655	737	805	861
2050	343	532	667	751	819	877
2100	349	541	679	764	834	892
2150	355	551	691	778	849	908
2200	361	561	703	792	864	924
2250	368	570	715	805	878	940
2300	374	580	727	819	893	956
2350	380	590	739	832	908	972
2400	386	600	751	846	923	988
2450	392	609	763	860	938	1004
2500	399	619	776	873	953	1020
2550	405	629	788	887	968	1035
2600	411	638	800	901	983	1051
2650	417	648	812	914	998	1067
2700	424	658	824	928	1013	1083
2750	430	668	836	942	1028	1099
2800	436	677	848	955	1042	1115
2850	442	687	860	969	1057	1131
2900	448	697	872	983	1072	1147
2950	455	706	885	996	1087	1163

Schedule of Basic Child Support Obligations (continued)

Combined Adjusted Monthly Gross Income	Number of Children					
	One	Two	Three	Four	Five	Six or More
3000	461	716	897	1010	1102	1179
3050	467	726	909	1024	1117	1195
3100	473	736	921	1037	1132	1211
3150	479	745	933	1051	1147	1227
3200	486	755	945	1065	1162	1243
3250	492	765	957	1078	1177	1259
3300	498	774	969	1092	1192	1275
3350	504	784	981	1106	1206	1291
3400	510	794	994	1119	1221	1307
3450	517	804	1006	1133	1236	1323
3500	523	813	1018	1146	1251	1339
3550	529	823	1030	1160	1266	1355
3600	535	833	1042	1174	1281	1371
3650	542	842	1054	1187	1296	1387
3700	548	852	1066	1201	1311	1402
3750	554	862	1078	1215	1326	1418
3800	560	872	1090	1228	1341	1434
3850	566	881	1103	1242	1356	1450
3900	573	891	1115	1256	1371	1466
3950	579	901	1127	1269	1385	1482
4000	585	910	1139	1283	1400	1498
4050	590	919	1149	1295	1414	1512
4100	596	927	1160	1307	1427	1526
4150	601	936	1170	1319	1440	1540
4200	607	944	1181	1331	1452	1553
4250	612	953	1191	1343	1465	1567
4300	618	961	1202	1355	1478	1581
4350	623	970	1212	1367	1491	1595
4400	629	978	1223	1379	1504	1609
4450	634	987	1234	1391	1517	1623
4500	640	995	1244	1403	1530	1637
4550	645	1003	1255	1415	1543	1650
4600	651	1012	1265	1426	1556	1664
4650	656	1020	1276	1438	1569	1678
4700	662	1029	1286	1450	1582	1692
4750	667	1037	1297	1462	1595	1706
4800	673	1046	1307	1474	1608	1720
4850	678	1054	1318	1486	1621	1734
4900	684	1063	1328	1498	1634	1747
4950	689	1071	1339	1510	1647	1761
5000	695	1079	1349	1522	1660	1775
5050	700	1088	1360	1534	1673	1789
5100	706	1096	1370	1545	1686	1803
5150	711	1105	1381	1557	1699	1817
5200	717	1113	1391	1569	1712	1831
5250	722	1122	1402	1581	1725	1844
5300	728	1130	1413	1593	1738	1858
5350	733	1139	1423	1605	1751	1872
5400	738	1146	1432	1616	1763	1884
5450	743	1153	1441	1626	1774	1896
5500	748	1160	1450	1636	1785	1908
5550	752	1167	1459	1646	1796	1920
5600	757	1175	1468	1657	1807	1932
5650	762	1182	1478	1667	1819	1944
5700	767	1189	1487	1677	1830	1956
5750	771	1196	1496	1687	1841	1968
5800	776	1203	1505	1698	1852	1979
5850	781	1211	1514	1708	1863	1991
5900	785	1218	1523	1718	1875	2003
5950	790	1225	1532	1728	1886	2015
6000	795	1232	1541	1739	1897	2027
6050	800	1240	1550	1749	1908	2039
6100	804	1247	1559	1759	1919	2051
6150	809	1254	1568	1769	1931	2063
6200	814	1261	1577	1780	1942	2075
6250	819	1269	1587	1790	1953	2087
6300	823	1276	1596	1800	1964	2099
6350	828	1283	1605	1810	1975	2111
6400	833	1290	1614	1820	1987	2123
6450	838	1297	1623	1831	1998	2135
6500	842	1305	1632	1841	2009	2147
6550	847	1312	1641	1851	2020	2159
6600	852	1319	1650	1861	2031	2171
6650	857	1326	1659	1872	2043	2183
6700	861	1334	1668	1882	2054	2195
6750	866	1341	1677	1892	2065	2207
6800	871	1348	1687	1902	2076	2219
6850	875	1355	1696	1913	2087	2231

Schedule of Basic Child Support Obligations

Combined Adjusted Monthly Gross Income	Number of Children					
	One	Two	Three	Four	Five	Six or More
6900	879	1361	1703	1921	2096	2240
6950	883	1366	1710	1928	2105	2249
7000	886	1372	1717	1936	2113	2259
7050	889	1378	1725	1944	2122	2268
7100	893	1383	1732	1951	2130	2277
7150	896	1389	1739	1959	2139	2286
7200	900	1394	1746	1967	2147	2295
7250	903	1400	1753	1974	2156	2305
7300	906	1406	1760	1982	2164	2314
7350	910	1411	1767	1990	2173	2323
7400	913	1417	1774	1997	2181	2332
7450	916	1422	1781	2005	2189	2342
7500	920	1428	1788	2013	2198	2351
7550	923	1434	1795	2020	2206	2360
7600	927	1439	1802	2028	2215	2369
7650	930	1445	1809	2036	2223	2378
7700	933	1450	1816	2043	2232	2388
7750	937	1456	1824	2051	2240	2397
7800	940	1462	1831	2059	2249	2406
7850	944	1467	1838	2066	2257	2415
7900	947	1473	1845	2074	2265	2424
7950	950	1478	1852	2082	2274	2434
8000	954	1484	1859	2090	2282	2443
8050	957	1490	1866	2097	2291	2452
8100	960	1493	1871	2103	2297	2458
8150	962	1497	1875	2108	2302	2464
8200	965	1501	1880	2114	2308	2471
8250	967	1505	1885	2119	2314	2477
8300	970	1509	1890	2124	2320	2483
8350	972	1512	1895	2130	2326	2489
8400	975	1516	1899	2135	2332	2496
8450	977	1520	1904	2141	2338	2502
8500	980	1524	1909	2146	2344	2508
8550	982	1528	1914	2152	2350	2514
8600	985	1531	1919	2157	2355	2521
8650	987	1535	1923	2163	2361	2527
8700	990	1539	1928	2168	2367	2533
8750	992	1543	1933	2174	2373	2539
8800	995	1547	1938	2179	2379	2546
8850	997	1551	1943	2185	2386	2553
8900	1000	1555	1948	2191	2392	2559
8950	1003	1559	1954	2197	2398	2566
9000	1005	1563	1959	2203	2405	2573
9050	1008	1567	1964	2209	2411	2579
9100	1011	1571	1969	2215	2417	2586
9150	1013	1575	1974	2221	2424	2593
9200	1016	1580	1979	2227	2430	2600
9250	1019	1584	1985	2232	2436	2606
9300	1022	1588	1990	2238	2443	2613
9350	1024	1592	1995	2244	2449	2620
9400	1027	1596	2000	2250	2455	2627
9450	1030	1600	2005	2256	2462	2633
9500	1032	1604	2010	2262	2468	2640
9550	1035	1608	2016	2268	2474	2647
9600	1038	1612	2021	2274	2481	2653
9650	1040	1617	2026	2280	2487	2660
9700	1043	1621	2031	2286	2493	2667
9750	1046	1625	2036	2291	2500	2674
9800	1048	1629	2042	2297	2506	2680
9850	1051	1633	2047	2303	2512	2687
9900	1054	1637	2052	2309	2519	2694
9950	1057	1641	2057	2315	2525	2701
10000	1059	1645	2062	2321	2532	2707

May Nelson
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

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

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

2. Harvest season — The open season shall run for a 30-day period beginning on September 9, 1988 and continue through October 8, 1989. It is legal to take, possess, or sell alligators or their skins under four feet in length as provided for by rules and regulations of the commission. A special department permit shall be issued to alligator hide dealers, farmers, ranchers and hunters in order to ship alligator skins below four feet in length.

3. Harvest methods — Alligators may be taken only during daylight hours, between official sunrise and official sunset. If a licensed hunter is cited for hunting alligators out of season, at night or on property other than that for which tags were assigned, all tags and skins for the current season will be confiscated in addition to revocation of the alligator hunting license.

Special instructions will be issued to the holders of alligator hunter licenses shortly before the opening of the season describing detailed methods regarding the skinning of alligators. Skins processed contrary to the specific requirements of the department will be considered illegal and will be confiscated by department personnel. Pole hunting is prohibited to protect the nesting female population. Hooks and lines may be set no more than one day prior to the season opening. No hook and line shall remain set after the closing day of the alligator season. All alligator hooks and lines must be checked daily and all hooks and lines must be removed when a hunter's tag quota is reached. Alligators cannot be cut loose from hooks and lines for purposes of selecting larger alligators.

4. Licenses — An alligator hunter must have in possession a valid commercial alligator hunter license to take or sell alligators or their skins or other alligator parts. The fee for the resident license is \$25 per year and for the non-resident \$150. These licenses are non-transferable. In order to obtain a resident license, the hunter must have established bona fide residence in the state.

A hunter must complete application forms provided by the department and furnish proof that he owns the land or has an agreement with the landowner or another authorized hunter to hunt alligators on the specified property. Information as to the location and acreage of the property must be provided (all land descriptions must include parish, township, range, and section delineation figures).

Applications must be submitted beginning August 1, 1989. Property ownership and description requirements do not apply to public lake hunters. The alligator hunter license will be issued only after the hunter has satisfactorily complied with the above requirements. Commercial alligator hunter licenses will

not be issued after September 18, 1989. Alligator sport hunter licenses may be issued throughout the season. Non-resident hunters and resident sport hunters must coordinate their hunt through landowners and licensed resident hunters. A non-resident hunter may take no more than three alligators per season.

A fur buyer license or fur dealer license is required for purchasing and handling raw alligator skins in Louisiana. An alligator parts dealer license is required of any person who deals in alligator parts other than hides and who: (a) buys from an alligator hunter or farmer for the purpose of resale; or (b) manufactures within the state, alligators parts into a finished product; or (c) purchases, cans, processes, or distributes alligator meat for wholesale or retail.

A retailer selling canned alligator parts or a retailer purchasing alligator parts from an alligator parts dealer or restaurant selling prepared alligator meat for human consumption shall not be classified as an alligator parts dealer. The fee for the parts dealer license is \$50 per year.

Persons or firms entering alligators, alligator eggs, or alligator skins and/or parts in interstate/foreign commerce in the course of a commercial activity must be licensed in accordance with state and federal regulations. Persons shipping alligators, alligator eggs, or alligator skins and/or parts to another state or country must do so in accordance with the regulations of that state or country.

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

5. Disposition, Validation, Tagging and Labeling — All alligators killed within the state including those killed on farms and ranches shall have an official \$4 harvest tag attached. All shipments of eggs and alligators transported or otherwise disposed of out-of-state shall have an official alligator/egg shipping label attached prior to transport or shipment out-of-state. A \$4 fee will be charged for each egg or alligator contained within the shipment.

In addition to a valid commercial alligator hunting license, the hunter must also obtain from the department, and have in his possession while hunting, official harvest tags which must be firmly attached to each alligator immediately upon taking. Numbered tags will only be issued in the name of license holders. Alligator tags will not be issued after September 18, 1989.

Harvest tags will be issued throughout the year to alligator farmers and ranchers and will only be issued to holders of valid Nongame Quadruped Breeders Licenses. All alligator tags issued to farmers and ranchers will only be issued from Rockefeller Refuge. Tags must be attached and locked in the last six inches of the tail. The tags must remain attached to the skin until final processing by the fabricator.

It shall be illegal to possess dead alligators or alligator skins in Louisiana without valid official tags or labels attached. Failure to properly tag or label an alligator or skin will result in confiscation of both the alligator or skin and tag. Alligator farmers and ranchers may hold dead farm raised alligators which may have died from disease in freezers until officially checked by a department biologist. Rockefeller Refuge must be notified within 30 days of any such deaths.

Official alligator tags will be issued to alligator hunters who have authorized applications. Each official tag will bear a serial number, and the tag issued to each hunter will be re-

corded. The number of tags will be issued on the basis of the quantity and quality of the habitat, and the rate per acre will be fixed based on extensive population estimates. Tags will be issued for alligator habitat only, based on final decision of department biologists.

Hunters, farmers and ranchers will be held accountable for all alligator tags issued to them. Unused tags must be returned by the hunter to the department no later than 15 days following the close of the season. Violation of this requirement shall result in the revocation of the alligator hunting license and no alligator tags will be issued for one year.

Department personnel must be notified, within 15 days following the season, of any alligator hides not sold to a commercial buyer or dealer on official Louisiana Department of Wildlife and Fisheries forms provided. Lost or stolen tags will not be replaced but must be reported within 15 days of close of season. Tags can be used only on the lands applied for and approved on the application.

Tags furnished by the Louisiana Department of Wildlife and Fisheries (Color: Blue) must be attached to all unprocessed alligator meat/parts upon transfer by a hunter or farmer.

Each shipment or transport of eggs or alligators out of the jurisdictional boundaries of Louisiana shall have affixed an official numbered alligator/egg shipping label which will be available upon request from the department. This label will contain the numbers of eggs and/or alligators being shipped/transported, the name and license number of the shipper and the destination address. Each label will be validated by a department employee. Shipment of eggs or alligators being used for department sanctioned research shall be exempt from the label fee but shall be accompanied by a permit issued by the department.

6. Alligator Farmers and Breeders — Licensed alligator farmers and ranchers must have department authorization to kill and skin their alligators but must follow the same rules and regulations which apply to wild alligators (except farm/ranching alligators can be harvested during closed season with department approval). Alligator farmers and ranchers must have written department authorization to sell or transfer live alligators or alligator eggs. All such requests shall be forwarded to Rockefeller Refuge. All alligator farmers and ranchers shall adhere to all requirements contained in their state Alligator Farming/Ranching Permit.

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

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

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

must be tagged with official Louisiana Department of Wildlife and Fisheries in-state shipping tags. A severance tax of 25 cents per hide must be paid on all out-of-state shipments at the time skins are transported or shipped.

10. Sale of Meat and Parts — Meat and other parts from lawfully taken alligators can only be sold according to Louisiana and federal laws, including Louisiana Department of Health and Hospitals regulations, Louisiana Department of Wildlife and Fisheries regulations, and federal regulations.

Alligator meat sold for human food must be processed in a licensed facility approved by the Louisiana Department of Health and Hospitals. If a person or firm is cited for buying or selling alligator meat that was not processed through a licensed alligator processing plant, all alligator meat in possession will be confiscated.

Alligator hunters, farmers, and parts dealers shall maintain records of all transactions, purchases and sales on forms provided by the department. These forms shall be submitted to the department within 30 days following the close of the season and thereafter at 60-day intervals until all parts are sold. All alligator meat and parts, excluding hides, shall be tagged with an official alligator parts tag (Color: Blue) to be furnished by the department. The alligator parts tag must remain attached until processing by properly licensed individuals or firms.

Hunters, farmers, and alligator parts dealers shall furnish a bill of sale to all retailers and restaurants purchasing alligator parts. This bill of sale shall be maintained for a period of six months.

11. Alligator Nuisance Control Program — This program is incorporated into the Alligator Harvest Program to remove problem alligators occurring within the confines of communities which cannot be harvested under the tag allotment program. This program will allow the taking of problem alligators within the confines of municipal, ward, parish, or state responsibility where there are alligator-people conflicts. The program depends upon close cooperation of state, parish and local authorities.

The primary objective of the Alligator Nuisance Control Program is to reduce the number of human - alligator contacts, yet utilize a valuable natural resource. Alligators taken under this program must be taken in accordance with state regulations and local regulations/ordinances. Skinning instructions issued by the department will be valid for one year, until the next year's skinning instructions are issued.

The selection of nuisance alligator hunters shall be coordinated through local governing bodies such as police juries or parish and city administrators. The final selection of nuisance alligator hunters rests with the department with appropriate background checks of all applicants. Alligator harvest tags may be issued by the department to an approved resident commercial license hunter who has been officially designated by the local governing body with concurrence of the department. The number of tags issued will be based on the number of legitimate complaints received, the quantity and quality of alligator habitat involved and with approval of department personnel. Numbered tags will only be issued in the name of the nuisance license holder for a sum of \$4 per tag.

Disposition of skins, meat and parts taken in this program will comply with existing federal and state statutes, commission rules and regulations, and regulations adopted by the Louisiana Department of Health and Hospitals.

12. Hunting On Public Lakes — The department may select public lakes for an experimental alligator hunting program. The harvest will be controlled by a tag allotment for each lake as

determined by population surveys by department personnel. An alligator hunter can receive tags for and hunt on only one public lake each season. The tag quota for a public lake is five per hunter. Alligator tags issued on public lakes are non-transferable.

Applicants for public lake hunting must be 16 years of age or older. Applications for public lake hunting must be received at least 10 days prior to the season opening date. In the event that the number of applicants for any particular public lake exceeds the number of allowable hunters, a public drawing will be held to select hunters. Only the applicants whose names are drawn will be eligible to hunt public lakes.

13. Harvest Rates — Harvest rates are presently being calculated and will be determined by biologists of the Fur and Refuge Division. Aerial nest counts and night count surveys will be completed on July 15, 1989. This data will be analyzed, harvest rates calculated, and alligator tag allotments will be presented to department/commission administrators for their consideration.

14. The department secretary shall be authorized to close, extend or reopen the alligator season as biologically justifiable; harvest rates will be approved when available by the department secretary.

Warren Pol
Chairman

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Title 76 WILDLIFE AND FISHERIES Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing §123. Black Bass

The Louisiana Wildlife and Fisheries Commission hereby establishes a minimum size of 16 inches total length and a daily take and possession limit of five fish for black bass in Chicot Lake, Evangeline Parish, Louisiana. This rule will become effective January 1, 1990.

Authority for adoption of this rule is included in Louisiana Revised Statutes, Title 56, Section 325(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:325(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), LR 16: (January 1990).

Warren Pol
Chairman

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations to preserve the

confidentiality of any data, information or statistics submitted or collected pursuant to Section 345 of Title 56 of the Louisiana Revised Statutes:

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter F. Confidential Fishing Data

§319. Confidentiality of Commercial Landings Data

CONFIDENTIALITY. All data collected or otherwise obtained by personnel or contractors of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission in the course of their duties and other landings data collected by personnel or contractors of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission are confidential and are not to be divulged, except in aggregate form, to any person except employees or contractors of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission or the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA/NMFS) whose duties require this information, except as permitted by law or court order. Aggregate form, with respect to data shall mean data or information submitted by three or more persons that have been summed or assembled in such a manner so as not to reveal, directly or indirectly, the identity or business of any such person. Neither employees or contractors of the Louisiana Department of Wildlife and Fisheries nor members of the Wildlife and Fisheries Commission will voluntarily release confidential information to another person, firm, or state or federal agencies, except NOAA/NMFS as stated above, and to the extent possible, will oppose other agency and congressional subpoenas to obtain confidential information. Neither the Louisiana Department of Wildlife and Fisheries nor its contractors nor members of the Wildlife and Fisheries Commission will disclose confidential statistics under court order without specific approval by the State Attorney General's Office. Employees or contractors of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission who have access to confidential statistics shall be subject to the provisions and penalties for unauthorized disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:435.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16: (January 1990).

Warren Pol
Chairman

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission adopted monetary values to be assigned to illegally taken, possessed, injured, or destroyed fish, wild birds, wild quadrupeds, and other wildlife and aquatic life as follows.

**Title 76
WILDLIFE AND FISHERIES**

**Part I. Wildlife and Fisheries Commission and Agencies
Thereunder**

**Chapter 3. Special Powers and Duties
Subchapter C. Fish and Wildlife Values**

§315. Fish and Wildlife Values

The Wildlife and Fisheries Commission hereby adopts the following values for illegally taken, possessed, injured, or destroyed fish, wild birds, wild quadrupeds, and other wildlife and aquatic life.

Game Mammals and Game Birds

Deer	\$474.70
Squirrels	\$8.82
Rabbits	\$14.84
Turkeys	\$726.24
Ducks	\$10.59
Geese	\$38.02
Coots	\$11.34
Gallinules	\$4.01
Rails	\$25.89
Snipe	\$20.29
Quail	\$15.72
Woodcock	\$27.13
Doves	\$8.85

Non-Game Animals

Raptors (Birds)	\$50.00
Other Birds	\$10.00
Frogs	\$8.84/lb
Turtles	\$5.35/lb
Alligator (Skin)	\$45.00/ft
Alligator (Meat)	\$2.00/lb
Nutria	\$2.50
Mink	\$12.50
Fox	\$15.00
Muskrat	\$2.00
Raccoon	\$5.00
Bobcat	\$45.00
Black Bear	\$2,000.00
Marine Mammals	\$2,000.00
Other Mammals	\$10.00

Threatened and Endangered Species

Reptiles (Adult or Young)	\$2,500/animal
Reptiles (Eggs)	\$2,500/violation
Birds (Adult or Young)	\$2,500/animal
Birds (Eggs)	\$2,500/violation
Mammals	\$2,500/animal
Invertebrates	\$2,500/violation

Species of Special Concern

Paddlefish	\$2,500/animal
Sturgeon	\$2,500/animal

All Non-Commercial/Non-Sport Fish

Marine		Fresh-Water	
Length Inches	Value	Length Inches	Value
1	\$0.32	1	\$0.17
2	\$0.58	2	\$0.22
3	\$0.89	3	\$0.29
4	\$1.20	4	\$0.43
5	\$1.47	5	\$0.57
6	\$1.72	6	\$0.71
7	\$2.03	7	\$0.82
8	\$2.40	8	\$1.00
9	\$2.72	9	\$1.41
10	\$3.00	10	\$1.70
11	\$3.70	11	\$1.99
12	\$4.69	12	\$2.56
13	\$5.72	13	\$3.14
Over 13	\$5.72/lb	Over 13	\$3.14/lb

Recreation and Commercial Fishes

Inch	Red fish	Speckled Trout	Red Snapper	White Trout	Flounder	Croaker	King Mackerel	L.Mouth Bass	Blue Gill	Crappie
1	\$0.37	\$0.37	\$0.37	\$0.37	\$0.37	\$0.37	\$0.37	\$0.31	\$0.25	\$0.31
2	\$0.66	\$0.66	\$0.66	\$0.66	\$0.66	\$0.66	\$0.66	\$0.72	\$0.50	\$0.52
3	\$1.02	\$1.02	\$1.02	\$1.02	\$1.02	\$1.02	\$1.02	\$0.93	\$0.58	\$0.52
4	\$1.38	\$1.38	\$1.38	\$1.38	\$1.38	\$1.38	\$1.38	\$1.05	\$0.73	\$0.72
5	\$1.69	\$1.69	\$1.69	\$1.69	\$1.69	\$1.69	\$1.69	\$1.38	\$0.85	\$0.76
6	\$1.98	\$1.98	\$1.98	\$1.98	\$1.98	\$2.20	\$1.98	\$1.60	\$1.23	\$1.23
7	\$3.17	\$2.64	\$2.61	\$2.03	\$2.42	\$2.42	\$6.10	\$2.60	\$3.99	\$1.74
8	\$4.36	\$3.30	\$3.24	\$2.08	\$2.86	\$2.64	\$10.23	\$3.59	\$9.59	\$2.26
9	\$5.56	\$3.96	\$3.87	\$2.14	\$3.31	\$2.86	\$14.35	\$4.58	\$23.05	\$2.77
10	\$6.75	\$4.62	\$4.50	\$2.19	\$3.75	\$3.17	\$18.48	\$5.57	\$25.61	\$3.29
11	\$7.94	\$5.28	\$5.13	\$2.24	\$4.19	\$3.49	\$22.60	\$6.56	\$28.17	\$4.45
12	\$9.13	\$5.94	\$5.76	\$2.29	\$4.63	\$3.82	\$26.72	\$7.56	\$30.73	\$6.02
13	\$10.33	\$6.60	\$6.39	\$2.34	\$5.07	\$4.16	\$30.85	\$8.55	\$33.29	\$8.15
14	\$11.52	\$8.39	\$7.02	\$2.94	\$5.52	\$4.50	\$34.97	\$9.54	\$35.85	\$11.04
15	\$12.71	\$10.67	\$8.41	\$3.69	\$6.02	\$4.86	\$39.10	\$12.91	\$38.41	\$14.94
16	\$13.90	\$13.55	\$10.04	\$4.62	\$6.54	\$5.23	\$43.22	\$17.48	\$40.98	\$20.23
17	\$17.37	\$17.20	\$11.96	\$5.77	\$7.10	\$5.60	\$47.34	\$23.67	\$43.54	\$27.39
18	\$21.70	\$21.82	\$14.19	\$7.20	\$7.68	\$6.00	\$51.47	\$32.04	\$46.10	\$29.00
19	\$27.10	\$27.67	\$16.81	\$8.98	\$8.29	\$6.40	\$55.59	\$43.38		\$30.61
20	\$33.86	\$35.09	\$19.87	\$11.20	\$8.93	\$6.82	\$59.72	\$58.73		\$32.22
21	\$42.29	\$44.50	\$23.45	\$13.95	\$9.61	\$7.26	\$63.84	\$79.52		\$33.83
22	\$52.83	\$56.44	\$27.62	\$17.39	\$10.33	\$7.71	\$67.97	\$83.30		\$35.44
23	\$66.00	\$59.21	\$32.50	\$21.66	\$11.09	\$8.17	\$72.09	\$87.09		\$37.05
24	\$82.45	\$62.02	\$38.20	\$22.78	\$11.89	\$8.66	\$76.21	\$90.87		\$38.66
25	\$103.00	\$64.86	\$44.86	\$23.92	\$12.73	\$9.16	\$80.34	\$94.66		
26	\$128.67	\$67.73	\$52.65	\$25.08	\$13.62	\$9.69	\$84.46	\$98.45		
27	\$133.61	\$70.64	\$61.77	\$26.27	\$14.56		\$88.59	\$102.23		
28	\$138.56	\$73.59	\$65.02	\$27.49	\$15.55		\$92.71	\$106.02		
29	\$143.51	\$76.57	\$68.38	\$28.74			\$96.83	\$109.81		
30	\$148.46	\$79.59	\$71.85	\$30.01			\$100.96	\$113.59		
31	\$153.41	\$82.65	\$75.42	\$31.32			\$105.08	\$117.38		
32	\$158.36	\$85.75	\$79.12				\$109.21	\$121.17		
33	\$163.31		\$82.94				\$113.33	\$124.95		
34	\$168.25		\$86.88				\$117.45	\$128.74		
35	\$173.20		\$90.95				\$121.58	\$132.53		
36	\$178.15		\$95.15				\$125.70	\$136.31		
37	\$183.10		\$99.48				\$129.83			
38	\$188.05		\$103.96				\$133.95			
39	\$193.00		\$108.58				\$138.08			
40	\$197.95		\$113.35				\$142.20			
41	\$202.90		\$118.26				\$146.32			
42	\$207.84		\$123.34				\$150.45			
43	\$212.79						\$154.57			
44	\$217.74						\$158.74			
45	\$222.69						\$162.95			
46	\$227.64						\$167.20			
47	\$232.59						\$171.50			
48	\$237.54						\$175.83			
49	\$242.48						\$180.21			
50	\$247.43						\$184.63			
51	\$252.38						\$189.10			
52	\$257.33						\$193.61			
53							\$198.17			
54							\$202.78			
55							\$207.43			
56							\$212.13			
57							\$216.89			
58							\$221.69			
59							\$226.55			
60							\$231.46			
61							\$236.42			
62							\$241.44			
63							\$246.51			
64							\$251.64			
65							\$256.83			
66							\$262.07			

Commercial Fish Species

Species Group	Value \$/lb	Species Group	Value \$/lb
Menhaden	\$0.05	Shrimp	\$1.46
Crab, Blue	\$0.41	Crawfish	\$0.44
Oyster	\$2.35	Tuna, Yellowfin	\$1.52
Drum, Black	\$0.27	Catfishes	\$0.48
Buffalofish	\$0.18	Shark	\$0.44
Mullet, Black	\$0.64	Sheepshead	\$0.18
Carp	\$0.09	King Whiting	\$0.30
Swordfish	\$3.10	Sheepshead, Freshwater	\$0.19
Garfish	\$0.45	Amberjack	\$0.58
Snapper, Vermillion	\$1.53	Wahoo	\$0.85
Sea Catfish	\$0.13	Grouper & Scamp	\$1.65
Butterfish	\$0.42	Shark, Black Tip	\$0.32
Tilefish	\$1.18	Tuna, Bluefin	\$13.65
Warsaw	\$1.19	Dolphinfish	\$0.83
Grouper, Yellowedge	\$1.73	Shark, Bonito	\$0.72
Grouper, Yellowfin	\$1.71	Scamp	\$1.89
Grouper, Black	\$1.80	Tuna, Other	\$0.41
Scup or porgy	\$1.12	Pompano	\$3.11
Cabio	\$0.84	Tuna, Blackfin	\$0.38
Bluerunner	\$0.36	Triggerfish	\$0.74
Shark, Thrasher	\$0.39	Grouper, Snowy	\$1.74
Shad	\$0.18	Spanish Mackerel	\$0.30
Tuna, Bigeye	\$2.30	Bearded Brotula	\$0.68
Snapper, Queen	\$1.35	Snapper, Silk	\$1.51
Bluefish	\$0.27	Grouper, Marbled	\$1.34
Grouper, Gag	\$1.82	Shark, Longfin Mako	\$1.00
Bowfin	\$0.14	Snapper, Other	\$1.69
Snapper, Black	\$1.44	Crab, Stone	\$2.00
Tuna, Albacore	\$0.74	Sculpin	\$1.04
Bonito	\$0.29	Jewfish	\$0.91
Squid	\$0.34	Eel, Common	\$0.47
Shark, Tiger	\$0.35	Snapper, Lane	\$1.97
Spot	\$0.31	Snapper, Mangrove	\$1.18
Tripletail	\$0.55	Driftfish, Black	\$1.11
Hind, Speckled	\$1.36	Grouper, Other	\$0.71
Shark, Sandbar	\$0.27	Marlin, White	\$0.80
Snapper, Blackfin	\$1.21	Marlin, Blue	\$0.82
Hinds, Other	\$1.32	Hake	\$0.47
Rudderfish	\$0.59	Spearfish	\$0.75
Shrimp, Freshwater	\$0.86	Sailfish	\$0.95
Snapper, Yellowtail	\$0.79	Grouper, Red	\$1.53
Hind, Rock	\$1.31	Creville Jack	\$0.11
Snapper, Gray	\$0.90	Shark, Blue	\$0.22
Tuna, Skipjack	\$1.35	Shark, Hammerhead	\$0.31
Skates	\$0.43	Shark, Sand Tiger	\$0.34
Snapper, Mahogany	\$1.42	Grunts	\$0.33
Rays	\$0.31	Shark, Dogfish	\$0.90
Oilfish	\$0.75	Sawfish	\$0.20
Barracuda	\$0.29	Shark, White	\$0.43
SeaBass, Atlantic	\$0.89	Grouper, Yellowmouth	\$1.83
Porgy, Red	\$0.86	Hind, Red	\$1.29
Shark, Soupfin	\$0.30	Moonfish	\$0.08
Permit	\$0.90	Marlin, Black	\$0.94
Grouper, Nassau	\$1.24	Sardine, Pacific	\$0.28
Spadefish	\$0.20	Eel, Conger	\$0.43
Filefish	\$0.20	Blackfish, Sacramento	\$0.29
Eel, Moray	\$1.00	Wenchman	\$0.44
Snapper, Mutton	\$0.35		

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:40.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16: (January 1990).

Warren Pol
Chairman

RULE

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

The Department of Wildlife and Fisheries does hereby establish the 1989-90 furbearer trapping season for the south zone as being December 1, 1989 through February 28, 1990. After carefully considering the market situation for some upland species especially the raccoon, the department, in an attempt to provide more opportunity for trapping of bobcat and fox after deer hunting seasons are closed, does hereby establish the 1989-90 furbearer trapping season for the north zone as November 20, 1989 through February 15, 1990, with the addition of an experimental season from February 16, 1990 through March 15, 1990, with trapping techniques restricted to the use of Soft-Catch traps (padded jaw traps) or their equivalent. The department secretary shall be authorized to close or extend the trapping season in any portion of the state as biologically justifiable.

Federal restrictions imposed by the CITES Scientific Authority for otter and bobcat furs continue to require placement of an export tag prior to out-of-state shipment.

CITATION: None - Changes Annually

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:260.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16: (January 1990).

Warren Pol
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Civil Service

The State Civil Service Commission will hold a public hearing on Wednesday, February 7, 1990 to consider the following Rule proposal. 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.

Consideration will be given to the following:

PROPOSAL TO ADOPT RULE 6.5.1

6.5.1 Pay Upon Appointment From a Department Preferred Reemployment List.

Subject to Rule 6.14, the pay of a person appointed from a department preferred reemployment list may be fixed no higher than his rate of pay at the time of the layoff or displacement action, or at his current rate if such rate is higher based on other provisions of these Rules. In no case shall the rate of pay

be higher than the range maximum for the class to which appointed.

EXPLANATION

A recent Civil Service appeal pointed out that there was a serious hiatus in the pay rules. In the absence of a specific rule governing rate of pay upon department preferred reemployment, the Civil Service Commission reluctantly concluded that in the particular situation presented in the appeal, it had to apply the rule governing rate of pay on promotion (Civil Service Rule 6.7). In its decision the Commission stated that this result was not the Commission's intent. *Appeal of Standiford* (DSS) #7238, rendered September 20, 1989. The rule change could have been handled on a regular basis but for the fact that the *Standiford* decision has been interpreted by the DSS and by the DSCS too broadly. Recent appeals filed by employees of the DSS indicate that the *Standiford* decision is being applied in every situation wherein an employee is demoted in lieu of layoff and is later returned to the same job from which he was displaced. This is not at all analogous to the factual situation presented in the *Standiford* case. Because of the prevalence of the misinterpretation of the *Standiford* decision, it was felt that immediate curative action was needed; therefore, the rule amendment was adopted on an emergency basis on January 10, 1990.

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 adoption of LAC 46:1.1111 pertaining to the board's interpretation of the square footage threshold set forth in R.S. 37:155(4)(f) for a building with mixed occupancy classifications.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part I. Architects

Chapter 11. Administration

§1111. Calculating Gross Floor Area R.S. 37:155(4) Where Building Contains Mixed Occupancy Classifications

When a building contains more than one of the occupancy classifications set forth in R.S. 37:155(4)(f), the gross floor area shall be calculated by performing the following calculations:

1. Divide the gross floor area of each of the occupancy classifications by the corresponding threshold of each, as established in R.S. 37:155(4)(f). Round off the resultants to four decimal points.
2. Add the results of each of the above calculations.
3. If the total exceeds 1.0000, the building exceeds the gross floor area established in R.S. 37:155(4)(f).

For example, calculating the gross floor area of a building containing 3,126 square feet of storage occupancy and 2,000 square feet of business occupancy shall be performed as follows:

3,126 actual storage sq. ft.		
divided by 6,250 threshold	=	0.5002
2,000 actual business sq. ft.		
divided by 4,000 threshold	=	0.5000
Total	=	1.0002

In this example, the threshold square footage of this mixed occupancy building would be exceeded and, therefore, would not be exempt under R.S. 37:155(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:155(4)(f).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 16:

Interested persons may submit written comments on this proposed rule to Ms. 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: Calculating Gross Floor Area

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs/savings to the state or local governmental units since this new rule merely clarifies the effect of Act 653 of 1989 (which amended R.S. 37:155) on a building which contains more than one of the occupancy classifications set forth in R.S. 37:155(4)(f).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections since this new rule merely clarifies the effect of Act 653 of 1989 (which amended R.S. 37:155) on a building which contains more than one of the occupancy classifications set forth in R.S. 37:155(4)(f).
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is anticipated since this new rule merely clarifies the effect of Act 653 of 1989 (which amended R.S. 37:155) on a building which contains more than one of the occupancy classifications set forth in R.S. 37:155(4)(f).

Mary "Teeny" Simmons
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

LIMITED FUNCTION FINANCIAL INSTITUTIONS

Pursuant to the authority granted to the commissioner of Financial Institutions by R.S. 6:121(B)(1) and 451(H), the commissioner proposes to permanently adopt a rule, previously promulgated under the emergency provisions of R.S. 49:953(B), which amends the regulations governing limited function financial institutions.

R.S. 6:451(H) authorizes the commissioner of financial institutions to issue such regulations as may be necessary to administer the provisions of Chapter 5 of Title 6 of the Louisiana Revised Statutes of 1950, as amended.

This proposed rule will make permanent an emergency rule published in the December 20, 1989, *Louisiana Register*, amending the regulations applicable to limited function financial institutions as originally published in the *Louisiana Register*, Volume 14, Number 12, dated December 20, 1988.

This proposed rule will establish the guidelines for the issuance, refusal and renewal of limited function financial institution licenses. The rule will also delineate the powers, prohibitions, and affirmative duties of limited function financial institutions. Finally, this proposed rule will set out penalties for violations of the regulation.

Interested parties may request copies of the proposed rule, submit written comments or make written inquiries concerning the rule until 4:45 p.m., February 9, 1990, at the following address: Office of Financial Institutions, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809. Commissioner Dent is the person responsible for responding to inquiries concerning the proposed rule.

Fred C. Dent
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Limited Function Financial Institutions

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

There are no implementation costs (or savings) since this rule merely amends the existing rule applicable to limited function financial institutions.

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

There will be no effect on revenue collections. This rule merely places more stringent guidelines on limited function financial institutions and neither raises nor lowers the fees associated with the application and renewal process.

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

Licensees may incur opportunity costs associated with the redistribution of investment portfolios or may decide to increase capitalization in lieu of such redistribution to meet proposed collateralization requirements. Operating costs may be increased by the surety bond requirement. Licensees will be subjected to specific penalties as authorized under Title 6 of the Louisiana Revised Statutes. Loans between

licensees and their affiliates may be restricted by the terms of the limited function financial institution license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment. The proposed rule gives the Office of Financial Institutions greater enforcement powers to ensure compliance with the statute governing limited function financial institutions. These regulated entities do not compete with each other or with other financial institutions.

Fred C. Dent
Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Real Estate Commission

Notice is hereby given that the Louisiana Real Estate Commission will consider the repeal of the following rules and regulations of the agency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate

Chapter 21. Trade Names and Names of Licensees

§2109. Corporate License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R.S. 37:1437.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:398 (October 1977), amended LR 4:479 (December 1978), repealed by the Department of Economic Development, Real Estate Commission, LR 16:

§2111. Incorporated License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:398 (October 1977), amended LR 4:479 (December 1978), repealed by the Department of Economic Development, Real Estate Commission, LR 16:

§2113. Symbols or Trademarks

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:398 (October 1977), amended LR 4:479 (December 1978), repealed by the Department of Economic Development, Real Estate Commission, LR 16:

§2115. No Similar Trademarks

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:398 (October 1977),

amended LR 4:479 (December 1978), repealed by the Department of Economic Development, Real Estate Commission, LR 16:

Chapter 25. Advertising
§2515. Valuable Consideration to Purchasers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 11:758 (August 1985), repealed by the Department of Economic Development, Real Estate Commission, LR 16:

Jane H. Moody
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules

Rule Title: Chapt. 21 Names on Licenses, etc.
Chapt. 25 Advertising

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact by repeal of these rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on revenue collections by repealing these rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no effect to the public or the industry through repeal of these rules. Language included in prior rule changes make the repealed rules unnecessary and conflicting. This language was inadvertently left in the present rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The repeal of these rules will not affect competition and employment. The recently adopted rules adequately cover the license requirements as they pertain to names, trademarks, etc.

Jane H. Moody
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revisions to the 8(g) Policy Manual

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board approved the following revisions to the 8(g) Policy Manual:

SECTION IV - Part 131 - Eligible Applicants (amend to read):

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

A. Any public or approved nonpublic elementary/secondary school system located within the State of Louisiana. Ap-

plications made on behalf of a specific classroom teacher, a department within a school, a school, a group of schools, or on a system-wide basis shall be eligible for submission only through the approved recipient who shall serve as fiscal agent.

B. Any approved elementary or secondary school located within the State of Louisiana that is not a part of a school system, provided that the school has been certified by the State Board of Elementary and Secondary Education to meet all applicable standards and is approved for state funding under Brumfield vs. Dodd. Applications made on behalf of a specific classroom, teacher, or department, or an entire school shall be eligible for submission only through the approved recipient who shall serve as fiscal agent.

C. Any public postsecondary vocational-technical institution.

D. Private organizations/individuals shall be eligible to submit only through an approved recipient who shall serve as fiscal agent.

E. State agencies shall be eligible for funding for noncompetitive statewide projects as allocated by BESE.

SECTION IV - Part 140 - Application for Support Fund - (amend to read)

Applicants should submit 10 copies of the complete Support Fund application, including all attachments to the State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

UNDER SECTION IV - Part 144 - Period to be Covered by Application for Support Fund Monies (amend to read)

The maximum years eligible to receive funding for a continuing project is three years. It should be clearly understood by applicants, however, that no project will be funded for more than one fiscal year. Funding for subsequent years contained in the project proposal is subject to reconsideration by the board in each subsequent fiscal year. The award of Support Fund monies will, in all cases, be guaranteed for one fiscal year only.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., March 12, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: 8(g) Policy and Procedure Manual

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings to state or local governmental units associated with this rule.
- 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 associated with this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no costs or economic benefits to directly affected persons or non-governmental units associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment associated with this rule.

Em Tampke
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revised Certification Fee Schedule

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 revised certification fee schedule. This Fee Schedule supersedes the fee schedule which was published as an emergency rule in the August, 1989 issue of the *Louisiana Register*.

This proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., March 12, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Certification Fee Schedule**

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

Since fees are currently being collected by the Department of Education, this proposed fee increase should not require additional funds to implement other than approximately \$50 (printing and postage) to disseminate the revised fee schedule statewide.

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

It is estimated that as a result of this proposed action an additional \$92,292 will be available to the Department of Education (Bureau of Teacher Certification) as self-generated funds.

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

This proposed action would increase the certification fees required of Louisiana school personnel for Louisiana certification. An increase from \$10 to \$30 depending on the type of transaction required is proposed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this proposed action.

Graig Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Employment and Training
Office of Employment Security**

The Department of Employment and Training, Office of Employment Security, intends to adopt a proposed rule change for the rules for the Administration of the Employment Security Law.

**Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security**

Chapter 3. Employment Security Law

§329. Registration for Work and Claims for Benefits for Total and Part-Total Unemployment

A. Claims for benefits for total or part-total unemployment shall be made on forms prescribed by the administrator for that purpose. In order to claim benefits or waiting period credits for unemployment, an individual shall:

- 1. file a claim for benefits and
- 2. register for work at the Office of Employment Security.

B. The continued claim for benefits for total or part-total unemployment shall be made on forms prescribed by the administrator. Except as otherwise provided in this Section and § 333, to establish eligibility for benefits or waiting credits for weeks of total or part-total unemployment during any continuous period of unemployment, the claimant shall continue to report in person or by mail, weekly or biweekly, or at more frequent intervals, if directed by the administrator or his representative, to the Employment Security office where he registered for work and filed his claim, provided the reporting at more frequent intervals places no unreasonable burden on him or does not unreasonably limit his opportunity to establish his rights to benefits. The claimant may, for good cause when unable to report to such office, file his claim at any other office of Employment Security. For reasons found to be cause for any individual's failure to appear at the time specified for reporting at an 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. Repealed

D. An individual who returns to employment under conditions which no longer render him eligible for benefits or waiting period credits may claim benefits in person or by mail for the week or portion of a week immediately preceding his employment, provided the week or portion of a week follows without interrupting an initial claim or a week for which benefits or waiting credits were claimed.

E. The administrator may waive or alter either or both of the requirements of this Section to an individual who:

- 1. is a paid-up union member of a recognized craft union;
- 2. is partially employed and filed a claim for part-total benefits;
- 3. files a claim for shared-work benefits under a shared-work plan, or
- 4. is on temporary layoff from his regular work with a definite date of return and holds himself available for reemployment at his last place of work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:491 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 16:

Interested persons may submit written comments on this proposed rule through February 20, 1990, to Bernard J. Francis, Assistant Secretary, Department of Employment and Training, Box 94094, Baton Rouge, LA 70804-9094.

Phyllis Coleman Mouton
Secretary

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

Rule Title: Registration for Work and Claims for Benefits for Total and Part-Total Unemployment

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs to state or local governmental units as a result of the promulgation of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect upon revenue collections of state or local governmental units as a result of promulgation of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The estimated effect upon competition and employment will be to better assist the agency in referring individual claimants for unemployment benefits to appropriate employment opportunities.

B. J. Francis Sr.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 37:3111 et seq., the Louisiana Department of Employment and Training, Office of Labor, Community Services Block Grant is hereby giving notice of its intention to adopt rules and regulations.

Comments should be forwarded to C. Gino Spina, Director of Community Services Block Grants Division, Box 94094, Baton Rouge, LA 70804-9094. Written comments will be accepted through the close of business 4:15 p.m. February 1, 1990. Oral and written comments will also be accepted at the

public hearing to be conducted on Friday, February 2, 1990 at 10 a.m. The site of this public hearing will be the Louisiana Department of Employment and Training Annex, Third Floor Conference Room, 1001 North 23rd Street, Baton Rouge, LA. A copy of these rules may be reviewed at the community action agency's office in your area or obtained by contacting C. Gino Spina at the above address.

C. Gino Spina
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Community Services Block Grant Policy Manual and Special Clauses**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Approximately \$8.5 million is received by this division annually in support of the federally enacted Community Services Block Grant, (CSBG) the Community Food and Nutrition Initiative and the Emergency Community Services Homeless Programs. All funds in support of these programs, including that for state level administration, is received from the federal government.
No implementation costs are necessary or required as a result of these new rules. These rules, governing subgrantee activities and expenditures, will cause the recipients or subgrantees of funding through the Community Services Block Grant Division to be more accountable for their activities, operate more efficiently and be in proper compliance with state and federal regulations.
The Louisiana Department of Employment Training as grantor, is responsible for the statewide administration of the Community Services Block Grant Programs.
The only expected costs are those administrative costs such as printing, personnel and mailing which are not expected to exceed \$1,000.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on the revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The overall benefit of the proposed new rules will be to the client or recipient population of Louisiana. These rules will ensure fair treatment for all recipients, the best and most economical services and more funds available for services. The subgrantees or subrecipients will have more of their grant funds to spend on direct services to the eligible population, operate more efficiently and improve the quality and quantity of services offered to the poor.
The Community Services Block Grant program is supported by approximately \$8.5 million annually. This amount is not expected to change or require a state match.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Subgrantee (organizations) receiving CSBG funds are required to procure all goods and services through competitive bid. All such goods and services are purchased on the open

market. Competition among vendors should be enhanced. The net result could improve employment in some vendor organizations.

Robert B. Levy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Employment and Training Office of Workers' Compensation

In accordance with the provisions of the Administrative Procedure Act (LSA-R.S. 49:950 et seq.) and LSA-R.S. 23:1034.2 the Louisiana Department of Employment and Training, Office of Workers' Compensation, is hereby giving notice of its intent to adopt rules and regulations in regard to hearing officers. The rules and regulations shall provide and govern the procedures between the new administrative and hearing offices of Workers' Compensation and the individual practicing before the hearing offices.

Comments should be forwarded to Stephen W. Cavanaugh, Director of Louisiana Department of Employment and Training, 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., Tuesday, January 30, 1990.

Oral and written comments will also be accepted at the public hearing to be conducted Tuesday, January 30, 1990, at 9 a.m. The site of this public hearing will be the Louisiana Department of Employment and Training, 1001 N. 23rd Street, Baton Rouge, LA, fourth floor conference room in the administrative building, Room Number 486.

A copy of these rules may be obtained by contacting Stephen W. Cavanaugh at the above address.

Stephen W. Cavanaugh
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Workers' Compensation Rules

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

These provisions will result in cost savings to local courts and clerks of court, who will no longer have to provide personnel, storage facilities, hearing facilities and personnel, or other resources for the hearing of approximately 4,000 workers' compensation cases. This cost savings will be offset, presumably equally, by the loss of filing revenues that would otherwise be collected by these courts. Also, local governmental units (police juries, school boards) who provide hearing sites will benefit by a use charge of approximately \$100 per hearing day. The cost to the Office of Workers' Compensation in the 89-90 fiscal year will be approximately \$566,610. The cost to the state of this program in the 90-91 fiscal year is approximately \$905,275.

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

As stated in I above, it will result in reduction of filing fees

(4,000 times an average \$100 per case) of approximately \$400,000 statewide annually.

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

The only cost to non-governmental persons or institutes is the filing fee of \$30 per case. In actuality, this is a substantial savings, since this fee is on average more than \$70 less than filing fees in district courts. This equals a statewide savings of \$280,000 annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These provisions will have a beneficial effect on competition and employment, because of the provision for more standardized hearing procedures and lowered "legal friction" costs as a result of the permission for non-lawyers to attend informal hearings. Also, the informal hearing procedures offer employees and employers a mandatory face-to-face arbitration procedure that does not presently exist.

Stephen Cavanaugh
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Environmental Quality Office of Air Quality and Nuclear Energy

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.2131, 2133, and 2135.

These proposed revisions will add requirements for testing and recordkeeping for bulk gasoline handlers, as well as to lower their exemption level as expressed in gallons per year.

The proposed regulations are to become effective on March 20, 1990, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on February 7, 1990 at 1:30 p.m. in the Mineral Board Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Thursday, February 8, 1990 at 4:30 p.m., to Joan Albritton, Office of Legal Affairs and Enforcement, Box 44066, Baton Rouge, LA 70804. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.:

State Land and Natural Resources Building, Rm. 615, 6th Floor, 625 North Fourth Street, Baton Rouge, LA 70804;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101-4388;

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;
Department of Environmental Quality, 2945 North I-10 Service Road, Metairie, LA 70002; and
Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

Mike McDaniel, Ph.D.
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Revision to LAC 33:III.2131, 2133 & 2135

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

There should be no additional cost to state or local government. Regulations are made more enforceable and do not add any significant additional work load for state and local government.

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

No significant effect.

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

Capital cost to implement these regulations is estimated to be \$10,000,000. Annual operating cost is estimated to be \$2,630,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Small operators will be affected disproportionately and some will probably go out of business. Some, but not all, of the employees losing their jobs will be rehired by the surviving operators.

Mike D. McDaniel Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33: V.

This proposed rule corrects omissions and deletes unnecessary words, and makes necessary additions to LAC 33:V.; Sections 105.D. 10, 105.D.10, 105.D.29, 109, 1109.E.4. 3707.F.1.a.iv, b.ii, b.iv, 3719.F.5, 4105.A, 4377.B. 4377.B.2, 4377.B.3, 4399.A.6.i 4403.B.4.b, 4403.D.5, 4403.E.1.a.ii, 4403.E.1.a.iv, 4901.D so that Louisiana Hazardous Waste Regulations will conform to federal regulations.

The proposed regulations are to become effective on March 20, 1990, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held at 1:30 p.m., February 1, 1990, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, February 2, 1990, at 4:30 p.m., to Joan Albritton, Office of Legal Affairs and Enforcement, Box 44066, Baton Rouge, LA 70804. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.:

State Land and Natural Resources Building, Rm. 615, 6th Floor, 625 North Fourth Street, Baton Rouge, LA 70804;

Department of Environmental Quality, 804 31st. Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101-4388;

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;

Department of Environmental Quality, 2945 North I-10 Service Road, Metairie, LA 70002; and

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

Timothy Hardy
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Conformity Regulations, III Amendment To LAC 33:V.

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

There will be no significant implementation costs or savings to state or local governments as the proposed regulations will simply correct state regulations to conform to existing federal regulations.

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

There will be no significant 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 significant costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of this proposed amendment on competition and employment is anticipated.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33: V.

This amendment is necessary so that Louisiana Hazardous Waste Regulations will conform to the federal HSWA regulations.

The proposed regulations are to become effective on March 20, 1990, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held at 1:30 p.m., on February 1, 1990, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, February 2, 1990, at 4:30 p.m., to Joan Albritton, Office of Legal Affairs and Enforcement, Box 44066, Baton Rouge, LA 70804. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.:

- State Land and Natural Resources Building, Rm. 615, 6th Floor, 625 North Fourth Street, Baton Rouge, LA 70804;
- Department of Environmental Quality, 804 31st. Street, Monroe, LA 71203;
- Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101-4388;
- Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;
- Department of Environmental Quality, 2945 North 1-10 Service Road, Metairie, LA 70002; and
- Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

Timothy Hardy
Assistant Secretary

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

Rule Title: HSWA Cluster I Amendment to LAC 33:V.

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant implementation costs or savings to state or local governments as the proposed regulations will simply correct state regulations to conform to existing federal regulations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant 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 significant costs and/or economic benefits to directly affected persons or non-governmental groups.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no significant effect on competition or employment.

Timothy W. Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

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NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:V.2203.A and 2242.D.

These proposed revisions will redefine "land disposal" so that the definition will coincide with the definition in Act 485 of the 1989 Legislature and 40 CFR 268.2. It will also correct a minor error in format by renumbering Section 2242.D.1.c to 2242.D.2 and 2242.D.2 to 2242.D.3 with no change in wording or text.

The proposed regulations are to become effective on March 20, 1990, 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 22. Prohibitions on Land Disposal**

§2203. Definitions Applicable to this Chapter

A. When used in this Chapter the following terms have the meanings given below:

Land Disposal - placement in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt-dome formation, salt-bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

§2242. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injection

D. The demonstration required in Paragraph A.2 of this Section must include sufficient information to assure the administrative authority of the following:

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"

2. Any migration due to diffusion shall be accounted for in the demonstration required under Subparagraph D(1)(a).

3. For each well the petitioner has done the following:

A public hearing will be held at 1:30 p.m., on February 1, 1990, in the Mineral Board Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, February 2, 1990 at 4:30 p.m., to Joan Albritton, Office of Legal Affairs and Enforcement, Box 44066, Baton Rouge, LA 70804. Copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.:

State Land and Natural Resources Building, Rm. 615, 6th Floor, 625 North Fourth Street, Baton Rouge, LA 70804;

Department of Environmental Quality, 804 31st. Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101-4388;

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;

Department of Environmental Quality, 2945 North I-10 Service Road, Metairie, LA 70002; and

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

Timothy Hardy
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amendment to Prohibitions on Land Disposal of Hazardous Waste - LAC 33:V.2203.A and 2242.D.

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed amendment on state or local governmental expenditures is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed amendment on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefits to directly affected persons or non-governmental groups is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect of this proposed amendment on competition and employment is anticipated.

Timothy Hardy
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Governor's Special Commission on Education Office of Education Services

GSCES Policy and Procedure Manual Revisions

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Special Commission on Education Services (GSCES) advertises its intent to adopt a policy which would amend Policy, Chapter V, "Institutional Participation," and Procedure 4.0. "How to Establish Eligibility to Participate as a School in the Louisiana Student Loan Programs," and Procedure 4.1 "How to Maintain Eligibility to Participate as a School in the Louisiana Student Loan Programs," and Procedure 4.2, "Loss or Limitation of Institutional Eligibility to Participate as a School in Louisiana Student Loan Programs."

Copies of Policy V, and Procedures 4.0, 4.1, and 4.2 may be seen in the offices of GSCES, 8401 United Plaza, State Retirement Systems Building, Room #250, or the office of the Louisiana Register located in the Capitol Annex.

Interested persons may comment on this proposed policy and procedure changes and/or additions in writing from 7:45 a.m. to 4:30 p.m., until March 30, 1990 at the following address: GSCES, 8401 United Plaza Boulevard, State Retirement Systems Building, Room #250, Baton Rouge, LA 70809.

A hearing on the proposed rule will be held on February 1, 1990 in the Board Room, Fourth Floor, Louisiana Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at the said hearing.

Jack L. Guinn
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Institutional Participation

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated Implementation Costs for the Governor's Special Commission on Education Services for 1989-90 are \$4,618 and include new school workshops, mailing costs, printing costs, typing costs, and staff time (compliance, client services, fiscal administrative services, staff attorney and computer services).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Increased revenues of approximately \$15,000 annually will be from an increase in loan volume from new schools making new student loans, thus providing our agency with self-generated funding.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No charge to become an eligible school. New schools must meet procedure requirements such as costs to attend training, costs to revise school catalog, etc. Approved schools would be able to offer additional financial aid services to students.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Governor's Special Commission on Education Services
Office of Education Services
Scholarship Division**

In accordance with R.S. 49:950 et seq., notice is hereby given that the Governor's Special Commission on Education Services (GSCES), Scholarship Division, advertises its intent to adopt a new combined Scholarship Application Form in the following scholarship programs: Rockefeller State Wildlife Program, Paul Douglas Federal Teacher Program, and the T. H. Harris State Academic Program, for the 1990-91 academic year, and to revise scholarship program policies and eligibility criteria. Effective January 1, 1990, the combined new Scholarship Application Form will be used for all scholarship programs administered by GSCES.

Copies of the new scholarship applications may be seen in the offices of GSCES, Scholarship Division, 8401 United Plaza, State Retirement Systems Building, Room #250, or the office of the *Louisiana Register* located in the Capitol Annex.

Interested persons may comment on the proposed new Scholarship Application Form in writing from 7:45 a.m. to 4:30 p.m. until March 30, 1990, at the following address: GSCES, Scholarship Division, 8401 United Plaza, Room #250, Baton Rouge, LA 70809.

Jack L. Guinn
Executive Director

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

Rule Title: Revised Scholarship Application Form and Eligibility Criteria

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

Estimated Implementation Costs for 1989-90 are \$3,528 and include printing costs, typing costs, staff time (scholarship administration, student workers, executive director, client services, fiscal).

Savings should occur due to the fact that the three individual scholarship applications will not be reprinted, nor three separate applications evaluated by staff to determine eligibility.

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

There will be no effect on revenue collections with the adoption of this rule.

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

Students applying for more than one scholarship encounter a savings because they now can submit one application

instead of submitting two or three as required in the past. Additional savings to the students include a reduction in mailing costs and elimination of the notary requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment with the adoption of this rule.

Jack L. Guinn
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et seq., notice is hereby given that the Louisiana Board of Veterinary Medicine intends to adopt rules which are summarized as follows:

1. LAC, Part LXXXV, Chapter 1, Board of Veterinary Medicine, §101 is revised to provide that the board's principal office shall be in Baton Rouge, Louisiana, so that no particular address is required.

2. LAC, Part LXXXV, Chapter 1, §103 is revised to provide that annual meetings and additional meetings shall be scheduled at the permanent office located in Baton Rouge, Louisiana and to delete the requirement that a specific address is given.

3. LAC, Part LXXXV, Chapter 1, §105 is revised to delete the reference to a specific address of the board office.

4. LAC, Part LXXXV, Chapter 3 §301 is amended to require that a graduate of a foreign veterinary school must supply the board with a copy of the certificate from the "Educational Commission for Foreign Veterinary Graduates" or "ECFVG" certificate.

5. LAC, Part LXXXV, Chapter 4, §401, 403, 405, 407, 409, 411, 413, 415, 417 and 419 are added to the rules to require that all applicants for relicensure as a veterinarian must complete 1.6 continuing veterinary education credits, i.e., 16 actual hours. The courses must be accredited either by the American Veterinary Medical Association and/or approved by this board. The continuing veterinary education units must be obtained during the fiscal year prior to the application for relicensure. Further, each veterinarian must certify that he or she has completed the minimum number of hours of continuing veterinary education and each veterinarian must maintain individual records of same. Each licensee must fulfill these annual continuing veterinary education requirements at his own expense. Non-compliance with the rules shall be considered to be a violation of R.S. 37:1526(14) and (15).

6. LAC, Part LXXXV, Chapter 7, §701 is amended to provide that patient records must be maintained for a period of five years and are the responsibility and property of the veterinarian and to provide that the veterinarian shall not release said records to any person other than the client. [B. Former Section B is now Section C and has been unchanged.]

7. LAC, Part LXXXV, Chapter 7, §705 has been amended so that the "veterinarian-client-patient relationship" is more fully defined and to provide that records of prescribing and

dispensing drugs must be maintained by the veterinarian.

8. LAC, Part LXXXV, Chapter 7, §706 has been added to require that it is the veterinarian's responsibility to label all medications and/or veterinary products as dispensed and to provide that these records must be maintained for five years.

9. LAC, Part LXXXV, Chapter 8 "Registered Veterinary Technicians" is new. These regulations, found in §§ 801 through 815, provide for the application procedure for a person to become registered as a veterinary technician. Said application procedures track those already in force for veterinarians. In addition, the board adopts the examination prepared by the Veterinary Technicians Testing Committee and the American Veterinary Medical Association. A passing score on said examination is deemed to be the correct answering of 70 percent of the questions contained on the examination less one standard deviation. The applicant for registration as a veterinary technician must also pass 70 percent of the questions on a state examination. Certificates of approval without examination shall not issue nor shall temporary permits for certificates of approval issue. The examination fee is \$125; the original registration fee is \$25; and the annual renewal certificate fee is \$25. Said certificates expire at midnight on June 30 of each fiscal year. The rule then provides the procedure for renewal of the certificate. The rules also provide the procedure to appeal and review test scores; said procedures track those already in force for licensed veterinarians.

10. LAC, Part LXXXV, Chapter 9 is new and provides for the Peer Assistance Program for impaired veterinarians. This Chapter consists of §§901 through 907. The purpose of this program is to identify and assist licensed veterinarians and para-professionals who are impaired by chemical dependency on drugs or alcohol or by mental illness and to establish a peer assistance program to achieve those ends. The Chapter provides for the method to report a veterinarian or para-professional whom the individual believes to be impaired. In addition, the Chapter provides that the license may be suspended or revoked if the impaired professional fails to remain in and complete the course of treatment or rehabilitation.

11. LAC, Part LXXXV, Chapter 10, is new and contains general Rules of Professional Conduct and consists of §§1001 through 1063.

a. §1001 provides for the general purpose and scope of the rules.

b. §1003 provides that it is unprofessional conduct for a veterinarian to represent conflicting interests.

c. §1005 provides that it is unprofessional conduct to encroach upon the practice of another veterinarian either directly or indirectly.

d. §1007 provides that a veterinarian shall expose corrupt or dishonest conduct in the profession.

e. §1009 provides that it is the veterinarian's own responsibility to decide which employment he or she will accept and the course of treatment that will be given.

f. §§1010 and 1011 provide that a veterinarian shall not render any service or advice involving disloyalty under the law.

g. §1013 provides that a veterinarian shall not render any service or advice directed toward the corruption of any person exercising a public office or private trust or which is directed toward the deception or betrayal of the public.

h. §1015 provides that in the formation of a partnership for the practice of veterinary medicine, no person shall be admitted as a partner who is not a member of the veterinary profession, duly licensed to practice in the state, and amenable to professional discipline. Further, this Section provides that in the

selection and use of a firm name, no false or misleading names shall be used.

i. §1017 provides that the professional services of a veterinarian shall not be controlled or exploited by any lay agency, personal or corporate, which intervenes between the client and the veterinarian.

j. §1019 provides that it shall be considered to be dishonest for a licensed veterinarian to accept employment from a non-licensed person, company, firm, or corporation for the purpose of the sale of the veterinarian's professional services to the public.

k. §1021 provides that each veterinarian shall post or display at his office, his original license to practice veterinary medicine in Louisiana as well as his current year's license renewal certificate.

l. §1023 provides that a veterinarian shall exercise the same degree of care, skill and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medicine profession.

m. §1025 provides that a licensed veterinarian shall not use or display any college degree, certificate, or title granted by any institution not approved by the board.

n. §1027 provides that a licensed veterinarian shall not use any certificate, college degree, or title to which he is not entitled.

o. §1029 provides that a licensed veterinarian shall not promote, aid, or abet the practice of veterinary medicine by an unlicensed person or any other illegal or unethical act.

p. §1031 provides that a licensed veterinarian shall not allow an unlicensed person to issue certificates with a veterinarian's signature, nor shall he permit an unlicensed person to treat animals unless the treatment is done under the direct supervision of the licensed veterinarian; provided, however, that an unlicensed individual shall not perform surgery, diagnosis, and prognosis of animal diseases, prescribing of drugs, medicine and appliances. This Section further defines "direct supervision" and "direct visual supervision" and "intern/preceptee."

q. §1033 provides that a licensed veterinarian shall not issue a certificate of health unless he has his own knowledge that the animal meets the requirements for said issuance.

r. §1035 provides that it is professionally dishonest for a licensed veterinarian to guarantee a cure.

s. §1037 provides that all licensed veterinarians shall treat animals in keeping with the professional standards of humane treatment and care.

t. §1039 provides that a licensed veterinarian shall conduct his practice on the highest plane of honesty, integrity, and fair dealings with his clients in time and services rendered and in the amount charged.

u. §1041 provides that a veterinarian shall not violate the confidential relationship between himself and his client.

v. §1043 provides that a veterinarian shall not write testimonials as to the virtue of or endorse remedies, instruments, equipment, or food.

w. §1045 provides that the utilization of services of solicitors is reprehensible in the veterinary profession. This Section further provides that a licensed veterinarian shall not participate in arrangements which share the proceeds from professional services with unlicensed individuals.

x. §1047 provides that a veterinarian shall not use a present or past position of trust to create for himself any individual professional advantage.

y. §1049 provides that a veterinarian is required to main-

tain the premises in a state of sanitation so as to comply with public health requirements.

z. §1051 provides that a licensed veterinarian whose accreditation has been or is subject to being revoked or removed by a state or federal authority may be subject to disciplinary action by the board.

aa. §1053 provides that the selection and use of a corporate or assumed name in the veterinary profession shall consist of the combination of words "animal or veterinary" in connection with the words "hospital or clinic." It further provides that the name must exclude the advertising of special services and must include the word "incorporated" if the clinic is incorporated. It further provides that the word "emergency" may be included in the name if the clinic is limited exclusively to said practice.

bb. §1055 provides that it is unprofessional conduct for a licensed veterinarian to prescribe or dispense any controlled substance without having first established a veterinarian-client-patient relationship.

cc. §1057 defines "advertising" and "solicitation;" "Solicitation" includes advertising intentionally directed to specific individuals.

dd. §1059 defines which statement or claims may be "false, deceptive, or misleading."

ee. §1061 provides that advertisements for prices for routine veterinary services shall be valid and binding on the advertising veterinarian for not less than six months following the date it was last offered.

ff. §1063 provides that if a veterinarian is certified as a specialist in a particular field of veterinary medicine, he or she may so advertise.

12. LAC, Part LXXXV, Chapter 11, is new and provides for the establishment of an intern program.

a. §1101 provides that the purpose of the program is to acquaint the applicant with the scope and pace of a clinical practice.

b. §1103 defines the intern program which must consist of not less than five weeks of training in a viable clinical practice situation under the direct supervision of a practicing licensed veterinarian together with five weeks of classroom hours or ten weeks in training in a viable clinical practice.

c. §1105 provides that every applicant for licensure must complete a preceptorship program during the senior year in an accredited school of veterinary medicine or after graduation.

d. §1107 provides that the board may appoint a preceptorship committee composed of not less than five nor more than eight veterinarians.

e. §1109 provides that the preceptor has the responsibility of an instructor during the training period.

f. §1111 defines the preceptee/applicant's responsibilities.

g. §1113 provides that all practitioners who wish to participate in the preceptorship program must complete practice assessment forms and job description forms.

h. §1115 provides the mechanism for approval of a preceptorship practice.

i. §1117 provides that financial arrangements are to be negotiated by the practitioner and the applicant while bearing in mind that the main objective of the program should be educational rather than remunerative and further that a written agreement setting forth the responsibilities of the student and the practitioner should be agreed upon by both parties.

j. §1119 provides that each preceptee shall be required to keep a daily log of his activities and evaluations.

k. §1121 provides that both the preceptor and the preceptee must complete an evaluation form as provided by the preceptorship committee.

l. §1123 provides that the effective date of the rules and regulations shall take effect on the first day of May, 1990 at noon.

Interested persons may submit written comments until 4:30 p.m., March 1, 1990 at the following address: Thomas Bennett, Executive Secretary, Louisiana Board of Veterinary Medicine, Box 15191, Baton Rouge, LA 70895-5191.

Ronny J. Hampton, D.V.M.
President

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Veterinarians

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

There will be a slight increase of cost to the Louisiana Board of Veterinary Medicine for testing veterinary technicians all of which will be derived from a \$125 examination fee. This increase in cost is estimated at \$1,500 annually and is derived entirely from the examination fees.

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

There will be a slight increase in revenue collections from a \$125 application fee and a \$25 renewal fee for veterinary technicians. This increase in revenue is estimated at \$1,500 for Fiscal Year 89-90, \$1,500 for Fiscal Year 90-91, and \$1,500 for 91-92. There are currently no application and renewal fees for registered veterinary technicians.

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

Veterinary technicians are registered and recognized by the Louisiana Board of Veterinary Medicine, therefore elevating their status in the veterinary profession and their ability to generate a higher standard of living. The new rules also set the fees authorized by law for testing and for renewal of a certificate of approval at \$125 and \$25 respectively.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Ronny J. Hampton, D.V.M.
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

The Louisiana Board of Veterinary Medicine hereby advertises its intent to adopt LAC 46:LXXXV.702; 851, 853 and 855 as follows.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§702. Direct Supervision

A. The board's position on non-licensees performing chiropractic, acupressure, acupuncture, and equine dentistry ("defined as extracting wolf teeth from horses and as floating the teeth of horses") treatments on animals is:

1. The foregoing may be performed by a non-licensure only under the direct supervision of a licensed veterinarian. "Direct Supervision" includes:
2. the licensed veterinarian must have established a valid veterinarian - client - relationship;
3. the treatment must be performed on the order or prescription of a licensed veterinarian;
4. the licensed veterinarian must be available on the premises; and
5. the licensed veterinarian must assume liability for any treatment performed.

Chapter 8. Registered Veterinary Technicians

Subchapter B. Certified Animal Euthanasia Technicians

§851. Storage of Sodium Pentobarbital

All sodium pentobarbital shall be stored either in a securely locked cabinet which is of substantial construction or in a safe or in a locked metal cabinet. The cabinet, safe or locker shall be locked at all times. The certified animal euthanasia technician(s) shall have the responsibility for the safe-keeping of the keys and/or combination to the cabinet, safe or locker.

§853. Usage Log

A usage log shall be maintained to account for the use of each cubic centimeter (cc) or parts thereof of sodium pentobarbital. The log shall be maintained in a book with preprinted numbered pages which shall not be torn out. The log shall include the date of usage, the lot number and bottle number used, the amount in cc's of usage, the tag number or other identification number for the animal and the name of the person who drew the sodium pentobarbital. The log shall also indicate the number of cc's lost due to spillage.

§855. Inventory

An inventory of all sodium pentobarbital shall be done every three months. The inventory shall indicate the amount of sodium pentobarbital ordered, the amount presently on hand, the amount used for euthanasia, the amount lost due to spillage, and the amount lost due to the drug's expiration. The inventory shall be made and signed by the certified animal euthanasia technician. Upon written request from either the Louisiana Board of Veterinary Medicine or from the Department of Health and Hospitals, the certified animal euthanasia technician shall provide a copy of the inventory records.

Interested persons may submit written comments until 4:30 p.m., March 1, 1990 at the following address: Thomas Bennett, Executive Secretary, Louisiana Board of Veterinary Medicine, Box 15191, Baton Rouge, LA 70895-5191.

Ronny J. Hampton, D.V.M.
President

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Veterinarians

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

There may be a slight increase in cost to the Louisiana

Board of Veterinary Medicine in the event inventories and usage logs are reviewed. Any increase in costs will be derived from the fees paid by individuals who are certified animal euthanasia technicians. The cost is estimated to be \$1,000 annually.

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

There will be a slight increase in revenue collections from the \$100 application fee to be certified as an animal euthanasia technician and from the \$25 annual renewal fee. This increase is estimated to be \$1,000 annually.

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

The directly affected groups are animal control centers and humane societies which have contracts with local governments to provide animal control services for the local governments. The costs to each animal control agency is \$100 per certified person and a \$25 annual renewal fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment vis-à-vis the use and storage of Sodium Pentobarbital. The effect on competition and employment regarding "direct supervision" is to prevent the illegal practice of veterinary medicine by so-called "equine dentists."

Dr. Ronny J. Hampton
President

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Office of Human Services

Jefferson Parish Mental Health,
Mental Retardation and Substance Abuse Authority

The Department of Health and Hospitals, Office of Human Services, in accordance with Act 458 of the 1989 Regular Session of the Louisiana Legislature proposed to adopt the following rules and regulations for the Jefferson Parish Mental Health, Mental Retardation and Substance Abuse authority:

I. Function and Responsibilities

A. The Jefferson Parish Mental Health, Mental Retardation and Substance Abuse Authority (herein referred to as the authority) is a management organization. While constituted in law as a state entity, it functions solely on a parochial level in the provision of appropriate services. Its members are commissioned by the governor. As an authority, it has the responsibility to perform the functions of the state with regard to the full spectrum of services and continuity of care for the citizens of Jefferson Parish in the following categories:

1. persons with mental and/or emotional illness;
2. persons with developmental disabilities;
3. persons with substance abuse problems.

To be eligible for services, the person must meet the applicable state and federal guidelines and regulations appropriate for each category. Families of such persons shall also be eligible for applicable services.

B. The services to be provided shall include the full array as mandated in current state law for each category enumerated

in Paragraph A above and shall include, but are not limited to the following:

1. prevention;
2. detection;
3. diagnosis;
4. treatment;
5. training;
6. rehabilitation;
7. case management;
8. follow-up care
9. education (when not provided by Jefferson Parish Public School System).

C. The services outlined in B above shall to the maximum extent possible be afforded in a community setting with the goal of maintaining the person in the community. These services shall be maintained at no less than the same level as the state maintains in other parishes or regions of the state.

D. While it is the primary duty of the authority to direct the operation and management of the services in B above, it shall also have the following powers to accomplish its mandate:

1. Possession and operating control, but not title to, all real and personal state property dedicated to the provision of mental health, mental retardation, and substance abuse services in Jefferson Parish.
2. Enter into appropriate contracts within the provisions of state and parish law.
3. Acquire personal and real property.
4. Coordination through formal letters of agreement with other local, parish, state or federal entities to reduce the duplication of services, and enhance the quality and quantity of services offered.
5. Collection of all monies due for the provision of services pursuant to statutory provisions.

D. The Jefferson Parish Council shall have the authority to levy taxes and issue bonds or other obligations to meet the requirements for services as provided for in applicable law and regulations.

II. Board of Governors

A. The governing body of the authority shall be a 12-member Board of Governors (herein referred to as the board). The board shall be constituted in accordance with the applicable law, and shall conduct its business in keeping with its bylaws, and the applicable local, state and federal laws and regulations.

B. While the law requires equal representation from the three areas of service, mental health, mental retardation (including all developmental disabilities) and substance abuse (with representation of professionals, consumers and/or their families, or advocacy groups), individual members of the board shall take action to ensure that a coordinated service delivery system is administered without regard to individual constituency.

C. It shall be incumbent upon each member of the board and each employee of the authority to conduct the business of the authority in such a manner that will not bring discredit to the authority. Each board member or employee shall take whatever action that is appropriate to resolve ethical or conflict of interest questions in a timely manner.

III. Planning and Evaluation

A. As soon as possible after the completion of the process of adopting the authority's bylaws and rules and regulations, the board shall begin the process of reviewing the appropriate regional and state plans pertinent to its area of responsibility. After this review, the board shall then formulate its own plan to accomplish its legislated mandate. The authority's plan shall be negoti-

ated with the appropriate state agencies and shall be the formal vehicle for the delivery of services in accord with the state plan.

B. The plan adopted by the board shall be consistent with regional and state plans and should emphasize the advantages of delivery of services on a local level. Particular attention shall be given to the authority's ability to maximize service by its inherent advantage of being able to coordinate on a local level, and to facilitate the process of revenue enhancement.

C. Realizing that there are never enough funds available to implement a service delivery system which will meet all the legitimate needs of Jefferson Parish's citizens, the board, in its plan, shall adopt priorities to meet most pressing needs determined by the board.

D. The board shall also adopt a long range plan with financing options to correct the deficiencies identified in its service delivery plan.

E. The board shall develop and adopt performance indicators to evaluate the effectiveness of its services. The performance indicators shall be evaluated no less than annually by comparison with the most current base line data available, and are applied to the services and quality of life of the consumers for whom the authority provides services. These indicators shall include, but are not limited to the following:

1. Has the public education and relations activity of the Authority met the needs of the Jefferson Parish community by increasing their acceptance of the clients of the authority as functional and contributing members of our community?
2. Have more persons become employed?
3. Have all students transitioned from the educational service system to the appropriate adult service program without a break in services?
4. Has transportation been made available to persons requiring it in such a manner as to foster maximum independence?
5. Has the implementation of the authority's plan increased the productivity of its employees? (More services provided per employee?)
6. How many persons are being maintained in a community environment in Jefferson Parish?
7. Have more local funds become available to provide services?
8. Have more services become available?
9. Have services traditionally available to one category now become available for all categories?
10. Are provisions for services been made available in the more remote areas of the parish? (Ex. Grand Isle)
11. Have the Jefferson Parish Sheriff's department and the Jefferson Parish Office of Emergency Management incorporated the unique needs of the clients into their plans for evacuation and/or rescue?
12. Have procedures been implemented with the Jefferson Parish Judicial System to ensure the unabridged rights of the authority's clients?
13. Have persons availing themselves of chemical dependency services been provided with adequate follow-up care to enable them to stay employed and free from their particular dependency?
14. Has there been an increased awareness in the community of the activities of the authority?
15. Has the waiting list decreased?
16. Are appropriate emergency services unique to each category available on a 24-hour basis?

IV. Financial Accountability

A. Since all the members of the authority have experi-

ence in the human service field, they are uniquely aware of the chronic shortage of funds and services for persons with disabilities. Therefore there is an overriding concern that for the funds expended, there be the largest quantity of the best and most appropriate services available to the most people.

B. In its bylaws, the board has very explicit responsibilities for its treasurer and Fiscal Committee. Budget development, alternative fund raising, contract review, program monitoring, and an outside audit are all part of its bylaws and are methods of ensuring the fiscal integrity of the authority.

C. The authority shall develop procedures in cooperation with the Finance Department of Jefferson Parish for the flow of funds from the state and federal government. These procedures shall be designed to ensure that funds appropriated for the delivery of human services are used only for that purpose.

D. In addition to the previously stated controls, the board shall coordinate with the Finance Department of Jefferson Parish to maximize the use of all funds available.

E. In accordance with the procedures established in Jefferson Parish, the board shall make recommendations for enhancement of revenues. The board shall take an active part in the process of justifying to the parish administration, council, and the citizens of Jefferson Parish the need for increased revenues to fund new or lacking services.

F. In preparation for reauthorization, and at any other appropriate time, the authority shall solicit the cooperation of the Legislative Auditor in the preparation of necessary financial documentation to present to the Louisiana Legislature and other interested parties.

V. Reauthorization

A. The enabling legislation creating the authority includes a sunset provision which calls for it to cease operation on July 1, 1992 unless reauthorized by the Legislature prior to that date. Since Jefferson Parish is the first parish in the state to be offered the opportunity to provide the appropriate human services on a parochial level, it is the sincere intent of the members of the board that the authority should not only meet the goals of the enabling legislation, but exceed them to the extent that reauthorization can be accomplished without difficulty.

B. Using the performance indicators outlined in Paragraph III. F. above, and others to be developed, a system of data collection shall be instituted from which factual information may be compiled to present an objective report indicating the success and failures of the authority. This report should include recommendations for changes in the enabling legislation or other procedures which would facilitate the functioning of the authority.

Interested persons may submit written comments on the proposed rules to the following address: Billy Ray Stokes, Assistant Secretary, Office of Human Services, Department of Health and Hospitals, Box 3868, Baton Rouge, LA 70821. He is the person responsible for responding to public comment.

A public hearing on these proposed rules will be held at 10 a.m. on February 8, 1990 at the East Jefferson Parish Health Unit at 111 North Causeway Boulevard, Metairie, LA 70004. 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: Jefferson Parish Mental Health Mental Retardation and Substance Abuse Authority

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

No additional cost is projected to implement this rule. Existing resources for services now being delivered will be transferred to Jefferson Parish in order that they may continue services. It is planned that service delivery will be at least comparable to other regions, and will be consistent with the local parish plan.

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

Jefferson Parish now has a millage tax which supports Mental Health (including Substance Abuse) and Public Health Services. This tax will have to be voted back into effect before the end of calendar year 1991. In subsequent years this millage tax may vary from the current level. Rule will allow local government access to other revenue sources such as United Way contributions and local bonds.

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

Local government has the authority to raise additional funds through bonds and other local resources not available to state government, including private donations and contributions. This allows the flexibility of increased services to clients if possible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The local management structure allows for the possibility of increased employment through local funding. It also opens the way for increased competition to allow for the provision of services to underserved populations.

Billy Ray Stokes
Assistant Secretary

David W. Hood
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

The appearance of medical wastes on shorelines, in combination with public concern about AIDS, has focused our attention on how such materials are handled and disposed.

The Office of Public Health of the Department of Health and Hospitals proposes to adopt the following regulations in accordance with R.S. 40:4 and R.S. 40:5 which address the need for special handling of potentially infectious medical wastes, above and beyond the routine handling of non-medical municipal waste.

These regulations will comprise Part 2. Infectious Waste Management of Chapter XXVII of the State Sanitary Code. Part 1 will be comprised of Refuse Management from Chapter XIII of the State Sanitary Code. There are no changes to the content of this Part.

Interested persons may submit written comments to the following address: Joel L. Nitzkin, M.D., D.P.A., Acting Assistant Secretary and Medical Director, Office of Public Health, Box 60630, New Orleans, LA 70160.

A public hearing on this proposed rule will be held on January 29, 1990 at the Insurance Building, Plaza Level, 960 N. Fifth Street, Baton Rouge, LA, beginning at 10 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: Chapter XXVII. State Sanitary Code

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

Estimated costs involved in this proposal are projected as \$24,147 for FY 89-90, \$47,293 for FY 90-91, and \$49,145 for FY 91-92. These implementation costs include those costs associated with salaries and fringe benefits for staffing (one professional and one clerical) plus minimal operating expenses of approximately \$1,000 annually. The projected costs for FY 89-90 represent the cost of operations for a six-month-only period. The projections for FY 90-91 are for full annual operational costs.

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

A portion of the proposed program costs may be offset only if the legislature approves fees and penalties. If fees and penalties are not approved all costs incurred would continue to be requested from state funds.

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

If supporting legislation is approved for fees and penalties all generators, transporters, storage and treatment facilities of potentially infectious medical waste will have to pay a permit fee and file forms provided by the state health officer. However, the public outcry for regulation of indiscriminate dumping of potentially infectious medical waste will have been addressed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These regulations will affect all generators, transporters, and treatment facilities.

Joel L. Nitzkin, M.D.
Acting Assistant Secretary
and Medical Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of

Public Health intends to amend Title 48, Part V. Subpart 45., Chapter 123 of the Louisiana Administrative Code by adding Section 12313. The amendment provides specific, standard instructions for the preparation of a Vital Records Registry form entitled "Report of Induced Termination of Pregnancy Performed in Louisiana." 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 123. Preparation of Certificates

§12313. Preparation of Report of Induced Termination of Pregnancy Performed in Louisiana (PHS 16-ab)

A. SECTION -- Facility

1. Facility -- Name (Item 1a). Enter the name of the facility. If not a hospital or clinic, enter the street address.

2. City, Town or Location of Pregnancy Termination (Item 1b). Enter the name of the city, town or location. Do not abbreviate.

3. Parish of Pregnancy Termination (Item 1c). Enter the name of the parish where the termination occurred.

B. SECTION -- Patient Information

1. Patient Identification Number (Item 2a). Enter the patient identification number.

2. Age of Patient (Item 2b). Enter the age of the patient in years.

3. Married? (Item 2c). Check the appropriate block.

4. Date of Pregnancy Termination (Item 3). Enter the date in month, day, year format using either alpha or numeric characters.

5. Medical Condition at Time of Abortion (4a). Enter the medical condition of the patient at the time of the abortion.

6. Rh Type (4b). Enter "+" or "-" to indicate the presence or absence of Rh factors.

7. Type of Contraception at Time of Pregnancy (4c). Indicate the type of contraception used at the time of conception. If none, enter "none."

8. Date of Last Live Birth (4d). Enter the date of last live birth in month, day, year format using either alpha or numeric characters.

9. Race (5). Check the appropriate block.

10. Education (6). Specify only the highest grade completed. As an example, if the patient completed high school but did not complete one or more years of college, enter "12" under "Elementary or Secondary." If the patient completed one or more years of college, enter the appropriate number under "College" and leave the "Elementary and Secondary" block blank.

11. Previous Pregnancies Now Living (7a). Enter the number or check "none." Do not include this pregnancy.

12. Previous Pregnancies Now Dead (7b). Enter the number or check "none." Do not count this pregnancy.

13. Previous Pregnancies Spontaneously Aborted (7c). Enter the number or check "none."

14. Previous Pregnancies, Induced Terminations (7d). Enter the number or check "none." Do not count this pregnancy.

C. SECTION -- Information on Father of Fetus

1. Father's Age (Item 8a). Enter the father's age in years.

2. State of Residence (Item 8b). Enter the state of residence in full or enter a standard abbreviation for the state of residence.

3. Parish of Residence (Item 8d). Enter the name of the parish or county of residence in full.

4. Father Married? (Item 8e). Check the appropriate block.

D. SECTION -- Termination, Post Termination Procedures

1. Procedure that Terminated Pregnancy (Item 9a). Check only one box. If "other," specify method.

2. Additional Procedures Used for this Termination (Item 9b). Check all boxes that apply.

3. Complication of Pregnancy Termination (Item 9c). Check all boxes that apply. If "other," specify.

4. Reason for Pregnancy Termination (Item 9d). Check only one box.

5. Type of Procedure Performed after Abortion (Item 9e). Check appropriate box. If other, specify the type of procedure.

E. SECTION -- Fetal Information

1. Date Last Normal Menses Began (Item 10a). Enter the date the patient's last menses began in alpha or numeric format.

2. Physician's Estimate of Gestation (Item 10b). Enter the physician's estimate of gestation in weeks.

3. Fetal Length (Item 10c). Enter the length of the fetus in centimeters.

4. Fetal Weight (Item 10d). Enter the weight of the fetus in grams.

5. Other Significant Conditions of Fetus (10e). Enter other significant conditions of the fetus. If none, enter "none."

6. Type of Post Abortion Procedure (10f). Specify type of post abortion procedure. If none, enter "none."

7. Result of Pathological Examination (10g). Enter the result of the pathological examination.

F. SECTION - Physician

1. Type of Family Planning Recommended to Patient (Item 11a). Indicate the type of family planning recommended to patient.

2. Type of Additional Counseling Given to Patient (Item 11b). Enter any additional counseling given to patient.

3. Signature and Address of Physician (Item 11c). Enter the signature and address of the physician.

4. Physician's License Number (Item 11d). Enter the license number of the physician who performed the induced termination of pregnancy.

Interested persons may submit written comments at the following address: William H. Barlow, Director and State Registrar, Division of Records and Statistics, DHH-OPH, Box 60630, New Orleans, LA 70160.

Comments should be received at the above address by the close of business on February 7, 1990.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Vital Records: Reporting of Induced Termination of Pregnancy

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

There is no estimated implementation cost (savings) to the Office of Public Health or any other state or local governmental unit.

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

There is no estimated effect on revenue collections of state or local government units.

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

There are no additional estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition and employment are anticipated.

Joseph D. Kimbrell
Deputy Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Currently, Title XIX (Medicaid) provides obstetrical care visits during pregnancy and the postpartum period. Under the present procedure, approval for payment of claims for follow-up prenatal visits in excess of the limitation of 13 must be requested post-visit by the provider.

To streamline administrative procedures, reduce backlogs of requests for additional prenatal services, reduce payment delays to providers, and improve program efficiency, the bureau is amending its prior approval procedure to allow necessary and adequate medical treatment for pregnant women.

PROPOSED RULE

Provision of follow-up prenatal visits shall be allowed for adequate and necessary medical treatment of Title XIX-eligible recipients.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-1030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on February 7, 1990 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: Follow-up Prenatal Care for the Title XIX
Eligible Pregnant Women**

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

The estimated implementation cost will be \$100 for manual revisions and provider notification, of which \$50 is the projected cost to the state for FY 89/90.

**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 the provision of manual materials and provider notification.

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

The Title XIX prenatal care providers who would no longer be required to complete pre-authorization requests would be the only persons or group directly affected by this proposal as it would simplify their paperwork requirements.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-
MENT (Summary)**

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

The Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) mandates that Medicaid state agencies implement provisions to expand coverage for all persons aged 65 years and over, as well as disabled persons, who are Medicare Part A eligible (whether or not they currently have Part A coverage), and who meet certain income and resource criteria. The Medicare Catastrophic Coverage Act (MCCA) mandated an implementation date of January 1, 1989, unless a delay was requested by the state to permit time for necessary legislation, and such request was approved by the Health Care Financing Administration (HCFA). The basis for approval for delays in implementation was dependent upon the necessity for state legislation to avoid conflict with existing laws. A delay based on lack of funding was specifically precluded. Louisiana requested a delay based on a legal interpretation that Louisiana law prohibited deficit spending. Thus, legislation to repeal the prohibition on deficit spending or to grant exception to the agency to permit deficit spending was needed. However, Louisiana's request was denied by HCFA as HCFA categorized the needed legislation as an appropriation issue and determined it was not eligible for delay under the provisions of P.L. 100-360. Therefore, the Medicaid agency was

advised that it must implement the provisions of MCCA no later than March, 1989.

This rule is necessary to ensure compliance with mandated federal regulations and laws and to avoid sanctions from HCFA. This rule was previously adopted under emergency rule-making provisions of R.S. 49:953B effective March 28, 1989 and published in the *Louisiana Register*, Vol. 15, No. 4 on April 20, 1989. It was also previously adopted under emergency rule-making provisions of R.S. 49:953B effective July 28, 1989 and published in the *Louisiana Register*, Vol. 15, No. 8 on August 20, 1989.

PROPOSED RULE

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

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

The annual income limit for 1989 for one individual would be \$5,980, while that for a couple would be \$8,020. The resource amount allowed in 1989 may not exceed \$4,000 for an individual or \$6,000 for a couple. Medicaid benefits provided to eligible individuals differ depending on which of the two categories noted below that the person would qualify for based on eligibility for Medicaid in another category of assistance (i.e., SSI, Medically Needy, or Long Term Care eligible). These categories and their benefits are outlined below:

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

2. **QUALIFIED MEDICARE BENEFICIARIES (QMB Only)** are individuals who: are over age 65 or disabled; are eligible for Medicare Part A; meet the income and resource limits noted above; and are otherwise not eligible for Medicaid under any other category of assistance. Benefits for these individuals are the same as those noted above for Dual eligibles with the exception of payment for Medicaid only services (d.). QMB's are only eligible for Medicare cost-sharing expenses, not other Medicaid benefits outside of Medicare coverage.

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

Providers of service to these eligibles have the right to accept the patient as Medicare only, QMB only, or as a Dual

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

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-1030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on February 7, 1990 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: Medicare Catastrophic Coverage Act of 1988
(QMB)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of these provisions of the Medicare Catastrophic Coverage Act of 1988 will result in a cost to the state of \$5,770,644 for FY 89/90, \$6,441,619 for FY 90/91, and \$7,720,643 for FY 91/92.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Under this rule, coverage of the additional recipients mandated by this provision will result in increased federal funding of \$15,297,709 for FY 89/90, \$18,799,836 for FY 90/91, and \$22,532,660 for FY 91/92.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Economic benefits to recipients eligible for coverage under this provision are estimated to be \$20,855,900 for FY

89/90, \$25,027,080 for FY 90/91, and \$30,032,496 for FY 91/92.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

The Health Care Financing Administration (HCFA) promulgated reimbursement limits on payments for drugs under Title XIX (Medicaid). These limits were published in the *Federal Register*, Vol. 52, No. 147, Dated July 31, 1987, Pages 28648 - 28658. Under these regulations reimbursement for prescription drugs was divided into two groupings: Multiple Source Drugs for which a Federal Upper Limit was established; and Other Drugs. Under these regulations the state agency incorporated Federal Upper Limits into its existing "lower-of" reimbursement methodology. The state agency also retained its reimbursement methodology for drugs included in the "Other Drugs" category. Reimbursement for drugs in this category was based on the lower of:

- A. Louisiana Maximum Allowable Cost (LMAC) limits on multiple source drugs;
- B. Average Wholesale Price (AWP) for the drug product subject to expanded package size limitations; and
- C. Usual and customary charges to others.

Following submittal of the state's reimbursement methodology to the Health Care Financing Administration (HCFA) the state was notified the continued utilization of AWP in setting reimbursement for "Other Drugs" was unacceptable in light of overwhelming evidence that providers do not pay AWP for drugs purchased. The state agency appealed this decision and was notified on June 16, 1989 that the administrator of HCFA had upheld the disapproval of Louisiana's methodology making the following findings:

"The administrator has reviewed the entire prescription drug reimbursement plan proposed in Plan Amendment No. 87-33. There are features in this plan which properly constrain Medicaid drug reimbursement costs. The state's LMAC program has been, and continues to be, a significant factor in keeping total costs in line. There was evidence in the record that the LMAC program accounted for 56 percent of all drug claims reimbursed by the state.

However, all of the drugs subject to LMAC are multiple-source drugs. Other multiple-source drugs are subject to the Federal MAC, set up under 42 CFR 447.332. EAC would still serve as the primary cost screen for all single source drugs. This is the crux of the issue in this reconsideration - the effectiveness of EAC for those drugs subject to it.

Reimbursement for all drugs, except those subject to the Federal MAC, would be subject to the additional limitations of the usual and customary charge made to the general public. This is a regulatory requirement at 42 CFR 447.331(b). However, when this limitation is frequently used because the retail prices are lower than the average wholesale price (AWP) plus a dispensing fee, there is a further indication that the unmodified AWP is in excess of the providers' acquisition cost.

The LMAC and usual and customary charge limitation are commendable features of the state's proposed plan. However, the plan would be more economical and efficient if the EAC did not rely upon an unmodified AWP."

The Bureau of Health Services Financing has been orally advised by HCFA Region IV personnel that without specific findings of what price participating pharmacies are paying for prescription drugs, reimbursement of single source drugs based upon data cannot be approved unless such data is reduced by a minimum of 10.5 percent.

To prevent the disallowance of federal funding effective July 1, 1989, for Pharmacy Services, the Bureau of Health Services Financing adopted this change in reimbursement through emergency rules, published in the *Louisiana Register* Vol. 15, No. 7, Page 536, Dated July 20, 1989 and Vol. 15, No. 11, Dated November 20, 1989.

Under these rules the agency expanded its definition of "Estimated Acquisition Cost" for "Other Drugs" to include an additional 'lower-of' limitation. This limitation establishes AWP-10.5 percent as the maximum reimbursement for "Other Drugs" not subject to, or exempt from LMAC and Federal Upper Limits. This change is mandated to comply with HCFA's final ruling on Louisiana drug reimbursement and mandatory federal regulations effective July 1, 1989. As the current dispensing fee was established taking reimbursement limitations into account, the changes in reimbursement limits requires the bureau to also amend its dispensing fee to assure total reimbursement for prescription services remains reasonable and adequate to cover the costs which must be incurred by efficiently and economically operated providers.

Under this rule the agency is also adjusting its maximum allowable dispensing fee to \$4 based on the dispensing fee survey performed by the bureau in 1987.

PROPOSED RULE

Prescribed Drugs are reimbursed as follows:

I. Methods of Payment

Maximum and minimum payment rates for medications - pharmacy or dispensing physician are as follows:

A. Maximum Pharmaceutical Price Schedule

The maximum payment by the agency for a prescription shall be no more than the cost of the drug established by the state plus the established dispensing fee.

Each pharmacy's records shall establish that the established dispensing fee paid by the Medical Assistance Program for prescriptions does not exceed the dispensing fee paid by others. This also applies to the payment for insulin and diabetic testing agency and indwelling catheters and catheterization trays for which the dispensing fee may not exceed 50 percent of the wholesale price.

B. Payment for Medications to Dispensing Physician

Payment will be made for medications dispensed by a physician on a continuing basis only when his main office is more than five miles from a facility which dispenses drugs.

Under the above circumstances, vendor payments (when the treating prescriber dispenses his own medications and bills

Medical Assistance Program under his own name or the name of his own clinic or hospital) will be made on the same basis as a pharmacist as specified in Paragraph A above.

II. Standards for Payment

A. Payment will be made for medications in accordance with the payment procedures for any eligible person who has identified himself to the provider by presenting his identification card which shows his eligibility. State office advises participating pharmacists regarding payable mediation.

B. The pharmacy must be licensed to operate in Louisiana except:

1. as provided for a person residing near the state line; or
2. as provided for a recipient visiting out-of-state.

C. Payment will be made only to providers whose records are subject to audit.

D. Payment will be made to providers only for medications furnished to persons eligible for medical vendor payments on a prescription written by a licensed physician or dentist.

E. Payments will be made only for the drugs covered under the Medical Assistance Program's Pharmacy Program.

1. Definitions

Brand Name means any registered trade name commonly used to identify a drug.

Estimated Acquisition Cost means the modified Average Wholesale Price of the drug dispensed, identified by the manufacturer number, product number, and package number usually purchased by a provider, from a supplier whose products are generally available to all pharmacies and reported in one or more national compendia. Repackaged drug products supplied through co-ops, franchises, or other sources not readily available to other providers shall not be used to estimate provider acquisition cost. In such instances, the Average Wholesale Price for the drug product used by the repackager identified by the manufacturer number, product number, and largest reported package size in one or more national compendia shall be utilized by the agency to estimate acquisition cost.

Modified means the lower of the following applicable limits:

- a. AWP-10.5 percent for "Other Drugs" not subject to LMAC limits, and any drug exempted from LMAC or Federal Upper Limits by physician override;
- b. LMAC limits on multiple source drugs established by the state as set forth below; and
- c. Federal Upper Limits on multiple source drugs established by HCFA as set forth below.

Average Wholesale Price means the wholesale price of a drug product as reported to the agency by one or more national compendia on a weekly basis to update the Medicaid Management Information System (MMIS).

Multiple Source Drug means a drug marketed or sold by two or more manufacturers or labelers or a drug marketed or sold by the same manufacturer or labeler under two or more different proprietary names or both under a proprietary name and without such a name.

2. Federal Upper Limits for Multiple Source Drugs

a. Except for drugs subject to "Physician Certification", the Medical Assistance Program shall utilize listings established by HCFA that identify and set upper limits for multiple source drugs that meet the following requirements:

(1) All of the formulations of the drug approved by the Food and Drug Administration (FDA) have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equiva-*

lence Evaluations (including supplements or in successor publications);

(2) At least three suppliers list the drug (which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally.

b. The Medical Assistance Program shall utilize the maximum acquisition cost established by HCFA in determining Multiple Source Drug Cost.

c. The Medical Assistance Program shall provide pharmacists who participate in Title XIX reimbursement with updated lists reflecting the multiple source drugs subject to Federal Multiple Source Drug Cost requirements, the maximum reimbursement amount per unit, and the date such costs shall become effective.

3. Louisiana Maximum Allowable Cost (LMAC) Limits

LMAC is the median AWP cost for a specific strength/unit drug determined by listing the wholesale costs for each readily available manufacturer, labeler, etc. and taking the median of those AWP costs (one-half will be above the median cost and one-half will be below the median cost.) LMAC limits may be adjusted by the agency based on changes in the availability and EAC of the drugs.

The agency shall make determinations of which multiple source drugs are to be subject to LMAC regulation based on the availability of drugs in the Louisiana Medical Assistance Program. The availability of a drug product will be determined by review of provider claim data. Providers shall be given advanced notice of any additions, deletions, or adjustments in price. A complete LMAC cost listing will be distributed periodically. Any provider may request and receive at no charge, one complete listing annually.

In no case shall a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the LMAC limit, nor may BHSF use a cost which exceeds the established maximums except for Physician Certification for Brand Name Drugs.

4. Lower Of Reimbursement for Multiple Source Drugs

The agency shall make payments for Multiple Source Drugs other than drugs subject to "Physician Certifications" based on the lower of:

a. the providers' usual and customary charges to the general public not to exceed the agency's "Maximum Pharmaceutical Price Schedule";

b. the agency's estimate of acquisition cost plus the agency's established dispensing fee;

c. any applicable Federal Upper Limit for Multiple Source Drugs plus the agency's established dispensing fee; or

d. any applicable Louisiana Maximum Allowable Cost Limit plus the agency's established dispensing fee.

5. Physician Certifications

Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is attached to the prescription. A standard phrase, in the prescriber's handwriting, such as "brand necessary" will be acceptable.

Any practice which precludes the prescriber's handwritten statement shall not be accepted as a valid certification. Such practices include, but are not limited to:

a. a printed box on the prescription blank that could be

checked by the prescriber to indicate brand necessity;

b. a handwritten statement transferred to a rubber stamp and then stamped on the prescription blank;

c. preprinted prescription forms using a facsimile of the prescriber's handwritten statement.

6. Other Drug Cost Limits

The agency shall make payments for drugs other than multiple source drugs and drugs subject to "Physician Certifications" based on the lower of:

a. The agency's estimate of acquisition cost plus the agency's established dispensing fee.

b. The providers' usual and customary charges to the general public not to exceed the agency's "Maximum Pharmaceutical Price Schedule."

7. General Requirements Applicable to all Prescriptions

a. For all prescriptions, the maximum quantity payable shall be a month's supply or 100 unit doses, whichever is greater. The quantity billed shall be that prescribed, unless it exceeds the maximum quantity payable in which case the maximum quantity payable shall be filled.

b. When maintenance drugs are prescribed and dispensed for chronic illnesses they shall be in quantities sufficient to effect economy in dispensing and yet be medically sound. Listed below are drugs the agency considers to be maintenance type drugs and which should be prescribed and dispensed in a month's supply:

Anti-coagulants

Anti-convulsants

Oral Anti-diabetics

Calcium Gluconate, Calcium Lactate, and Calcium Phosphate

Cardiovascular Drugs including: diuretics, antihypertensives, and Antihyperlipidemics

Estrogens

Ferrous Gluconate and Ferrous Sulfate

Potassium Supplements

Thyroid and antithyroid drugs

Vitamins - A, D, K, B₁₂ Injection, Folic Acid, and Nicotinic Acid

c. For patients in nursing homes, the pharmacist shall bill for a minimum of a month's supply of medication unless the treating physician specifies a smaller quantity for a special medical reason.

d. Payment will not be made for narcotics prescribed only for narcotic addiction.

F. Recipients shall have free choice of pharmacy unless subject to the agency's "lock-in" procedures.

G. When services are provided the eligible person under another service plan (Hospitalization or extended care facility), the provisions applicable to such service plans shall apply during the time the service is provided and vendor payments will not be made for medications.

H. Payment will be made for prescriptions refilled not more than five times or more than six months after issue date and only to the extent indicated by the prescriber on the original prescription and as restricted by state and federal statutes. The prescriber is required to state on the prescription the number of times it may be refilled.

I. Prescriptions shall be filled within 10 days; narcotic (classified as schedule II by the U.S. Drug Enforcement Administration) prescriptions within 24 hours.

J. A prescriber who has a suboffice in an area more than five miles from a pharmacy or other facility dispensing medica-

tions will not be paid for medication he dispenses if his main office is within five miles of a pharmacy or other facility dispensing medications.

K. When a prescriber bills the Medical Assistance Program for medications he dispenses, he shall certify that he himself, another prescriber or a pharmacist dispensed the medications and he shall maintain the same records as required of the pharmacist.

L. The manufacturer number, product number, and package number for the drug dispensed shall be listed on all claims. This information shall be taken from the actual package from which the drug is usually purchased by a provider, from a supplier whose products are generally available to all pharmacies and reported in one or more national compendia. Repackaged drug products supplied through co-ops, franchises, or other sources not readily available to other providers shall not be used. In such instances, the manufacturer number, product number, and package number for the largest package size, as reported in one or more national compendia, for the drug shall be listed.

III. Dispensing Fee

The bureau shall pay a dispensing fee on each Title XIX prescription of no more than \$4. The dispensing fee paid on a prescription shall be subject to reimbursement limitations adopted by the bureau for payment of Title XIX prescription drug services.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on February 7, 1990 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Provider Reimbursement

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

There is no projected impact resulting from this rule. Increased expenditures resulting from increased dispensing fees are offset by savings from reduced reimbursement of drug cost.

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

There is no projected impact resulting from this rule.

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

Under this rule payments to some providers will decrease while payments to other providers will increase. However, total expenditures for pharmacy services will remain constant. There is not sufficient data available to project the impact on individual providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Under this rule, those providers with the ability to make large volume purchases and receive maximum discounts will have the potential to receive greater benefit from participation in Title XIX reimbursement than small rural providers. However, the impact upon competition and employment cannot be predicted with any accuracy.

Carolyn O. Maggio, P.D.
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Public Law 100-360 established mandatory requirements for institutionalized individuals with a spouse living in the community. Under the statutory provisions, the Bureau of Health Services Financing is required to follow new methods for determining income and resource eligibility under Title XIX (Medicaid). The new provisions require the following changes:

1. No income of the community spouse will be considered available to the institutionalized spouse. Income paid to the one spouse is attributed to that spouse only and income paid to both is attributed in equal parts or in proportion to the spouse's interest in the income.

2. The couple's resources are assessed as of the date of entry to the institution. The community spouse is allowed to retain \$60,000 in resources. When there are changes in the amount of resources held by a couple during the initial eligibility period, recalculation of resource eligibility is made for the institutionalized spouse, but spousal protected amounts continue to be deducted in determining eligibility.

3. Resources must be assessed for private-pay patients if requested.

4. After being determined eligible, the institutionalized spouse may transfer resources not used in determining eligibility (spousal allowance) to the community spouse to assist in meeting that spouse's needs in the community. The actual transfer of resources to the community spouse must be done by the first yearly redetermination of eligibility for the institutionalized spouse to remain eligible.

5. The maximum community spouse monthly income allowance is \$1,500 for 1989 which includes an excess housing allowance to cover utilities, rent or mortgage, taxes and insurance as allowed to be adopted under the law. The maximum amount increases yearly in accordance with the Consumer Price Index increase.

6. Family maintenance needs allowance is one-third of the amount by which the poverty level figure set for the community spouse exceeds the family members' income. This maximum amount for 1989 is \$815. The maximum amount increases yearly in accordance with the Consumer Price Index increase.

PROPOSED RULE

Spousal impoverishment under Title XIX shall apply to institutionalized individuals with a spouse living in the community. Eligibility under Title XIX shall be determined in accordance with the mandatory provisions of P.L. 100-360 utilizing the interpretations of the Health Care Financing Administration set forth in its State Medicaid Manual publication, Sections 3260 - 3262.6, 3700 - 3701, and 3710. Under the provisions of the law, the community spouse shall be allowed to retain up to \$60,000 in resources and \$1,500 monthly income.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-1030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on February 7, 1990 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: Title XIX Spousal Impoverishment

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

Implementation of these provisions of the Medicare Catastrophic Coverage Act of 1988 will result in a cost to the state of \$1,920,295 for FY 89/90, \$2,543,738 for FY 90/91, and \$2,588,570 for FY 91/92.

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

Under this rule, federal funding will increase \$5,090,557 in FY 89/90, \$7,423,886 in FY 90/91, and \$7,554,730 in FY 91/92.

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

Economic benefits to recipients eligible for coverage under this provision are estimated to be \$7,010,752 for FY 89/90, \$9,967,624, for FY 90/91, and \$10,143,300 for FY 91/92.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Public Law 100-360 established mandatory requirements for the transfer of resources policy applicable under Title XIX (Medicaid). Under the statutory provisions, the bureau is required to determine whether an institutionalized individual, during the 30-month period immediately before he or she made application for medical assistance, disposed of resources for less than fair market value. The new transfer provisions apply to transfers that take place during or after the 30-month period immediately before the individual becomes an institutionalized individual, if entitled to Medicaid on that date, or if the individual is not entitled on the date of institutionalization, the date the individual applies for assistance while an institutionalized individual. The 30-month provisions apply only to institutionalized individuals and individuals who receive home and community-based services. Additionally, individuals who make prohibited transfers are no longer ineligible for all Medicaid services for a prescribed period of time, but are only ineligible for nursing facility services and for a level of care in a medical institution equivalent to that of nursing facility services and for home and community based services.

Under this rule the bureau is adopting the mandatory provisions of P.L. 100-360 utilizing the interpretations of the Health Care Financing Administration set forth in its State Medicare Manual publications, Section 3250-3255.

PROPOSED RULE

Transfer of resources under Title XIX shall apply to all applications for Medical Assistance in accordance with the Health Care Financing Administration's State Medicare Manual publication, Section 3250-3255.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-1030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on February 7, 1990 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: Transfer of Resources

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

The estimated implementation cost will be \$100 for manual revisions and provider notification, of which \$50 is the projected cost to the state for FY 89/90.

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 the provision of manual materials and provider notification.

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

Certain applicants for Long Term Care services who have transferred property within 30 months of application will be affected by adoption of this proposed rule. The costs and/or economic benefits cannot be determined at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

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 (AFDC) Program.

This rule is mandated by federal regulations as published in the *Federal Register* of Friday, October 13, 1989, Vol. 54, No. 197, pages 42146-42267. Regulations mandate the provision of transitional child care and transitional Medicaid benefits. The rule for transitional Medicaid benefits will be published by the Department of Health and Hospitals.

PROPOSED RULE

Effective April, 1990, transitional child care assistance will be provided to eligible families.

I. Eligibility Requirements

A family is eligible for transitional child care provided the following conditions are met:

1. the family must have ceased to be eligible for AFDC as a result of increased hours of, or increased income from, employment, or the loss of income disregards due to the time limitations;
2. the family must have received AFDC in at least three of the six months immediately preceding the first month of ineligibility;
3. the family requests transitional child care benefits, provides the information necessary for determining eligibility and fees, and meets appropriate application requirements established by the state; and
4. the family ceased to be eligible for AFDC on or after April 1, 1990.

The state agency must guarantee child care for a child who: is under age 13; is physically or mentally incapable of caring for himself or herself, as verified by a state based on a determination of a physician or a licensed or certified psychologist; or is under court supervision, and who would be a dependent child, if needy (and for a child who would be a dependent child except for the receipt of benefits under Supplemental Security Income under Title XVI or foster care under Title IV-E), to the extent that such care is necessary to permit a member of an AFDC family to accept or retain employment.

Transitional child care assistance begins with the first month for which the family is ineligible for AFDC, and continues for 12 consecutive months.

Families may begin to receive child care in any month during the 12-month eligibility period. The family will lose eligibility for transitional child care if at any point the caretaker relative (usually, the parent) terminates employment without good cause or fails to cooperate with the state in establishing payments and enforcing child support obligations. If the family re-establishes eligibility for AFDC during this period, it could qualify for a new 12-month eligibility period if it met the necessary conditions of eligibility, including the three-of-six-months requirement.

II. Provision of Child Care

The caretaker relative will be given the opportunity to choose the child care arrangement.

III. Fee Requirements

Each family shall contribute toward the payment of transitional child care based on the family's ability to pay. The sliding fee scale is as follows:

Monthly Gross Earnings	% of Cost Paid by Client	% Paid by Agency
\$ 0 - 700	10%	90%
701 - 950	30%	70%
951 - 1250	50%	50%
1251 - 1500	70%	30%
1501 and above	100%	-0-

These fees will be paid by the caretaker to the provider of the child care. Individuals who fail to cooperate in paying required fees will, subject to appropriate notice and hearing requirements, lose eligibility for benefits as long as back fees are owed, unless satisfactory arrangements are made to make full payment.

IV. Child Care Payments

The caretaker relative will be paid by the state for verified child care expenses less the required fee.

Maximum transitional child care payment levels will be based on the maximum AFDC disregard for child care expenses of \$175 per month per child age two or older and \$200 per month per child under age two.

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 the proposed rule will be held on February 7, 1990 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: Transitional Child Care - AFDC**

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

This rule is estimated to result in an increase in expenditures for child care as follows:

FY	TOTAL	FEDERAL	STATE
89/90	\$ 320,322	\$ 234,219	\$ 86,103
90/91	6,870,450	4,871,030	1,999,420
91/92	9,805,118	6,942,502	2,862,616

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Late Filing**

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

Federal matching funds from the U. S. Department of Health and Human Services are estimated to be:

\$ 234,219 in FY 89/90
\$4,871,030 in FY 90/91
\$6,942,502 in FY 91/92

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

Transitional child care assistance will aid recipients of Aid to Families with Dependent Children (AFDC) in becoming independent of public assistance. AFDC families which lose eligibility due to earnings will be eligible to receive assistance in meeting their child care expenses for up to 12 months. It is estimated that an average 541 families will be assisted each month during FY 89/90, growing to an average 2,516 in FY 90/91 and 3,525 in FY 91/92.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition. A long range effect on employment may be increased employment opportunities in the field of providing child care.

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

This proposed action would not impact costs or savings of state or local governmental units: There could be an undeterminable increase in the benefits paid by this program on behalf of its plan members. The impact on benefits paid would depend on the number of late filings approved by the Claims Review Committee for payment and the amount of the claims themselves.

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

Revenue collections of state or local governmental units will not be affected by this proposed action.

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

This amendment provides the Claims Review Committee the discretion to approve the payment of claims that were filed late due to extenuating circumstances. Plan members who meet the criteria would benefit by having claims paid that would otherwise have been denied.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

Howard L. Prejean
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

James D. McElveen
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend language in the Plan Document as follows:

Amend Article 4, Section II, "Deadline for Filing Claims", by adding the following language after the first paragraph:

Failure to furnish notice of proof of loss within the time period provided shall not invalidate nor reduce any claim if it shall be shown to the satisfaction of the Claims Review Committee that it was not reasonably possible to furnish such notice, and that such notice of proof was furnished as soon as was reasonably possible.

Comments or objections will be accepted, in writing, by the Executive Director of the State Employees Group Benefits Program until 4:30 p.m. on March 11, 1990, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend its rules relative to the Health Maintenance Organizations, as follows:

Add the following after Item 2, under the sub-title PRE-EXISTING CONDITIONS, in the February 20, 1990 Health Maintenance Organization Rule:

3. Effective July 2, 1990, if a covered person enrolled in an HMO voluntarily transfers coverage back to the State Plan during an open-enrollment period, a pre-existing condition limitation shall be imposed for a two-year period for any accident, illness or injury for which the Covered Person received treatment or services or was prescribed drugs during the 12-month period immediately prior to the effective date of the change; provided however that there shall be no pre-existing condition limitation imposed when 1) the Covered Person transfers coverage as a result of moving from the HMO service area or 2) when the HMO discontinues services for all state employees, unless the covered person had a pre-existing condition limitation with the State Employees Group Benefits Program at the time of the original transfer to the HMO.

Comments or objections will be accepted, in writing, by the Executive Director of the State Employees Group Benefits Program until 4:30 p.m. on February 8, 1990, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amendment to HMO Rule**

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

According to our consulting actuary, the Martin E. Segal Company, this "rule change will result in some minor savings to the program with respect to benefits payments, although the amount is not definitely determinable".

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

This rule change will not materially affect the revenue collections of state or local governmental units.

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

It is not possible to quantify any cost or economic benefit which will accrue to individuals transferring from an HMO to the State Employees Group Benefits Program. However, those individuals affected by the pre-existing condition will not receive benefits for a two-year period for medical expenses incurred in connection with any disease, illness, accident or injury for which the Covered Person received treatment or services, or was prescribed drugs during the 12-month period immediately prior to the effective date of the coverage.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

As this pre-existing condition will go into effect on July 2, 1990, it will not apply to those persons who transfer from an HMO to Plan during the April 1990 open-enrollment period for a July 1, 1990 effective date.

James D. McElveen
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend language in the Plan Document of Benefits relative to the medical fee schedule as follows:

Amend Article 3, Section II, Paragraph A by removing the date July 1, 1989, and substituting the date January 1, 1990; amend Paragraph D by removing the word five and substi-

tuting 13 and also in Paragraph D after the word the, and before the word usual, eliminate the words statistical mean, as follows:

II. FEE SCHEDULE

A. This Section, Article 3, Section II, Fee Schedule, is effective January 1, 1990.

D. The Fee Schedule is geographically divided into 13 zip code areas for the State of Louisiana. The maximum reimbursable fee is limited to the usual and customary charges for medical services in the corresponding zip code area.

Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m. on March 11, 1990, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Medical Fee Schedule**

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

The savings generated by the implementation of the medical fee schedule will impact the extent of future premium increases which will result in future savings to other state or local governmental units.

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

The proposed fee schedule will reduce future costs and funding requirements for the State Employees Group Benefits Program. The program is funded by self-generated revenues from premiums which are paid by employee contributions (50 percent) and by state agency contributions (50 percent).

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

Payments to medical providers and/or plan members by the State Employees Group Benefits Program will be reduced for medical services provided by any health care provider that accepts assignment of benefits—as the amount charged cannot exceed the amount authorized by the fee schedule. Providers who do not accept assignment of benefits may bill plan members for the difference between charges and the amounts payable under the fee schedule. Plan members will benefit from a reduction in future premium increases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Neither competition or employment will be affected by this rule change.

James D. McElveen
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend language in the Plan Document of Benefits as follows:

Under Article 3, following Section X. Coordination of Benefits, add the following section:

XI. Preferred Provider Programs

The Board of Trustees may implement from time to time, at its sole discretion, Preferred Provider Organization arrangements or other agreements to discount payable fees. The board reserves to itself the right to negotiate the amount of the discount, the incentives to be offered to plan members and all other provisions which shall be a part of any discount fee arrangement.

Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m. on March 11, 1990, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Preferred Provider Organization Arrangements

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

This proposed change will enable the Board of Trustees to enter into Preferred Provider Organization arrangements. This change will not in itself impact the costs or savings of state or local governmental units. If the Board of Trustees does enter into Preferred Provider Organization arrangements, any savings accruing to the State Employees Group benefits Program could reduce future rate increases which would affect the future cost of member agencies.

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

Revenue collections of state or local governmental units will not be affected by this proposed change.

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

The directly affected persons, the plan members of this program, could benefit from savings accruing to this agency, in that the impact of future rate increases would be less. Also, PPO arrangements generally offer some type of financial incentive to the plan members and the employer benefit plan. The program and plan members could benefit by paying less for services rendered by a PPO facility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

As PPO arrangements generally offer a financial incentive to plan members to entice the use of a particular facility over others, there is a possible impact on those medical facilities

not participating in the PPO arrangement. However, the PPO arrangement would be on a voluntary basis, and plan members would have the option of selecting the PPO facility or another facility of their choice.

James D. McElveen
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Office of Fisheries

The secretary, Louisiana Department of Wildlife and Fisheries does hereby give notice of intent to promulgate a rule to amend the regulations governing the Pompano Permit Program. Authority for adoption of this rule is included in R.S. 56:406. Said rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Program

§703. Pompano and Black Drum Permits

A. Special Pompano Permit Regulations

1. Permits will not be issued for species which are threatened or endangered or for fisheries, gear types or applications of otherwise legal gear which are specifically prohibited by law.

2. Possession of a permit does not exempt the bearer from laws or regulations except for those which may be specifically exempted by the permit. Violation of a fish or game law which carries a Class II penalty or greater shall constitute a violation of the permit.

3. Information gained by the department through the issuance of a permit is not privileged and will be disseminated to the public.

4. Applicants with a citation(s) issued after January 1, 1990 and pending for three years or less, which is a Class II fish or game violation(s) or greater shall be denied a permit until such time as the applicant appears before department officials for the purpose of reviewing the citation(s) issued. The secretary, after reviewing the proceedings, may issue or deny the permit.

5. Permits shall not be issued to any applicant who within three years of the date of his application, has been convicted or plead guilty to a Class II fish or game violation or greater, as defined in the laws pertaining to wildlife and fisheries.

6. Applicants found guilty of two or more Class II fish or game violations or greater within five years of the application date shall not receive a permit.

7. The bearer of a permit shall report monthly the catch and effort under the permit, even when catch or effort is zero. This report shall contain total catch, effort, and other parameters which may be required by the department. A report shall be received by the department no later than 30 days following the last day of each month.

8. When a permit is issued, only the permitted specie(s) can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

9. The permittee shall have the permit in possession at

all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferrable without written permission from the department secretary.

10. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

11. Any violation of the conditions of the permit shall result in the immediate suspension of the permit and forfeiture of the deposit, and may result in the permanent revocation of the permit.

12. For permitting purposes, a pompano net shall be defined as a gill net not exceeding 2400' in length and not smaller than 2 1/2" bar or 5" stretched mesh.

13. All permits shall be applied for and/or granted from January 1 to April 30 of each year. All permits expire December 31 following the date of issuance. All permits shall be returned to the department by January 31 following expiration.

14. All potential permittees shall request an appointment by contacting Seafood Division personnel at 400 Royal Street, New Orleans. Proof of ownership of the proposed permitted vessel(s) and proof that all applicable licenses have been applied for shall be provided at the time of appointment. Proof of bona fide residency, as defined in R.S. 8:(12), is also required at this time.

15. The permitted boat used in the program shall have a distinguishing sign so that it may be identified. The sign shall have the word "POMPANO" printed on it in at least six-inch high letters on a contrasting background so as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

16. The department reserves the right to observe the operations taking place under the permit at any time and permittee shall be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

17. All permittees shall notify the department prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling a designated phone number.

18. If citation(s) are issued to any permittee for violation of a Class II fish or game law or conditions regulated by the permit, all permittee's permits shall be suspended until such time as the permittee appears before department officials for the purpose of reviewing the citation(s) issued. The secretary, after reviewing the proceedings, may reinstate or revoke the permit, and the permittee may lose all rights and privileges to participate in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:406.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:846 (December 1986), amended Department of Wildlife and Fisheries, Office of Fisheries, LR 16:

Interested persons may submit written comments relative to the proposed rule to John Roussel, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Virginia Van Sickle
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Pompano Permit Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) to state or local governing units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Proposed action benefits commercial fishermen by facilitating harvest of pompano and black drum. It also contributes to local and state economy by offering sales and employment.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Proposed rule should have no effect on competition and may increase employment opportunities in the commercial fisheries industry.

Bettsie Baker
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial fishing §333. Sanctuaries; Calcasieu Lake

The Wildlife and Fisheries Commission does hereby give notice of its intent to establish shrimp sanctuaries and closed zones, and prohibit all netting of fish by any means or methods, including but not limited to trawls, butterfly nets, gill nets, seines, or trammel nets with the exception of hand cast nets within a one-quarter-mile radius of the Lambert, Grand Bayou, Mangrove, and Peconi water control structures (otherwise identified as structures number 5, 1, 8 and 4 respectively), and the area within a one-eighth-mile radius of the water control structure on No Name Bayou, all within the Calcasieu Lake system; the area within a one-quarter-mile radius of the mouths of West Cove Bayou, West Cove Canal and the Sabine Refuge Headquarters Canal where they empty into Calcasieu Lake; and the area within a one-quarter-mile radius of the mouths of Three Bayous and Willow Bayou where they empty into Sabine Lake.

Interested persons may submit written comments relative to the proposed rule until 4:30 p.m. February 20, 1990 to Jerry Clark, Assistant Secretary, Office of Fisheries, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with R.S 56:315.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 16:

Warren Pol
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Sanctuaries: Calcasieu Lake and Sabine
Lake**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no significant cost to the state as enforcement of this rule will be handled along with current enforcement activities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no effect on revenue collections of the state or local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This rule will have no long-term cost or benefit to the affected persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The rule will reduce competition in the closed areas but should have no long-term effect on employment since adjacent areas in Calcasieu Lake and Sabine Lake will remain open.

Bettsie Baker
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Wildlife and Fisheries does hereby give notice of its intent to promulgate a rule to close the 1989 shrimp season in Zone II (that portion of Louisiana's inshore waters from South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island) at 12:01 p.m. on Tuesday, November 21, 1989.

Interested persons who wish to comment may submit written comments relative to the proposed rule until 4:30 p.m. February 1, 1990 to Philip Bowman, Assistant Administrator, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Virginia Van Sickle
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Shrimp Season, Title 56**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no cost to implement this season closure as it will be handled along with other duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule change will have no long-term effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The cost or benefits of this rule (season closure) on the shrimp fishermen cannot precisely be determined.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Approximately 60,000 individuals are influenced by the shrimp season. This proposed rule change allows proper biological management of this resource. The long-term effect of this rule cannot precisely be determined. However, this rule would prohibit shrimping in the affected state waters until the season is reopened by the commission or department secretary.

Bettsie Baker
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Wildlife and Fisheries does hereby give notice of its intent to promulgate a rule to close the 1989 shrimp season in Zone III (that portion of Louisiana's inshore waters from the Louisiana - Texas state line to the western shore of Vermilion Bay and Southwest Pass at Marsh Island), the portion of Louisiana's offshore territorial waters from the Louisiana - Texas state line to Freshwater Bayou to the outer limit of Louisiana's territorial waters, and the portion of Louisiana's offshore territorial waters from Freshwater Bayou to Bayou Lafourche to the outer limit of Louisiana's territorial waters at 12:01 a.m., December 22, 1989.

Also this rule will close the 1989 shrimp season in Zone I (that portion of Louisiana's inshore waters from the Louisiana - Mississippi state line to South Pass of the Mississippi River) and that portion of Louisiana's offshore territorial waters from the Louisiana - Mississippi state line to South Pass of the Mississippi River to the outer limit of Louisiana's territorial waters at 12:01 a.m., January 1, 1990.

Interested persons who wish to comment may submit written comments relative to the proposed rule until 4:30 p.m. February 1, 1990 to Philip Bowman, Assistant Administrator, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Virginia Van Sickle
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Shrimp Season**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no cost to implement this season closure as it will be handled along with other duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule change will have no long-term effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The cost or benefits of this rule (season closure) on the shrimp fishermen cannot precisely be determined.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Approximately 60,000 individuals are influenced by the shrimp season. This proposed rule change allows proper biological management of this resource. The long-term effect of this rule cannot precisely be determined. However, this rule would prohibit shrimping in the affected state waters until the season is reopened by the commission or department secretary.

Bettsie Baker
Undersecretary

John R. Rombach
Legislative Fiscal Officer

Administrative Code Update

ADMINISTRATIVE CODE UPDATE

Cumulative Administrative Code Update January, 1989 through December, 1989

Vol. Title:Part.Section	Effect	Location
1 LAC 35:		January, 1989
I.1507	amended	LR 15:7
V.6311	amended	LR 15:7
XIII.10901	amended	LR 15:8
XIII.11201	amended	LR 15:8
XV.12521	adopted	LR 15:7
LAC 10		June, 1989
III.5101	adopted	LR 15:465
LAC 35		August, 1989
I.1791	adopted	LR 15:620
LAC 64		September, 1989
V.101	adopted	LR 15:751
V.103	adopted	LR 15:751
LAC 35		November, 1989
I.1739	amended	LR 15:961
LAC 13		December, 1989
I.Chapter 5	adopted	LR 15:1046
I.Chapter 7	adopted	LR 15:1050

Vol. Title:Part.Section	Effect	Location
I.Chapter 11	adopted	LR 15:1043
I.Chapter 12	adopted	LR 15:1054
I.Chapter 17	amended	LR 15:1049
2 LAC 7		January, 1989
XXXIX.101	amended	LR 15:5
		February, 1989
I.101	adopted	LR 15:75
I.103	adopted	LR 15:77
XIII.8787	amended	LR 15:78
XV.9526	adopted	LR 15:77
XV.9543	amended	LR 15:77
XXI.11734	adopted	LR 15:75
XXIII.13103	amended	LR 15:76
XXIII.13113	amended	LR 15:76
XXIII.13115	amended	LR 15:76
XXIII.13119	amended	LR 15:76
XXIII.13121	amended	LR 15:76
XXIII.13129	amended	LR 15:76
XXXIII.16935	adopted	LR 15:79
XXXV.17523	amended	LR 15:78
XXXIX.20901	adopted	LR 15:79
		April, 1989
XXXVII.18117	amended	LR 15:256
		August, 1989
XIII.Chapter 87	amended	LR 15:613
		October, 1989
XXI.11701	amended	LR 15:811
XXI.11702	adopted	LR 15:812
XXI.11710	adopted	LR 15:813
XXI.11717	amended	LR 15:812
XXI.11735	amended	LR 15:810
XXI.11769	amended	LR 15:812
		November, 1989
XXV.Chapter 141	amended	LR 15:954
		December, 1989
XXXVII.18101-18105	amended	LR 15:1041
3 LAC 46:		January, 1989
I.501-509	amended	LR 15:5
I.701-705	amended	LR 15:6
I.901-905	amended	LR 15:6
XXXVII.109	amended	LR 15:10
XXXVII.901-903	amended	LR 15:10
XXXVII.909	amended	LR 15:11
LIX.103	amended	LR 15:11
LIX.203	amended	LR 15:12
LIX.301	amended	LR 15:12
LIX.401	amended	LR 15:12
LIX.501	amended	LR 15:13
LIX.703, 707, 709	amended	LR 15:14
LIX.801	amended	LR 15:14
		February, 1989
LXIII.303	amended	LR 15:86
LXIII.1901	adopted	LR 15:88
LXIII.1903	adopted	LR 15:87
LXVII.305, 313	amended	LR 15:80
LXVII.503	amended	LR 15:80
LXIX.103	amended	LR 15:86
		March, 1989
XLIX.1102	repealed	LR 15:195
XLIX.1105	adopted	LR 15:195
XLIX.1107	adopted	LR 15:195

Vol. Title:Part.Section	Effect	Location	Vol. Title:Part.Section	Effect	Location
XLIX.1601-1617	adopted	LR 15:194 April, 1989	VII.Chapter 3	adopted	LR 15:463
III.2103	adopted	LR 15:257	VII.Chapter 5	adopted	LR 15:464
V.Chapters 27-41	amended	LR 15:258	VII.Chapter 7	adopted	LR 15:453
XLV.326	adopted	LR 15:272	VII.Chapter 9	adopted	LR 15:456
XLV.Chapter 25	amended	LR 15:271	VII.Chapter 11	adopted	LR 15:459
XLV.Chapter 83	adopted	LR 15:268			September, 1989
LXXXVI.Chapters 1-15	adopted	LR 15:275 May, 1989	VII.Chapter 1	adopted	LR 15:733
V.2905	amended	LR 15:375	LAC 4		October, 1989
LIV.Subparts 1, 3, 5	amended	LR 15:387 June, 1989	V.Chapter 15	amended	LR 15:820
V.4101, 4102	adopted	LR 15:466 July, 1989	LAC 34		October, 1989
LX.103	amended	LR 15:544	VII.Chapters 1, 3, 5, 7	amended	LR 15:830
LX.109	adopted	LR 15:544	LAC 19		November, 1989
LX.305	amended	LR 15:544	I.303	amended	LR 15:961
LX.901	amended	LR 15:545	III.505	amended	LR 15:960
LX.1703	amended	LR 15:545	III.701	amended	LR 15:959
LX.1901-1905	amended	LR 15:545 August, 1989	5 LAC 76:		February, 1989
XIX.Chapter 7	amended	LR 15:614	III.303-314	adopted	LR 15:100
XIX.1303	amended	LR 15:616	V.309	adopted	LR 15:105
XIX.1703	amended	LR 15:617			March, 1989
XIX.Chapter 20	adopted	LR 15:618	VII.501	amended	LR 15:197
XIX.2101	amended	LR 15:619			April, 1989
LX.Chapter 21	adopted	LR 15:622 September, 1989	VII.131	adopted	LR 15:281
I.317	amended	LR 15:732	VII.325	adopted	LR 15:280
I.1101	amended	LR 15:732 October, 1989	I.303	adopted	LR 15:554
LIX.Chapters 1-8	amended	LR 15:846	VII.135	adopted	LR 15:554
LX.Chapter 13	amended	LR 15:837			October, 1989
LXVII.Chapters 101-103	adopted	LR 15:814 November, 1989	VII.137	amended	LR 15:868
XXVII.Chapters 3, 7	amended	LR 15:963	VII.327	adopted	LR 15:868
XXXIII.301	amended	LR 15:966	VII.329	adopted	LR 15:867
XXXIII.304	amended	LR 15:965			December, 1989
XXXIII.501	amended	LR 15:965	I.317	adopted	LR 15:1099
XXXIII.701	amended	LR 15:965	VII.701	amended	LR 15:1098
XXXIII.703	amended	LR 15:965	6 LAC 22		October, 1989
LIII.Chapters 29, 35	amended	LR 15:966 December, 1989	I.305	amended	LR 15:853
V.Chapters 27, 35	amended	LR 15:1058			December, 1989
XLVII.3523	amended	LR 15:1081	III.Chapter 49	adopted	LR 15:1071
XLVII.3529	amended	LR 15:1080	III.5101	adopted	LR 15:1071
LV.305, 309	amended	LR 15:1088	LAC 55:		February, 1989
LXVII.Subpart 1	amended	LR 15:1057	V.103	amended	LR 15:96
LXXX.Chapters 1-7	adopted	LR 15:1074	V.303	amended	LR 15:96
4 LAC 34		February, 1989	V.1301	amended	LR 15:95
V.121-134	amended	LR 15:81			October, 1989
LAC 4		April, 1989	IX.Chapters 1-13	amended	LR 15:854
VII.103-133	amended	LR 15:262			December, 1989
VII.1303, 1325	amended	LR 15:263	I.Chapter 19	adopted	LR 15:1097
VII.1737	amended	LR 15:268 May, 1989	III.Chapter 1	amended	LR 15:1089
VII.1223	amended	LR 15:384	7 LAC 37:		February, 1989
VII.1229	amended	LR 15:379 June, 1989	I.2701	amended	LR 15:85
LAC 19		June, 1989	I.3101-3201	amended	LR 15:85
I.Chapter 1	amended	LR 15:445	LAC 40		June, 1989
VII.Chapter 1	adopted	LR 15:460	IV.Chapter 1	adopted	LR 15:485
			IV.Chapter 3	adopted	LR 15:487
			XIII.121	amended	LR 15:496
					December, 1989
			IV.303	repealed	LR 15:1085
			IV.369	adopted	LR 15:1085
			IV.370	adopted	LR 15:1085
			VII.Chapters 1-3	amended	LR 15:1086
			LAC 25		September, 1989
			I.Chapter 3	amended	LR 15:720

Vol. Title:Part.Section	Effect	Location
8 LAC 48:		February, 1989
I.2101-2109	adopted	LR 15:92
9 LAC 48:		March, 1989
XI.4301-4302	amended	LR 15:196
		April, 1989
V.11501	amended	LR 15:272
		June, 1989
V.3703	amended	LR 15:471
V.11707	amended	LR 15:473
V.11709	amended	LR 15:475
V.11901	amended	LR 15:473
V.12501	amended	LR 15:474
		July, 1989
V.Chapter 71	amended	LR 15:545
		October, 1989
V.Chapters 49, 51	amended	LR 15:839
		November, 1989
V.Chapter 123	amended	LR 15:970
		December, 1989
V.8103	amended	LR 15:1084
VII.Chapter 7	adopted	LR 15:1081
10 LAC 61		April, 1989
I.4359	amended	LR 15:274
I.4901	adopted	LR 15:274
		December, 1989
V.Chapters 1-31	amended	LR 15:1097
11 LAC 33		September, 1989
III.Chapter 27	adopted	LR 15:735
III.6523	amended	LR 15:735
		December, 1989
III.Chapters 1, 21	amended	LR 15:1061
13 LAC 33:		March, 1989
V.105	amended	LR 15:181
V.517	amended	LR 15:181
V.705	amended	LR 15:181
V.4379	amended	LR 15:181
V.4442-4444	adopted	LR 15:182
V.4901	amended	LR 15:182
V.4905	amended	LR 15:182
		April, 1989
V.Subpart 1	amended	LR 15:378
		June, 1989
V.4457	amended	LR 15:470
		September, 1989
V.109	amended	LR 15:737
V.Chapters 5, 31, 41, 45	amended	LR 15:737
		December, 1989
V.2242	amended	LR 15:1066
14 LAC 33		April, 1989
IX.708	adopted	LR 15:261
		September, 1989
IX.Chapter 11	amended	LR 15:738
		December, 1989
VII.Chapter 101	adopted	LR 15:1070
15 LAC 33		September, 1989
XV.Chapter 14	adopted	LR 15:735

Committee Reports

COMMITTEE REPORT

House Natural Resources Subcommittee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on December 29, 1989 and reviewed certain proposed rules by the Louisiana Department of Wildlife and Fisheries to provide for the minimum size for the recreational and commercial taking of black drum and to provide for quotas for the commercial harvesting of black drum with the following results.

The proposed rule was found to be unacceptable by a vote of 7 - 0.

The subcommittee questioned the procedure by which the commission adopted the rule and by a vote of 7-0 adopted the following subcommittee resolution:

"The Wildlife and Fisheries Commission is hereby requested to review the black drum fishing industry and take action to ensure the preservation of the species from the standpoint of commercial and recreational harvest and, in that regard, try to develop a recreational creel limit and a slot limit for the commercial harvest of fish that would be something in the neighborhood of the 16 to 24 inch size recommendation that the department originally suggested at the commission meeting in November."

In accordance with R.S. 49:968(F), copies of this report are being forwarded this date to the Department of Wildlife and Fisheries, the Louisiana Senate, and the State Register.

Bruce M. Bolin
Chairman

Potpourri

POTPOURRI

Department of Economic Development Office of Financial Institutions

Judicial Interest Calculation

Pursuant to the authority granted by La. Civil Code article 2924(B)(3), as amended by Act 774 of 1989, the commissioner of financial institutions has determined the rate of judicial interest for the period beginning January 1, 1990 and ending December 31, 1990 to be 11.5 percent in accordance with the formula mandated by Article 2924(B)(3).

The terms "prime rate" and "reference rate" shall be

deemed synonymous for purposes of this calculation. Prime rate is the rate of interest established by a bank for its most favored corporate clients in commercial loan transactions.

The "prime rate" or "reference rate" for Chase Manhattan Bank, N.A., Manufacturers Hanover Trust Company of New York, Morgan Guaranty Trust Company of New York, Bank of America National Trust and Savings Association, and Citibank, N.A., was 10.5 percent at each institution on October 1, 1989.

La. Civil Code article 2923(3)(a) mandates that "[t]he effective judicial interest rate for the calendar year following the calculation date shall be one percentage point above the average prime or reference rate of the five financial institutions named in this Paragraph."

The effective judicial interest rate for the calendar year beginning on January 1, 1990 shall be 11.5 percent.

This calculation and its "publication in the *Louisiana Register* shall not be considered rulemaking, within the intendment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953", thus, neither a fiscal impact statement nor a "notice of intent" is required.

October 6, 1989.

Fred C. Dent
Commissioner

POTPOURRI

Department of Environmental Quality Office of Air Quality and Nuclear Energy Air Quality Division

PROPOSED LIST OF 100 TOXIC AIR POLLUTANTS TO BE REGULATED UNDER ACT 184

INTRODUCTION

On June 23, 1989, Governor Buddy Roemer signed into law Act 184 creating the "Comprehensive Toxic Air Pollutant Emission Control Program". The goal of the newly established program is to reduce the total amount of statewide emissions of toxic air pollutants by 50 percent from 1987 levels by December 31, 1994.

The program's first milestone is the preparation of an initial list of 100 toxic air pollutants proposed for regulation under provisions of the Act. R.S. 30:2060 A.(1) requires that "Not later than December 31, 1989, the secretary shall develop and publish a list of not more than one hundred toxic air pollutants pursuant to criteria contained in R.S. 30:2053(3). Pollutants on this list shall be ranked or classified according to level of concern based on such criteria as emission levels, human health effects, population exposure, and persistence or accumulation in the environment."

As provided in R.S. 30:2053(3)(a), toxic air pollutant means "an air pollutant which, based on scientifically accepted data, is known to cause or can reasonably be expected to cause either directly or indirectly through ambient concentrations, exposure levels, bioaccumulation levels, or deposition levels, adverse effects in humans, including but not limited to:

- (i) Cancer;
- (ii) Mutagenic, teratogenic, or neurotoxic effects;
- (iii) Reproductive dysfunction;

- (iv) Acute health effects; and,
- (v) Chronic health effects."

THE PROPOSED LIST

Following careful evaluation and analysis of toxic air pollutants known to be emitted within the state, the department has developed the proposed list of 100 substances provided in Table 1. The list is being published at this time to meet the schedule requirements of Act 184, that were designed to allow public review and comment prior to finalization of the list for incorporation into initial rulemaking scheduled for July, 1990.

A development document detailing information and procedures employed in determination of the 100 toxic air pollutants is expected to be completed and made available for review by January 31, 1990. It is anticipated that a public hearing on the proposed list will be scheduled for the last week of March.

SOLICITATION OF COMMENTS

The department expressly solicits comments on the proposed list of toxic air pollutants from all affected and interested parties. Written comments should be addressed to: Dr. Mike D. McDaniel, Assistant Secretary, Office of Air Quality and Nuclear Energy, Department of Environmental Quality, Box 44096, Baton Rouge, LA 70804-4096.

As mentioned previously, a development document detailing information and procedures employed in selection of the 100 toxic air pollutants is expected to be completed and available for review by January 31. It is expected that a public hearing on the proposed list will be scheduled for the last week of March.

TABLE 1.
PROPOSED LIST OF 100 TOXIC AIR POLLUTANTS TO BE
REGULATED UNDER ACT 184

ACETALDEHYDE	ETHYLENE OXIDE
ACETONE	FORMALDEHYDE
ACETONITRILE	GLYCOL ETHERS [6]
ACROLEIN	HEXACHLORO-1,3-BUTADIENE
ACRYLAMIDE	HEXACHLOROBENZENE
ACRYLIC ACID	HEXACHLOROETHANE
ACRYLONITRILE	HYDRAZINE
ALLYL CHLORIDE	HYDROCHLORIC ACID
AMMONIA	HYDROGEN CYANIDE
ANILINE	HYDROGEN FLUORIDE
ANTIMONY (AND COMPOUNDS) [1]	HYDROGEN SULFIDE
ARSENIC (AND COMPOUNDS) [1]	MALEIC ANHYDRIDE
ASBESTOS	MANGANESE (AND COMPOUNDS) [1]
BARIUM (AND COMPOUNDS) [1]	MERCURY (AND COMPOUNDS) [1]
BENZENE	METHANOL
BERYLLIUM (AND COMPOUNDS) [1]	METHYL ACRYLATE
BIPHENYL	METHYL ETHYL KETONE
BIS(2-CHLOROETHYL) ETHER	METHYL ISOBUTYL KETONE
1,3-BUTADIENE	METHYL METHACRYLATE
CADMIUM (AND COMPOUNDS) [1]	MOLYBDENUM TRIOXIDE
CARBON DISULFIDE	N-BUTYL ALCOHOL
CARBON TETRACHLORIDE	NICKEL (AND COMPOUNDS) [1]
CARBONYL SULFIDE	NITRIC ACID
CHLORINATED DIBENZO-P-DIOXINS/FURANS [2]	NITROBENZENE
CHLORINE	2-NITROPROPANE
CHLORINE DIOXIDE	PHENOL
CHLOROBENZENE	PHOSGENE
CHLOROETHANE	PHOSPHORIC ACID
CHLOROFORM	PHTHALIC ANHYDRIDE
CHLOROMETHANE	POLYNUCLEAR AROMATIC HYDROCARBONS [7]
CHLOROPRENE	PROPIONALDEHYDE
CHROMIUM (AND COMPOUNDS) [1]	PROPYLENE OXIDE
COPPER (AND COMPOUNDS) [1]	PYRIDINE
CREOSOL [3]	SELENIUM (AND COMPOUNDS) [1]
CUMENE	SILVER (AND COMPOUNDS) [1]
CYANIDE COMPOUNDS [4]	STYRENE
DIAMINOTOLUENE	SULFURIC ACID
1,2-DIBROMOETHANE	TETRACHLOROETHANE
DIBUTYL PHTHALATE	TETRACHLOROETHYLENE
1,4-DICHLOROBENZENE	THALLIUM (AND COMPOUNDS) [1]
1,2-DICHLOROETHANE	TOLUENE
DICHLOROMETHANE (METHYLENE CHLORIDE)	TOLUENE DIISOCYANATE [8]
1,2-DICHLOROPROPANE	1,1,1-TRICHLOROETHANE
1,3-DICHLOROPROPYLENE	1,1,2-TRICHLOROETHANE
DINITROTOLUENE [5]	TRICHLOROETHYLENE
1,4-DIOXANE	VINYL ACETATE
EPICHLOROHYDRIN	VINYL CHLORIDE
ETHYL ACRYLATE	VINYLDENE CHLORIDE
ETHYL BENZENE	XYLENE [9]
ETHYLENE GLYCOL	ZINC (AND COMPOUNDS) [1]

EXPLANATORY NOTES

[1] Includes any unique chemical substance that contains the listed metal as part of that chemical's infrastructure.

[2] Includes all chlorinated dibenzo-*p*-dioxins and chlorinated dibenzofurans.

[3] Includes *o*-, *m*-, and *p*-cresol, and mixed isomers.

[4] Pertains to X + CN⁻, where X = any group where a formal dissociation may occur. For example KCN or Ca(CN)₂.

[5] Includes 2,4- and 2,6-dinitrotoluene and mixed isomers.

[6] Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol.

[7] Includes organic compounds with more than one benzene ring and which have a boiling point greater than or equal to 100°C.

[8] Includes toluene-2,4- and 2,6-diisocyanate and mixed isomers.

[9] Includes *o*-, *m*-, and *p*-xylene, and mixed isomers.

Paul Templet
Secretary

POTPOURRI

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1, notice is given that 46 claims amounting to \$93,147.14 were received during the month of December, 1989, 31 claims in the amount of \$48,584.57 were paid, and seven claims were denied.

Loran C coordinates for the following claims were omitted inadvertently in the December 1989 *Louisiana Register*:

CLAIM NO.	LORAN
89-90-170	26500.6 46976.1
89-90-117	28990.3 46908.8
89-90-116	29014.5 46932.4
89-90-115	29239.7 46880.7
89-90-108	29046.8 46941.6
88-89-488	29391.7 89002.6
89-90-108	29538.7 89196.2
89-90-104	28790.8 47048.3
89-90-29	29405.6 89192.6

Pursuant to the provisions of Act 33 of 1988, the following claims with the Fishermen's Gear Compensation Fund have been validated by the Fund's hearing examiner and the secretary of DNR will approve payment, effective February 1, 1990.

Written comments from interested parties may be addressed to: Department of Natural Resources, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, and must be received on or before February 1, 1990.

Claim No. 89-90-133

Joseph Giammanchere, Jr., 67121 Hwy. 41, Pearl River, LA. 70452, SSN 433-66-7460, Lake Borgne (Waterbody), St. Bernard (Parish), Amount \$1866.48

Claim No. 89-90-164

Jerome M. Boudwin, 4356 Hwy. 56, Houma, LA. 70363, SSN 435-98-7335, Loran 27647.2 46908.2, St. Mary, Amount \$1574.97

Claim No. 89-90-166

F/V Clifton Bellanger, Inc., Rt. 2, Box 485D, Cut Off, LA. 70345, Federal I.D. No. 72-1083464, Loran 28567.0

46862.3, Jefferson, Amount \$1130.27

Claim No. 89-90-167

F/V Clifton Bellanger, Inc., Rt. 2, Box 485D, Cut Off, LA. 70345, Federal I.D. No. 72-1083464, Loran 27726.41 46888.9, Terrebonne, Amount \$911

Claim No. 89-90-100

Frank Ray, Rt. 2, Box 625, St. Bernard, LA. 70085, SSN 435-86-5481, Dead Man's Island, St. Bernard, Amount \$2398.98

Claim No. 89-90-99

Frank Ray, Rt. 2, Box 625, St. Bernard, LA. 70085, SSN 435-86-5481, Eloi Bay, St. Bernard, Amount \$4920.03

Claim No. 89-90-106

Steven Nelton, Star Route Box 467E, Chauvin, LA. 70344, SSN 438-80-4337, Atchafalaya Bay, St. Mary, Amount \$3079.51

Claim No. 89-90-171

Steven A. Adams, Box 392, Hwy. 301, Barataria, LA. 70036, SSN 437-92-4065, Gulf of Mexico, Terrebonne, Amount \$1054.50

Claim No. 89-90-208

Warren Thibodeaux, 8922 Dinkins St., New Orleans, LA. 70127, SSN 439-50-1569, Breton Sound, St. Bernard, Amount \$2460

Claim No. 89-90-160

Kenneth J. Robin, Jr., 2102 Tiffany Court St., Bernard, LA. 70085, SSN 437-92-1286, Eloi Bay, St. Bernard, Amount \$3443.38

Claim No. 89-90-162

Donald B. Evans, 2001 Perez St., Braithwaite, LA. 70040, SSN 434-46-7718, Breton Sound, St. Bernard, Amount \$4970.80

Claim No. 89-90-200

Lester A. Schellinger, Rt. 6, Box 257A Chef Hwy., New Orleans, LA. 70129, SSN 439-68-8383, Lake Pontchartrain, St. Tammany, Amount \$646

Claim No. 89-90-185

James Lee LaRive, Jr., Box 914, Franklin, LA. 70538, SSN 437-37-6506, West Cote Blanche Bay, St. Mary, Amount \$821.56

Claim No. 89-90-180

Ernest Wiseman, Box 306, Lafitte, LA. 70067, SSN 438-48-1920, Barataria Bay, Jefferson, Amount \$598.80

Claim No. 89-90-63

Raymond E. Gilham, 359 Carrollton Ave., Metairie, LA. 70005, SSN 437-74-8056, Lake Pontchartrain, Orleans, Amount \$1252.22

Claim No. 89-90-186

James Menner, 3014 South Palm, Slidell, LA. 70458, SSN 436-29-4714, Loran 28818.9 47052.2, Orleans, Amount \$992.51

Claim No. 89-90-215

Murry Gaspard, 8205 East Main, Galliano, LA. 70354, SSN 436-90-4156, Loran 28492.9 46864.0, Jefferson, Amount \$650.50

Claim No. 89-90-153

Thomas Crosby, 103 E. 143rd St., Galliano, LA. 70354, SSN 439-29-2935, Lake Raccourci, Lafourche, Amount \$655

Claim No. 89-90-138

Jimmy Menesses, 2501 Farmsite Road, Violet, LA. 70092, SSN 439-72-3391, Mississippi River Gulf Outlet, St. Bernard, Amount \$1139.19

Claim No. 89-90-249

Jefferson Lasseigne, Sr., Box 121, Galliano, LA. 70354,

SSN 433-54-2907, Loran 28667.2 46868.8, Plaquemines, Amount \$1667.01
Claim No. 89-90-235
Donald J. Normand, Box 160, Montegut, LA. 70377, SSN 436-74-9028, Bayou Terrebonne, Terrebonne, Amount \$62.37
Claim No. 89-90-8
Larry L. Matherne, Jr., Box 157, Barataria, LA. 70036, SSN 437-29-0101, Barataria Pass, Jefferson, Amount \$1873.25
Claim No. 89-90-260
Leroy Lepine, Box 430, Barataria, LA. 70036, SSN 438-48-8977, Belle Pass, Lafourche, Amount \$890.82
Claim No. 89-90-216
James Polito, Rt. 15, Box 2411B, Lake Charles, LA. 70611, SSN 434-88-9567, Calcasieu Ship Channel, Cameron, Amount \$554.63
Claim No. 89-90-217
James Polito, Rt. 15, Box 2411B, Lake Charles, LA. 70611, SSN 434-88-9567, Calcasieu Ship Channel, Cameron, Amount \$554.63
Claim No. 89-90-158
Wayne Nuschler, 2405 Bartolo Dr., Meraux, LA. 70075, SSN 439-68-6188, Mississippi River Gulf Outlet, St. Bernard, Amount \$1200.48
Claim No. 89-90-107
Tee Frank, Inc., Box 69, Galliano, LA. 70354, Federal I.D. No. 72-0844413, Loran 28371.2 46832, Lafourche, Amount \$1925.10
Claim No. 89-90-297
Jody Cheramie, Rt. 1, Box 48A, Galliano, LA. 70354, SSN 434-76-3027, Loran 28559.9 46869.1, Jefferson, Amount \$2856.90
Claim No. 89-90-316
Robert Guidry, 915 Hanks Road, Lake Arthur, LA. 70549, SSN 435-04-2394, Loran 26876.2 46967.8, Cameron, Amount \$722.72
Claim No. 89-90-219
John Julian, Jr., 19329 Chef Hwy., New Orleans, LA. 70129, SSN 435-39-6629, Lake Borgne, St. Bernard, Amount \$1839
Claim No. 89-90-220
John Julian, Jr., 19329 Chef Hwy., New Orleans, LA. 70129, SSN 435-39-6629, Lake Borgne, St. Bernard, Amount \$899.25
Claim No. 89-90-240
Troy Schultz, Rt. 1, Box 607A, Marrero, LA. 70072, SSN 437-45-7591, Lake Salvador, Jefferson, Amount \$548.83
Claim No. 89-90-241
Troy Schultz, Rt. 1, Box 607A, Marrero, LA. 70072, SSN 437-45-7591, Bayou St. Denis, Jefferson, Amount \$499.95
Claim No. 89-90-207
Vernon Alfonso, Sr., Rt. E, Box 776A, St. Bernard, LA. 70085, SSN 438-56-7155, Breton Sound, Plaquemines, Amount \$5000
Claim No. 89-90-119
Irvin Blanchard, Jr., Rt. 1, Box 511, Ysloskey, LA. 70085, SSN 436-94-4549, Eloi Bay, St. Bernard, Amount \$5000
Claim No. 89-90-245
Danny Buras, 5132 Eighty Arpent Road, Marrero, LA. 70072, SSN 434-15-8776, Bayou Perot, Jefferson, Amount \$484
Claim No. 89-90-246
Danny Buras, 5132 Eighty Arpent Road, Marrero, LA. 70072, SSN 434-15-8776, Bayou St. Denis, Jefferson, Amount \$499.95
Claim No. 89-90-169
Roland Navarro, 2220 Maureen Lane, Meraux, LA. 70075, SSN 433-26-7109, Loran 28953.9 46914.5, St. Bernard, Amount \$1806.86
Claim No. 89-90-150
Frank Christen, Sr., Box 35, Lafitte, LA. 70067, SSN 439-74-4334, Gulf of Mexico, Plaquemines, Amount \$2059.90
Claim No. 89-90-142
Ronnie Campo, Rt. 1, Box 666, St. Bernard, LA. 70085, SSN 437-47-3153, Chandeleur Sound, St. Bernard, Amount \$1138.02
Claim No. 89-90-211
David Richard, 903 W. Napoleon, Sulphur, LA. 70663, SSN 433-02-3062, Calcasieu Ship Channel, Cameron, Amount \$527.47
Claim No. 89-90-210
David Richard, 903 W. Napoleon, Sulphur, LA. 70663, SSN 433-02-3062, Calcasieu Ship Channel, Cameron, Amount \$527.47
Claim No. 89-90-234
Richard Adam, Jr., Box 123, Lafitte, LA. 70067, SSN 435-64-3201, Loran 26894.1 46966.5, Cameron, Amount \$1489
Claim No. 89-90-209
Rudolph Gonzales, Rt. 1, Box 535A, St. Bernard, LA. 70085, SSN 437-54-1838, Lake Borgne, St. Bernard, Amount \$1574.61
Claim No. 89-90-193
Edward Picou, Jr., Star Route Box 517E, Chauvin, LA. 70344, SSN 437-70-4801, Loran 46837 28179, Terrebonne, Amount \$1205.94
Claim No. 89-90-194
Edward Picou, Jr., Star Route Box 517E, Chauvin, LA. 70344, SSN 437-70-4801, Loran 28079 46846, Terrebonne, Amount \$884.53
Claim No. 89-90-213
Oneil Sevin, 203 Central Blvd., Chauvin, LA. 70344, SSN 437-31-3356, Lake Barre, Terrebonne, Amount \$5000
Claim No. 89-90-19
Daniel Reed, Box 326, Westwego, LA. 70096, SSN 422-58-2648, Barataria Bay, Jefferson, Amount \$2530.13
Claim No. 89-90-189
M/V Cathy Cheramie, Inc., Rt. 2, Box 485A, East 100th St., Cut Off, LA. 70345, Federal I.D. No. 72-0947725, Loran 27462.2 46.916.5, Vermilion, Amount \$959.95
Claim No. 89-90-32
Dominick Ochello, Jr., 256 Gloria Street, Lafitte, LA. 70067, SSAN 434-15-0692, Bayou St. Denis, Jefferson, Amount \$1229
Claim No. 89-90-248
Robert J. Oakman, 1369 Seminole St., Metairie, LA. 70005, SSAN 433-68-7669, Loran 28798.0 47038.0, Jefferson, Amount \$1433

Raymond W. Stephens, Jr.
Secretary

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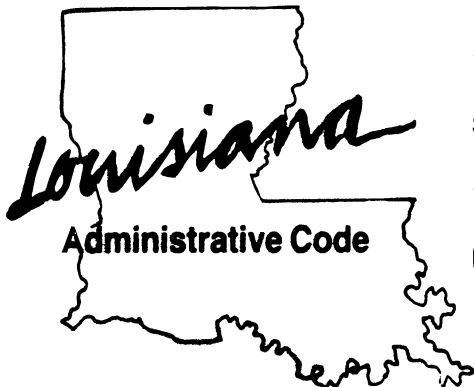
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