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Executive Orders

EXECUTIVE ORDER EWE 87-43

WHEREAS, Executive Order No. 87-34 ordered a five percent reduction of appropriations from the state general fund for various departments and budget units; and

WHEREAS, certain budget units were exempted from the five percent reduction; and

WHEREAS, certain other departments would be forced to curtail essential services and/or be faced with potential violation of existing court-ordered mandates if required to comply with that reduction;

NOW THEREFORE I, EDWIN EDWARDS, governor of the state of Louisiana, do hereby specifically exempt the following appropriations from the five percent reduction ordered by Executive Order No. 87-34:

The Department of Health and Human Resources
The Office of Corrections
The Office of Revenue and Taxation
Extended Employment for Agricultural Teachers
State Ethics Commission

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this the 27th day of October, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 87-44

WHEREAS, the state of Louisiana has long recognized the technical and economic potential of space program technologies; and

WHEREAS, the state of Louisiana historically has demonstrated this recognition through the implementation of a cooperative program between the National Space Technology Laboratories (NSTL) in Bay St. Louis, Mississippi and the Department of Natural Resources; and

WHEREAS, significant potential exists to transfer many of these laboratory technologies into the marketplace, thereby enhancing Louisiana's economic development; and

WHEREAS, the Louisiana Department of Commerce is the state agency specifically charged with the responsibility of promoting high technology development as well as other economic development programs in the state:

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

Section 1: All resources, rights, and responsibilities of the technology transfer program associated with the NSTL facility

are hereby transferred from the Department of Natural Resources to the Department of Commerce.

Section 2: This order shall be effective October 1, 1987.

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 2nd day of November, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Bulletin 741 - add Standard 1.009.02

The State Board of Elementary and Secondary Education, at its meeting of October 29, 1987, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R. S. 49:953B and adopted the following amendment to Bulletin 741, page 7, to add Standard 1.009.02:

1.009.02 Each school system shall ensure that all colleges and universities have equal access to the schools for the purpose of college recruitment.

(This standard will be monitored on accreditation and on-site reviews.)

This emergency adoption is necessary in order that the policy will be in place prior to expiration of the consent decree with the U. S. Department of Justice and institutions of higher education. This policy supersedes the policy previously adopted. Effective date of this amendment is November 20, 1987.

Dr. James Meza, Jr.
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Tuition Exemption Continuing Education
Program for Teachers

The State Board of Elementary and Secondary Education, at its meeting of October 29, 1987, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and approved the guidelines for the Tuition Exemption Continuing Education Program for Teachers as presented by the Department of Education and amended by the board as follows:

Tuition Exemption Continuing Education
Program for Teachers

I. Introduction

The Louisiana Legislature, during the Regular Session of 1986, passed Act 1010 (R.S. 17:7.3(a) and (c)). This Statute provides a continuing education program at Louisiana colleges and universities under which degreed teachers may take courses in their fields or disciplines.

Regulations for the Tuition Exemption Program, adopted by the Board of Elementary and Secondary Education, are subject to administrative interpretation by the Louisiana Department of Education, Continuing Education Office, Box 94064, Baton Rouge, LA 70804-9064, telephone (504) 342-3414 or toll-free 1-800-272-9872.

II. Application Forms

A. Distribution

-The Louisiana Department of Education prepares and distributes the forms.

-Participating parish or city school systems obtain forms from the Department of Education.

-Participating schools obtain forms from either the parish or city school board office.

-Participating applicants obtain forms from either the employing school or school board office. Regulations are to be posted at the employing school.

B. Completion

-Read the directions on the application.

-Complete Section I and sign.

-Have employing authority complete Section II and sign.

-Have university official complete Section III and sign.

-Present application to appropriate university officials at the time of official university registration. (You must inquire at the registrar's office at the university in which you plan to enroll as to the specific university official to whom this form is submitted.)

C. If the application form is incomplete, inaccurate, or submitted to the university past the deadline date, the applicant will be declared ineligible and must pay the tuition costs.

III. Deadlines

A. Applications And Courses

1. Regular Semester or Quarter

-Application forms must be submitted to the specific university official no later than the fifth official university class day.

-Courses to be reimbursed shall be courses for credit that begin and end within a regular semester or quarter session and that meet the time requirements established by the Board of Trustees for the state's colleges and universities.

2. Summer Session

-Application form must be submitted to the specific university official no later than the fifth official university class day.

-Courses to be reimbursed shall be courses for credit that begin and end within a semester, summer, or quarter session and that meet the time requirements established by the Board of Trustees for the state's colleges and universities.

3. Application forms for classes for which registration is held at a time later than regular registration must be submitted during registration or on the first day of the class. Universities will submit these application forms as a supplemental billing.

B. Unsuccessfully Completed Courses

1. By the end of the semester, applicants who do not successfully complete the course for which tuition exemption was applied must pay the tuition as determined by the college or university in which the applicant was enrolled.

2. Applicants who drop, withdraw, or resign from courses will be billed the tuition amount as determined by the university by whatever means the respective university employs to recover such funds.

IV. Eligibility

A. Participants

Any full-time, degreed, elementary or secondary classroom teacher who is regularly employed or on approved leave from a state-approved public or nonpublic elementary or secondary school, listed on the annual school report as a member of the faculty of a state-approved public or nonpublic elementary or secondary school under the jurisdiction of the State Board of Elementary and Secondary Education, is eligible.

B. Colleges and Universities

Tuition reimbursement shall be limited to the following Louisiana colleges and universities.

Delgado College, Northeast Louisiana University, Grambling State University, Northwestern State University, Louisiana State University, Southeastern Louisiana University, Louisiana Tech University, Southern University, McNeese State University, University of New Orleans, Centenary College, Our Lady of Holy Cross College, Dillard University, Tulane University, Louisiana College, Loyola University, Xavier University.

Application for admission to colleges and universities must be in compliance with the colleges' or universities' regulations, entrance requirements, deadlines, and any other conditions for admissions.

C. Courses

1. Credit courses in the applicant's area of certification or job assignment, or courses outside these areas, specifically in the area(s) of critical shortage, as approved in writing by the superintendent of any city or parish school system. Final review/approval of courses shall be the responsibility of the Louisiana Department of Education, Office of Continuing Education.

2. Course load shall not exceed one regular semester or quarter course offering for each fall or spring session nor two course offerings in the summer session.

3. Course load for applicants who are on approved sabbatical leave for educational purposes shall not exceed 9 semester hours, or its equivalent in quarter hours, for each fall/spring session that the applicant is on leave.

4. Any coursework required of an applicant as a result of an unsatisfactory evaluation pursuant to direction from his employing school board.

D. Tuition

1. Tuition, for the purpose of this program, is defined as the building use fee per semester hour. The state will not reimburse for student activity fees. Tuition exemption shall be limited to the amount of tuition assessed for on-campus courses.

2. Reimbursement shall be made to the colleges and universities by the State Department of Education from state-appropriated funds.

3. Tuition paid to colleges and universities shall be equal to, but not greater than, the highest tuition charged by public colleges or universities of Louisiana. The difference in the amount of tuition charged by the colleges and the amount of tuition paid by the state shall be paid by the applicant.

V. Ineligibility

Reimbursement shall not be paid on the following:

1. courses that are not successfully completed by the end of the semester or quarter:

2. non-credit courses or audit courses:

3. non-instructional credit courses such as examination courses;

4. courses in theology or divinity;

5. correspondence courses;

6. dropped, incomplete, or failed courses;

7. courses for which application forms were submitted to the university past the deadline date;

8. courses for which application forms were incomplete or inaccurate;

9. courses for applicants who are declared ineligible to participate;

10. courses for which funds are not appropriated;

11. courses for applicants who are receiving retirement funds from a state retirement system;

12. courses that do not meet the time/class meeting requirements set forth by the Board of Trustees for the state's colleges and universities;

13. courses taken by independent study;

14. courses for which the participant is not eligible under these guidelines;

15. courses involving infractions of the Tuition Exemption regulations or university policy;

16. courses taken by teachers who are in default to the state of Louisiana for the Professional Improvement Program (PIP) or the Tuition Exemption Program as it existed prior to July 1, 1985.

VI. Appeals

1. Any applicant who is denied tuition exemption for a college course may appeal to the Louisiana Department of Education, Bureau of Continuing Education, Box 94064, Baton Rouge, LA 70804-9064, no later than 15 days following the date of notification of denial.

2. Any applicant who is denied tuition exemption by the Department of Education for a college course shall have a right to a due process appeal before the State Board of Elementary and Secondary Education. The applicant should contact the executive director of the State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064, no later than 15 days following the notification of denial from the Department of Education.

VII. College And University Procedures

A. At the time of registration, the applicant shall be exempt from paying tuition for eligible course work covered in this program.

B. The last date for the colleges and universities to accept applications for tuition exemption shall be the fifth official university class day of a regular semester or quarter or summer session.

C. Each college and university shall submit to the Department of Education, on the first day of class of each fall/spring/summer session, an invoice equal to one-half of the amount of tuition assessed for an on-campus course \times the number of applications submitted to that university. As soon as possible after the close of the semester, the college/university shall submit a final billing together with (a) an alphabetical list of the names of applicants who successfully completed course work, and (b) an alphabetical list of the names and addresses of applicants who received a W, F, or I grade. Tuition claimed by individuals who failed to successfully complete course work shall be deducted from the final payment to the university.

This emergency adoption is necessary in order for the colleges and universities to accept these teachers for the fall semester. This policy supersedes the policy previously adopted and

printed in the August, 1987 issue of the *Louisiana Register*, effective November 20, 1987.

Dr. James Meza, Jr.
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

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

It was necessary to adopt this as an emergency rule as federal regulations as published in the *Federal Register*, Vol. 52, No. 188, September 29, 1987 mandate an implementation date of October 1, 1987. Rules published in the *Louisiana Register*, Vol. 9, No. 2, February 20, 1983, page 62 and Vol. 9, No. 3, March 20, 1983, pages 130-131 are hereby amended to include the change in household composition.

Emergency Rule

Effective October 1, 1987, separate household status may be granted to certain individuals living with their parent(s) or sibling(s).

Public Law 100-77 amended the Food Stamp Act to allow a parent with his/her minor children to live with the parent's sibling and be considered a separate household if the parent with the minor children purchases food, and prepares meals separately from the parent's siblings. It also provides that an individual who is the parent of minor children, along with that individual's children or spouse may be granted separate household status if the individual and his/her children are living with the individual's parent and purchasing and preparing meals separate from the parent. These households' certification period shall not exceed six months.

Applicant households which apply for benefits on or after October 1, 1987 may be granted separate household status. Current participants which may be eligible for separate household status may be granted separate status, but not prior to October 1, 1987, if the household requests separate status.

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

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

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

It was necessary to adopt this as an emergency rule as federal regulations as published in the *Federal Register*, Vol. 52, No. 188, Tuesday, September 29, 1987, pages 36390-36400 require that we notify our staff immediately of the new definition.

The rule entitled "homeless recipients" as published in the *Louisiana Register*, Vol. 13, No. 8, August 20, 1987, pp. 437-438 shall be amended.

Emergency Rule

The definition of "homeless food stamp household" is being replaced by the definition of a "homeless individual" as follows:

"Homeless individual" - an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

1. a supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);
2. a halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;
3. a temporary accommodation in the residence of another individual; or
4. a place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

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

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

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

The Health Care Financing Administration (HCFA) has 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 the Health Care Financing Administration has eliminated current procedures for setting limits on payments for drugs supplied under Title XIX (Medicaid); and has revised Medicaid rules establishing a new methodology which limits the availability of Federal Financial Participation (FFP) subject to specific aggregate limitations on the cost for drug products. Under these regulations the state agency is required to assure its reimbursement methodology for prescription drugs is at or below the aggregate limits established by the Health Care Financing Administration in order to maintain FFP. States whose current methodologies exceed HCFA's aggregate upper limits for reimbursement must modify their reimbursement methodologies or face loss of FFP for reimbursement above the cost limits adopted by HCFA.

Under these regulations federal maximum allowable cost limits on multiple source drugs have been replaced by a formula approach which is applicable to all multiple source drugs, identified by HCFA, which meet the following requirements:

1. All of the formulations of the drug approved by the Food and Drug Administration have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence 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. The formula utilized by HCFA in setting the maximum cost limit for designated multiple source drugs is 150 percent of the published price for the least costly therapeutic equivalent (using all available national compendia) that can be purchased by pharmacists in quantities of 100 tablets or capsules (or if the drug is not commonly available in quantities of 100, the package size commonly listed) or in the case of liquids, the commonly listed size.

As of October 7, 1987 HCFA has notified the agency of 252 multiple source drugs, covered under the Louisiana Pharmacy Program, and the maximum cost payable under Title XIX. Additionally, the agency has been notified by HCFA Region VI that any payment made above the HCFA listed price will be disallowed effective for services provided on or after October 29, 1987. Following comparison of the Pharmacy Program's current price limits for multiple source drugs with those set by HCFA, the agency has found that only 36 multiple source drugs (14 percent) are currently priced below the mandated HCFA price levels.

While HCFA's regulations allow the agency to develop alternative reimbursement methodologies, HCFA has notified the agency that aggregate savings used for comparison with HCFA's methodology are restricted to only those multiple source drugs identified by HCFA. Comparison of larger groups of multiple source drugs identified under State Maximum Allowable Cost regulations with the 252 identified by HCFA and any other multiple source drugs priced at straight Average Wholesale Prices (AWP) is strictly prohibited. Because the agency is limited to the aggregate limits for only those drugs identified by HCFA, of which 86 percent are below current limits established by the state agency, there is no alternative which can be implemented within the specific timeframes established under the regulation to assure continued receipt of FFP for drug expenditures other than the adoption of HCFA's reimbursement limits for multiple source drugs.

The Medical Assistance Program is therefore adopting the mandatory price ceilings established by HCFA under its reimbursement methodology and deleting utilization of federal maximum allowable cost regulations. This rule will not affect current Louisiana Maximum Allowable Cost Regulations but will utilize HCFA's Multiple Source Drug Cost Limits in the Pharmacy Program's "lesser of" reimbursement methodology. Under this rule multiple source drugs will be reimbursed based on the lesser of: Usual and Customary charges to others; the Louisiana Maximum Allowable Cost limit plus a dispensing fee; the HCFA Multiple Source Drug Cost plus a dispensing fee; or the Average Wholesale Price plus a dispensing fee.

Under HCFA's regulation, the definition of Estimated Acquisition Cost has changed from "the agency's best estimate of what price providers generally are paying for a drug" to "the agency's best estimate of the price generally and currently paid by providers for a drug marketed or sold by a particular manufacturer or labeler in the package size of drug most frequently purchased by providers." Under this rule the agency is clarifying its definition of "Estimated Acquisition Cost." This clarification is necessary to assure compliance with HCFA's new definition.

This rule is necessary to comply with mandatory federal regulations and prevent disallowances of federal funds for drugs covered under the Title XIX Pharmacy Program. This rule shall become effective October 29, 1987 in accordance with 42 CFR, Part 447, Subpart D.

Emergency Rule

Federal maximum allowable cost (MAC) regulations which are utilized in determining ingredient cost are hereby repealed.

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 payment (when the treating prescriber dispenses his own medications and bills the 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 medication.

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 (EAC) means the 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. EAC for drug products supplied through repackaging into smaller quantities by chain drugstore central purchasing shall be based on the package size purchased by the central purchasing unit. If the package size is larger than the largest size listed by the Louisiana program, then EAC will be based on the largest size listed in the American Druggist Blue Book or other national compendia utilized by the state to update the Medicaid Management Information System (MMIS).

Average Wholesale Price (AWP) means the price of a drug product as reported to the agency by the American Drug-

gist Blue Book or other national compendia utilized by the state to update the Medicaid Management Information System. Where more than one price is reported for the same drug product, the agency shall determine which price best reflects availability to providers. The state agency's determination of availability shall not be subjugated by any other group.

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 Equivalence 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 upper limits established by HCFA in determining multiple source drug cost.

c. The formula utilized by HCFA in setting the maximum cost limit for designated multiple source drugs is the average wholesale price plus 50 percent for the least costly therapeutic equivalent (using all available national compendia) that can be purchased by pharmacists in quantities of 100 tablets or capsules (or if the drug is not commonly available in quantities of 100, the package size commonly listed) or in the case of liquids, the commonly listed size.

d. 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 for Multiple Source Drugs

The LMAC, determined and calculated for a multiple source drug (as defined in 42 CFR 447.301) 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 advance notice of any additions, deletions, or adjustments in price. A complete LMAC cost listing will be distributed periodically. 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 OFS 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 others not to exceed the agency's "Maximum Pharmaceutical Price Schedule";
- b. the agency's estimated acquisition cost (EAC) 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 (LMAC) 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 others 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 medications 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 purchased by a provider. Drug products supplied through repackaging into smaller quantities by chain drug store central purchasing shall be billed by the dispensing pharmacy using the manufacturer number, product number, and package size number of the package size purchased by the central purchasing unit. If the package size is larger than the largest size listed by the Louisiana program, then the package size billed shall be the largest size listed in the American Druggist Blue Book or other national compendia used by the state to update the Medicaid Management Information System.

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

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

DECLARATION OF EMERGENCY

**Department of Health and Human Resources
Office of Human Development**

Division of Children, Youth, and Family Services

Effective December 1, 1987, the Department of Health and Human Resources, Office of Human Development, Division of Children, Youth, and Family Services (DCYFS) has exercised the emergency provision of the Administrative Procedure Act R.S. 49:953(B), to limit to \$300 per adoptive family, the fee paid to private attorneys by DCYFS for work performed on adoptions under the Adoption Subsidy Program, Special Services Subsidies described on page 2 of Section 8-715 of the DCYFS Program Policy Manual.

The adoptive family will be responsible for paying any portion of the attorney's fee exceeding the \$300 limit per adoptive family unless DCYFS grants an exception after special review on a case by case basis. Exceptions shall be based on the:

1. acquisition of three estimates, each in excess of \$300, for legal fees for the work,
2. family income, and
3. family size.

The Adoption Subsidy Program expenditures must be controlled. This change in policy is required to maintain adequate funds necessary to allow DCYFS to provide those services which are mandated by federal and state law throughout the entire fiscal year. Those services which are required by federal regulations must be provided in order to receive federal funding.

This action is taken to avoid fund shortages which would result in reduction/curtailment of services/subsidies to these Subsidized Adoption Program recipients whose health and welfare would otherwise be adversely affected.

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

DECLARATION OF EMERGENCY

**Department of Health and Human Resources
Office of Human Development**

Division of Children, Youth, and Family Services

Effective December 1, 1987, the Department of Health and Human Resources, Office of Human Development, Division of Children, Youth, and Family Services (DCYFS) has exercised the emergency provision of the Administrative Procedure Act R.S. 49:953(B) to reduce the monthly maintenance payment according to the scale below to all Title IV-E eligible Adoption Subsidy Program recipients having income exceeding the gross annual income as stated on page 2 of Section 8-730 of the DCYFS Program Policy Manual attached. This reduction will only apply to Title IV-E eligible cases.

Exceptions to increase the monthly maintenance payment to the next highest percentage of Monthly Maintenance Payment in the scale for these Adoption Subsidy Program recipients may be obtained after special reviews based on the:

1. number of children in the family or household,
2. other special subsidy payments being provided to the family,
3. number of children being adopted into the home,

4. ages of the child(ren) being adopted into the home, and
5. extraordinary needs the child(ren) being adopted may have.

Income Over Gross Annual Levels	Percentage of Existing Adoption Monthly Maintenance Payment to be received	Monthly Maintenance* Subsidy Amount To Be Received
\$0 - \$5,000	90%	\$143 (birth - 5 years) 167 (6 - 12 years) 190 (13 - 18 years)
\$5,001 - \$10,000	80%	127 (birth - 5 years) 148 (6 - 12 years) 169 (13 - 18 years)
\$10,001 - \$20,000	70%	111 (birth - 5 years) 130 (6 - 12 years) 148 (13 - 18 years)
\$20,001 - \$40,000	50%	79 (birth - 5 years) 93 (6 - 12 years) 106 (13 - 18 years)
\$40,001 and above	40%	63 (birth - 5 years) 74 (6 - 12 years) 84 (13 - 18 years)

The scale will allow lower income families to continue to receive the maximum subsidy currently received (80 percent of foster care board rate), while families with more income will receive a reduced subsidy.

The Adoption Subsidy Program expenditures must be controlled since a majority of these expenditures are for monthly maintenance payments. This change in policy is required to maintain adequate funds necessary to allow DCYFS to provide these services as mandated by federal and state law throughout the entire fiscal year. Those services which are required by federal regulations must be provided in order to receive federal funding. This action is taken to avoid fund shortages which would result in reduction/curtailment of services/subsidies to these Adoption Subsidy Program recipients whose health and welfare would otherwise be adversely affected.

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

DECLARATION OF EMERGENCY

**Department of Health and Human Resources
Office of Human Development**

Division of Children, Youth, and Family Services

Effective December 1, 1987, the Department of Health and Human Resources, Office of Human Development, Division of Children, Youth, and Family Services (DCYFS) has exercised the emergency provision of the Administrative Procedure Act R.S. 49:953(B) to revise the definition of the "Special Needs Child" on page 2 of Section 8-710 in the DCYFS Program Policy Manual to read as follows:

"A special needs child is one with a pre-existing condition(s) such that it is reasonable to conclude that the child may be difficult to place in an adoptive home without the aid of a subsidy. The condition(s) may be any one or combination of the following:

1. Race/Sex/Age
 - a. white Boys, Age 11 or older;
 - b. black Boys, Infants or older;

- c. white Girls, Age 12 or older;
- d. black Girls, Age 5 or older;
- 2. nationality;
- 3. physical Condition;
- 4. mental and/or emotional condition; and/or,
- 5. membership in a sibling group which should not be separated."

The existence of any of these conditions does not automatically define the child as "Special Needs."

The rationale is based on the need to give specificity to age, sex, and race of children in adoptive families receiving subsidies through the Adoption Subsidy Program. The proposed revisions consider the difficulty in recruitment and placement of children of a certain age, sex, and race. This redefinition will assist in controlling the expenditures of the Adoption Subsidy Program by refining the process whereby new applicants for subsidy are reviewed and accepted initially. The new definition will be applied to all cases for whom new, (i.e., initial), applications are submitted as of December 1, 1987.

Provision for exceptions to the new definition for Special Needs Children could be made for children on a case-by-case basis.

The Adoption Subsidy Program expenditures must be more closely controlled. This change in policy is required to maintain adequate funds necessary to allow DCYFS to provide those services which are mandated by Federal and State law throughout the entire fiscal year. Those services which are required by federal regulations must be provided in order to receive federal funding. This action is taken to avoid funding shortages which would result in reduction/curtailment of services/subsidies to these Adoption Subsidy Program recipients whose health and welfare would otherwise be adversely affected.

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

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of Juvenile Services

The Department of Public Safety and Corrections, pursuant to the authority contained in R.S. 49:953 B, adopted the following emergency rules on November 9, 1987. This emergency adoption was necessitated by Act 57 of the 1987 Regular Legislative Session which amended the Code of Juvenile Procedures Art. 86(F) and R.S. 15:901(C), (D) and (E).

Act 57 provides that the Department of Public Safety and Corrections has sole custody of a child committed to the department and has full responsibility and authority to assign and reassign offenders in its custody to the program best suited to meet the offender's needs. Act 57 became effective on September 1, 1987 and the Department of Public Safety and Corrections had insufficient time and information between the close of the Legislative Session and the effective date of the law to promulgate permanent rules.

The Department of Public Safety and Corrections finds that the lack of permanent rules between the effective date of the law and the adoption of permanent rules poses an imminent peril to public health, safety and welfare. The following emergency rules are needed to protect the health, safety and welfare

of the public by providing for the assignment and reassignment of juveniles committed to the department. Permanent rules will be promulgated by the Department of Public Safety and Corrections at a later date with opportunity for public comment.

This emergency rule establishes procedures for the assignment and reassignment of juvenile offenders disposed by the juvenile court to the custody of the Department of Public Safety and Corrections. Effective date of this rule is November 9, 1987.

The text of the Emergency Rule is as follows:

The following rules establish procedures for the assignment and reassignment of juvenile offenders disposed by the juvenile court to the custody of the Department of Public Safety and Corrections.

§308. Juvenile Offender Custody, Classification and Assignment

These rules provide that:

A. The assignment of juvenile offenders in the custody of the DPS and C shall be based upon a classification of the risks and needs presented by the offender. This classification shall be based upon ascertainable events and behaviors and shall be provided for all juvenile offenders in the custody of or supervised by the DPS and C. Office of Juvenile Services;

B. The reassignment of offenders in agency custody shall be clearly based upon the documented needs of the offender and the risks presented and not solely upon the established duration of the treatment program;

C. The offenders and the offender's family or guardian shall be informed of the alternatives and outcomes of the assignment or reassignment and be included in the treatment/service plan;

D. Offender assignments and reassignments shall be accompanied by the offender classification, staffing and due process procedures specified below;

E. At all times the services provided the offender shall be part of a written treatment/service plan. Each offender's treatment/service plan shall be regularly reviewed as per OJS policy, to assure that the most appropriate services are being provided, within the least restrictive setting available.

F. Definitions

The following definitions apply within the context of this document.

1. *Administrative Review* - the process by which custody offenders reassigned to a higher level of non-secure care may request a second level review of the reassignment.

2. *Appeal* - the process by which custody offenders may initiate a further review of the assignment decision to secure custody.

3. *Assessment* - the process of gathering the necessary social, legal, psychological, behavioral, and educational information about the juvenile offender to indicate the appropriate level of care and custody.

4. *Assignment* - the process of placing the custody of offender in the available treatment program most appropriate to his/her indicated needs and risks.

5. *Case Review* - the process of reconsideration or verification that the custody offender's treatment is appropriate to meet the identified needs.

6. *Classification* - the process by which the juvenile offender is assessed relative to needs and risks presented.

7. *Custody Offender* - those juvenile offenders disposed to the custody of DPS and C by the court of juvenile jurisdiction.

8. *Due Process Hearing* - those administrative hearings conducted at the time of a custody offender's reassignment to

secure levels of custody from previous non-secure custody settings.

9. *Levels of Care* - the range of treatment services and programs available for custody offenders arranged on a scale from least restrictive to most restrictive.

10. *Non-Secure Custody* - includes services and programs available to custody offenders at all levels of care less restrictive than those provided in a secure custody setting.

11. *Petition for Second Review by the State Level Review Panel* - the process by which an offender in secure custody, whose referral for early release has been denied by the State Level Review Panel, may request a second review by that panel.

12. *Reassignment* - the authorized move of a custody offender from one treatment program to another.

13. *Reclassification* - the process by which juvenile offenders have their needs and risk assessments reviewed and re-scored based upon observable events and behavior.

14. *Release* - the termination, either by court order or expiration of a court order, of DPS and C, custody of a juvenile offender.

15. *Secure Custody* - that highest of the levels of care indicating a maximum (within law) restriction of a juvenile offender's rights, or freedoms.

16. *Staffing* - the process by which a team of professionals reviews, discusses, and plans, along with the offender, for best meeting the offender's identified needs.

17. *State Level Review Panel* - a multi-disciplinary team charged with the responsibility of reviewing requests from an offender's release from a juvenile correctional institution to a less restrictive placement and subsequently issuing a report indicating confirmation or rejections of the recommendation.

G. Minimal Procedural Requirements for:

1. Predispositional or disposition modification recommendations to the court concerning DPS and C custody of offenders.

In all cases, OJS staff recommendations to the court for an offender to be placed in the custody of the DPS and C shall be preceded by a case staffing. Documentation of the staffing proceedings and final recommendations shall be maintained in the offender's case record. Recommendations for DPS and C custody of offenders not currently or previously having received services in the community shall be supported only by the most stringent circumstances of risk and/or need. The final committee recommendations shall be fully supported by information presented at the staffing and be included in the report to the court.

2. Offender Classification and Assessment

a. If the initial case staffing supports a recommendation for DPS and C custody, then the committee shall also conduct a Classification Staffing in order to determine the appropriate level of custody necessary to conduct a full assessment of the offender's risk and needs. The level of custody may be secure or non-secure. All offenders served by the Office of Juvenile Services are classified as to their level of risk and need. This custody level decision shall be supported by the offender's risk and needs classification, by the available social and behavioral history, as well as by any previous history of treatment or supervision. Results of the classification staffing should be submitted to the court along with the earlier recommendation for custody.

b. For those offenders disposed to DPS and C custody without prior study and recommendation by Office of Juvenile Services staff, the classification staffing shall be held within 15 working days of disposition and receipt of all available information from the court, and except in cases of emergency before assignment of the offender to a program of treatment/ services.

In these cases a confirmation of the need for DPS and C custody must be considered in staffing prior to determining whether the offender requires a secure or non-secure setting for assessment.

c. Offenders determined to require non-secure custody for assessment, shall have diagnostic and evaluative information sought in the community. Diagnostic and evaluative assessment for offenders classified for secure custody will be provided at the Juvenile Reception and Diagnostic Center for males and at the Louisiana Training Institute at Ball for females. Upon completion of this assessment, an assignment staffing is held at the OJS Regional Office (for non-secure) or at JRDC/LTI-Ball (for secure) in order to determine the need for a secure or non-secure setting for treatment. The location of the assessment, i.e., secure or non-secure, shall in no way limit the assignment of offenders to either secure or non-secure treatment settings.

3. Offender Assignment

a. Offenders in the custody of DPS and C whose classification and assessment indicate need for treatment services in a non-secure custody setting shall be referred for placement at treatment facilities and programs appropriate to the level of care indicated. Assignment of offenders needing non-secure care may be to facilities or programs ranging from in-home services to residential care and to hospitalization as treatment needs indicate. In all cases, assignment will be made to the least restrictive environment available and appropriate to address offender needs and risks as determined by a case staffing.

b. Following assessment at either JRDC (males) or LTI-Ball (females) the offender is assigned to the secure custody facility most appropriate to meet the offender's needs and risks. If following assessment, a clinical staffing at either of the diagnostic facilities determines that a secure custody setting is not able to address the offender's needs, a referral may be made to the Director of the Division of Evaluation and Placement for placement in an alternate setting.

c. An appeal of a secure custody assignment is available as per procedures that follow this rule.

4. Case Review and Reclassification

a. All offenders disposed to DPS and C custody shall as a function of the case management process have developed an individual case plan. This case plan is developed in conjunction with the offender, his family and other resources to address those needs identified in the classification staffing. Periodic review of the case plan shall be provided as per OJS Policy and Procedure. As a function of this case review, the offender shall be reclassified. As a result of reclassification and staffing, the current assignment to a program for services at a particular level of care or custody may be changed. The offender could also be determined to be eligible for a recommendation for release from custody.

b. Case review and reclassification of custody offenders shall be accompanied in all instances by a staffing. Offenders being provided supervision by OJS staff and for whom reclassification indicates that agency custody should be pursued must be staffed and, if indicated, brought to court for action on this recommendation. Only the court can assign an offender to agency custody. Case review and reclassification of offenders in custody and assigned to non-secure programs may result in a recommendation for release from custody. Such recommendation shall be made to the court for consideration and disposition. No offender shall be released from agency custody except by court order.

c. Offenders in agency custody and assigned to secure custody facilities may also be recommended for release following reclassification and staffing. In these cases, the recommendations

for release shall first be made to the State Level Review Panel for their concurrence. If the SLRP concurs with release recommendation, the assistant secretary must then approve making such a recommendation to the court.

d. Offenders considered for release but denied by the State Level Review Panel may petition the panel for another review within 20 days of the denial if additional evidence/information is available to address the concerns reported by the panel. The petition for review must be signed by the superintendent. The OJS Regional Manager is notified of the petition for review.

e. Custody offender reassignments to higher or lower levels of custody and care may be undertaken by the agency following reclassification and staffing. The offender, family, court and other involved parties shall be notified of the reassignment within 5 working days of the reassignment. Such transfers shall be fully supported by information included in the reclassification and staffing and be documented in the case record. Reassignment of offenders in agency custody to a higher level of care in non-secure custody settings may be effected by the agency upon the final staffing recommendations. The offender may petition the director of the DEP for administrative review of these transfers by submitting a request in writing within 72 hours of the notice of reassignment. The director of DEP shall assign a staff member to fully review the case for recommendation to him within 10 working days. The director's decision is final. A face to face contact may be included in the administrative review at the discretion of the director.

f. Delinquent offenders in agency custody may be reassigned from non-secure to secure custody settings based upon documented findings of reclassification and staffing. In all such cases, the offender shall be provided a full due process hearing as per departmental regulation within 5 working days of arrival at JRDC (males) or LTI-Ball (females).

H. Processes of Appeal and Review

1. APPEAL of Custody Level

a. available to offenders assigned to secure custody following assessment UNLESS:

i. the presenting offense is classified among those of the HIGHEST severity in the OJS Classification system; or

ii. the offender's initial classification custody score indicates a need for Maximum Custody

b. offender must notify the Superintendent of the request for appeal in writing, within 5 working days of assignment.

c. Superintendent notifies OJS Headquarters of the appeal request and schedules an Appeal Hearing

d. a hearing officer assigned by OJS conducts an Appeal Hearing at the facility

e. the offender is allowed to present information in his behalf and may be represented by someone of his choice; or will have a representative appointed by the superintendent

f. the hearing officer considers the offender's statements and information as well as the information presented in the offender's case record and classification documents

g. the hearing officer's decision is issued to the offender, his representative and the superintendent within 5 working days of the Appeal Hearing

h. a second level appeal is available to the offender by submitting written notice of this request to the assistant secretary of OJS.

2. ADMINISTRATIVE REVIEW of Level of Care

a. Available to all offenders disposed by the court to the custody of DPS and C, who, following a reclassification and

staffing, are to be reassigned to a HIGHER non-secure level of care

b. Upon receipt of written notice of the reassignment, the offender may choose to request an administrative review of that decision by:

i. Submitting written notice of that request to the director of the Division of Evaluation and Placement (by way of the Regional Manager), within 72 hours;

ii. The director, upon receipt of the request for review, shall assign a member of his staff to fully review the case, the reclassification, and the reassignment decision;

iii. The director will issue his final decision to the offender and the Regional Manager within 10 work days of the receipt of the request for review, and his decision is final.

3. Due Process Hearings

a. Available to all offenders disposed by the court to the custody of DPS and C, who following a reclassification and staffing are:

i. Recommended for reassignment from secure custody to the Juvenile Adjustment Center; or

ii. Recommended for reassignment to secure custody from a non-secure program or facility.

b. For offenders in secure custody, upon receipt of the notice of a recommendation for reassignment to the Juvenile Adjustment Center, the offender has a right to due process as provided in Departmental Regulation.

c. For offenders in non-secure custody, a due process hearing as per Departmental Regulation shall be provided at JRDC (males) or LTI-Ball (females) within 5 work days of arrival following reassignment to secure custody.

4. Petition For Second Review By State Level Review Panel

a. Available to all offenders disposed by the court to the custody of DPS and C and residing in secure custody facilities/programs, who have had a recommendation for early release denied by the panel.

b. Upon receipt of the State Level Review Panel's decision to deny a recommendation for early release, the offender may petition the panel for a second review by:

i. Submitting the request for a second review to the Chair of the State Level Review Panel within 20 days. IF:

(a) there is additional information available which directly relates to the reasons for denial cited by the panel in their decision; and

(b) the superintendent supports the petition and notifies the Regional Manager.

ii. The State Level Review Panel will process second reviews within the constraints of established procedures and timeframes established for the panel.

Don Wydra
Assistant Secretary

Rules

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published on August 20, 1987 and under the authority contained in Louisiana State Constitution (1984), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:

Rule 3.01.51.mm

Amend Bulletin 741 to add as a procedural block the following:

"Art I is a prerequisite to Art II and Art III."

Dr. James Meza, Jr.
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published on August 20, 1987 and under the authority contained in Louisiana State Constitution (1984), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:

Rule 3.01.70.gg

Amend Bulletin 746, Page 21 to add the following language as the last sentence of each of the three Notes to clarify certification in computer literacy and computer science:

"...entitling him/her to teach (computer literacy) (computer science) at either the elementary or the secondary level, depending upon the area of certification."

Dr. James Meza, Jr.
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published on August 20, 1987 and under the authority contained in Louisiana State Constitution (1984), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:

Rule 3.01.70.v(37)

The board adopted the request from the state Department of Education and extended from July 1, 1987 to July 1, 1988, the board's policy for hiring full-time/part-time noncertified school personnel, except speech, language and hearing specialists.

Dr. James Meza, Jr.
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published on August 20, 1987 and under the authority contained in Louisiana State Constitution (1984), Article VIII, Section 3; Act 455 of the Regular Session, amended by Act 800 of the 1979 Regular Session, adopted as policy, the rule listed below:

Rule 3.01.70.v(22)(2)

The board approved the request from the State Department of Education and extended the temporary employment permit for the 1987-88 school year with the proviso that an individual can be reissued a permit under the board policy only if evidence is presented to the State Department of Education that the NTE has been retaken within one year from the date the permit was last issued and that the reissuance shall not occur but once.

Dr. James Meza, Jr.
Executive Director

RULE

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

Under authority of the Louisiana Environmental Quality Act, La. R.S. 1051 and in particular L.R.S. 30:1141 and in accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950 et seq., the Secretary of the Department of Environmental Quality adopted revisions to the Tank Regulations, Liability Coverage and Corporate Guarantee Regulations. Preceding final adoption of the revisions were forwarded and found acceptable by the Joint Committees on Natural Resources. The effective date of these regulations is November 20, 1987.

The Secretary initiated rulemaking procedures to adopt this rule on September 9, 1987 and adopted the rule on November 20, 1987.

Persons requesting copies and/or further information concerning the rule may contact Bill Greenwich, Department of Environmental Quality, Hazardous Waste Division, Box 44307, Baton Rouge, LA 70804.

Martha A. Madden
Secretary

RULE

Office of the Governor Division of Administration Office of Contractual Review

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 39:1490(B), notice is hereby given that the Office of the Governor, Division of Administration, Office of Contractual Review has amended LAC

34.V. Chapter 1. This rule revokes Sections 103, 112, 118, 121, 136, 142, 147, and Appendix C of the earlier rules and regulations of this office. LR 11:1067 (November, 1985) Sections 103, 112, 118, 136, 142, 147, and Appendix C and LR 13:87 (February, 1987) Section 121 is amended to read as follows:

Title 34

GOVERNMENT CONTRACTS,

PROCUREMENT AND PROPERTY CONTROL

Part V. Procurement of Professional, Personal, Consulting and Social Services

Chapter 1. Procurement of Professional, Personal, Consulting and Social Services

Subchapter A. General Provisions

§103. Definitions and Classes of Contractual Services

The following services shall be contracted out in accordance with these regulations:

A. *Personal service* means work rendered by an independent contractor which requires the use of creative or artistic skills, such as, but not limited to, graphic artists, sculptors, musicians, photographers, and writers, or which requires the use of highly technical or unique individual skills or talents, such as, but not limited to, paramedics, therapists, handwriting analysts, and expert witnesses for adjudications or other court proceedings.

B. *Professional service* means work rendered by an independent contractor who has a professed knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it including, but not limited to lawyers, doctors, dentists, veterinarians, architects, engineers, landscape architects, and accountants. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skill. For contracts with a total amount of compensation of \$75,000 or more, the definition of professional service shall be limited to lawyers, doctors, dentists, veterinarians, architects, engineers, landscape architects, accountants and any other profession that may be added by regulations adopted by the Office of Contractual Review of the Division of Administration.

C. *Consulting service* means work, other than professional, personal or social service, rendered by an independent contractor who possesses specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services or improvements in programs or services, including, but not limited to, such areas as management, personnel, finance, accounting, planning and feasibility studies, data processing, advertising and public relations.

D. *Social service* means work rendered by any person, firm, corporation, organization, governmental body, or governmental entity in furtherance of the general welfare of the citizens of Louisiana, including but not limited to the following objectives:

1. Rehabilitation and Health Support

Services rendered by a contractor with special knowledge or service available to assist individuals attain or maintain a favorable condition of physical and/or mental health. These services include but are not limited to health-related counseling; alcohol or drug abuse training and treatment; training to support emergency medical services; services to support family planning; counseling, delinquency prevention; genetic disease evaluation

and counseling, community-based medical support services; evaluation and training for physically/mentally handicapped; and other services in support of same.

2. Habilitation and Socialization

Services rendered by a contractor with special knowledge to assist specified client groups to enhance their self-sufficiency or alleviate their dependency and/or isolation from the community. Services include but are not limited to day care; work and training; early intervention for the mentally retarded, developmentally delayed, or physically handicapped; transportation for service access; homemaker, home management, and housing improvement services; in-home and out-of-home respite care; socialization services for low income and other special needs groups; nursing home ombudsman; nutritional, employment, case management, senior center activities, or other services to aid independent living by the elderly, and training and community planning services for same.

3. Protection for Adults and Children

Services rendered by a contractor to provide therapeutic intervention for adults or children who are in danger or threatened with danger of physical or mental injury, neglect, maltreatment, extortion, or exploitation, including victims of family violence. These services include but are not limited to community planning for neglect/abuse; adoption; substitute care; education and training; crisis intervention type services; emergency shelter for victims of rape/family violence or services in support of same; and training and evaluation services for same.

4. Improvement of Living Conditions and Health

Services rendered by an authorized contractor with special knowledge or services available to assist individuals to attain or maintain favorable conditions in which to live. These services include but are not limited to:

- a. distribution of foodstuffs either purchased or that are made available from government-owned commodities,
- b. determining the needs of the poor, and development of programs to distribute the available resources,
- c. determining the needs of the poor and identifying programs to alleviate these poverty conditions,
- d. provide services to respond to the educational/employment needs of eligible individuals in the communities needing these services. The primary purpose of this service is to provide the participating individuals with the skills necessary for them to advance socially, academically, and occupationally,
- e. providing training and evaluation of services for any of the above services.

5. Evaluation, Testing, and Remedial Educational Services for Exceptional Handicapped or Learning Disabled Nonpublic School Students

Services rendered by a contractor with special knowledge or services available to provide special educational and related services for exceptional or handicapped students voluntarily enrolled in approved nonpublic schools of Louisiana who are not otherwise provided with such services through either their local school program or through other services afforded to them by local school boards or other public agencies. These services may include but are not limited to identification, assessment, appraisal, and evaluation of exceptional or handicapped children; development of individualized education programs; and the providing of instructional and supportive services to such eligible students in accordance with the provisions of R.S. 17:1941, et seq. (Act 754 of 1977) and P.L. 94-142 and their regulations.

E. *Performance-based energy efficiency contract* means a contract for energy efficiency services and equipment in which

the payment obligation for each year of the contract is either: (a) set as a percentage of the annual energy cost savings attributable to the services or equipment under the contract, or (b) guaranteed by the person under contract to be less than the annual energy cost savings attributable to the services or equipment under the contract.

Any state agency, board, or commission may enter into a performance-based energy efficiency contract for services and equipment. Any such agency, board, or commission shall contact the Division of Administration for assistance in preparation of the requests for proposals, analysis of the proposals, and development of the contract. The contract shall be considered a consulting services contract.

Performance-based energy efficiency contracts shall be awarded through a request for proposal process. Any performance-based energy efficiency contract entered into shall be for a period not to exceed 10 years and shall contain a guarantee of energy savings.

F. Interagency contracts between governmental entities as defined in R.S. 39:1484(23) for any of the services enumerated in A, B, C, D, or E above shall be governed by these regulations, except that contracts between boards of higher education and their respective institutions shall be exempt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

§112. Modification of Contract

All amendments to contracts for professional, personal, consulting and social services shall be submitted to the Office of Contractual Review and shall become effective only upon approval by the director of the Office of Contractual Review. If an amendment extends a contract beyond one year, justification for a multi-year contract must be submitted with said amendment in accordance with §133.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

§118. Submission of Contracts

The original contract and at least one copy of said contract and attachments shall be submitted to the Office of Contractual Review. The Office of Contractual Review shall submit a list of all contracts for \$25,000 or more to the Legislative Fiscal Office. Copies of such contracts shall be forwarded to the Legislative Fiscal Office upon request. The Office of Contractual Review will not accept for review and approval any contract that is not accompanied by the necessary attachments and copies as required herein. (Attachments being submittal letters, R.S. 39:1497 certification, BA-22, etc.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

§121. Contractual Review Process

A. Contracts arriving in the Office of Contractual Review will be date stamped and logged in. Contracts should be submitted prior to their effective dates and no contract shall be approved which has been submitted 60 days after its effective date, unless written justification is provided by the using agency and approval granted by the director of contractual review or his designee. All contracts must be received by the Office of Contractual Review at least by the termination date of the contract. All submittals will be required to have a cover letter attached thereto in conformity with Appendix D.

B. If a contract does not appear to be out of the ordinary and appears to have the necessary attachments and inclusions, it will be routed to the appropriate budget analyst for the submit-

ting agency. A BA-22, or its equivalent, shall be submitted with every contract submitted to the Office of Contractual Review.

C. Contracts that are incomplete as to form may be returned to the submitting agency. If a contract is merely missing an attachment then the necessary attachment may be secured from the submitting agency.

D. Contracts Returned From Budget

1. Not Recommended for Approval

If a contract is not recommended for approval, the Office of Contractual Review shall discuss the reason with the budget analyst. If the problem cannot be resolved the contract shall be returned to the submitting agency with a letter explaining the problem.

2. Recommended for Approval

If a contract is recommended for approval the review process shall continue.

E. Legal and Content Review

There are a number of different types of contracts, and content requirements may vary a little. All contracts shall contain the following:

1. Signatures of both the head of the using agency or his designee and the contractor. At least one submitted copy of each contract shall bear an actual, nonfacsimile signature of each party.

2. Scope of services that clearly and completely identifies the work to be performed and products to be delivered.

3. Beginning and termination dates for the contract. Normally, such contracts should be for a term no longer than one year, although the director of contractual review may approve contracts with terms up to three years. Contracts shall not include a clause permitting automatic renewal or extension of the original beyond a three-year period, unless authorized by the funding statute. Notwithstanding these requirements, performance-based energy efficiency contracts shall have a term not to exceed 10 years.

4. The maximum amount of compensation to be paid under the contract. This maximum must be inclusive of all payment, fees, travel expenses, etc. When applicable the amounts shall be stated by category and then given as a comprehensive total.

5. A statement giving the legislative auditor authority to audit the financial records of the contractor relative to work done under the contract.

6. A clause providing that the contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the submitting agency thereto, provided, however, that claims for money due or to become due to the contractor from the using agency under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to both the using agency and the director of the Office of Contractual Review.

7. The Office of Contractual Review shall notify the using agency in writing and vice versa when an assignment of proceeds notice has been received from a contractor.

8. A statement giving the contractor the responsibility for paying any taxes which may be due as a result of the contract. The taxes could include state or federal income taxes or payroll taxes.

9. Advance payments on all contracts except those for professional services are allowable if limited to less than or equal to 20 percent of the contract amount and if necessary to provide

for the lowest cost delivery of service.

a. All such advances shall be approved by the director of the Office of Contractual Review. If federal funds are to be advanced, federal guidelines shall prevail on the conditions and amount of the advance. Specific state statutory authority may override the 20 percent limit for certain contracts.

b. When submitting for approval a contract including provisions for an advance, the using agency shall submit the following additional information at a minimum:

i. Certification by the using agency that the procurement of the services involved at the lowest cost requires the advance and that no other source of funding is available.

ii. Provisions in the contract specifying the amount and timing of the payments and safeguarding repayment of the advance.

F. Each contract submitted for approval shall be accompanied by a certification letter as described in R.S. 39:1497, signed by the using agency's representative (See Appendix B).

G. Proof of review and approval by other agencies shall accompany submitted contracts as follows; or contracts will be returned to the submitting agency without final approval:

1. Civil Service

All contracts must have Civil Service approval unless exempted by the Department of Civil Service.

2. Attorney General

Contracts for legal services that are not consulting work and that do involve or lead to litigation must be reviewed by the attorney general for approval of the fee structure. Approval of the attorney general can be evidenced by the signature on the contract documents or by a letter from the attorney general. Contracts with Louisiana district attorneys do not require this approval. If the using agency has specific statutory authority to contract with attorneys, attorney general approval is not necessary. Such authority shall be cited by the using agency.

3. Legislative Auditor

Contracts for financial auditing of state agencies must have prior written approval of the legislative auditor.

4. If the contractor is a corporation not incorporated under the laws of the state of Louisiana, then the contractor must secure a certificate of authority pursuant to R.S. 12:301-302 from the secretary of state of Louisiana and verification of such certificate must be made available to the Office of Contractual Review.

5. The Office of Telecommunications Management shall review and recommend any contract containing elements of telecommunication services before returning it to the Office of Contractual Review for completion of the analysis.

H. Consulting Services Contracts for \$50,000 or More

If a contract is for services defined as consulting in R.S. 39:1484(4) and is for an amount equal to or exceeding \$50,000, it must have been awarded pursuant to the requirements of R.S. 39:1503, unless exempt by §142. Failure to so comply shall result in the using agency having to reconduct the process. A statement in accordance with R.S. 39:1503 (C) as to why the award was made must be submitted with the contract.

I. Data Processing Consulting Service contracts for more than \$100,000 shall be procured in accordance with Subchapter C of these regulations.

J. Social Service Contracts for \$150,000 or More During a 12-Month Period

If a contract is for services defined as social services in R.S. 39:1484(24), it must have been awarded pursuant to the requirements of R.S. 39:1503 unless exempt by R.S. 1494.1.

Failure to so comply shall result in the using agency having to reconduct the process. A statement in accordance with R.S. 39:1503(C) as to why the award was made must be submitted with the contract.

K. When a contractor is a corporation, a formal, dated board resolution must be secured and attached to the contract indicating that the signatory is a corporate representative and authorized to sign said contract.

L. When it has been determined that a contract is complete, the contract shall be returned to the submitting agency with an approval letter attached and signed by the director of contractual review.

M. A performance evaluation for every personal, professional, consulting or social service contract shall be done by the using agency in accordance with R.S. 39:1500. This performance evaluation shall be retained by the using agency for all small purchase contracts approved under delegated authority. For all other contracts this performance evaluation shall be submitted to the Office of Contractual Review within 120 days after the termination of the contract. An example evaluation form can be found in Appendix F. Using agencies should use their own formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

§136. Determination of Responsibility

A. In order to qualify as responsible, an offerer must meet the following standards as they relate to the particular procurement under consideration:

1. has adequate financial resources for performance, or has the ability to obtain such resources as required during performance;

2. has the necessary experience, organizations, technical qualifications, skills, and facilities, or has the ability to obtain them (including probable subcontractor arrangements);

3. is able to comply with the proposed or required time of delivery or performance schedule;

4. has a satisfactory record of integrity, judgment and performance (contractors who are seriously delinquent in current contract performance, considering the number of contracts and the extent of delinquencies of each, shall in the absence of evidence to the contrary or evidence of compelling circumstances, be presumed to be unable to fulfill the requirement);

5. is otherwise qualified and eligible to receive an award under applicable laws and regulations.

B. An offerer shall present acceptable evidence of financial resources, experience, organization, technical qualifications, skills, and facilities, to perform the service called for by the contract.

C. No contract for consulting services for \$50,000 or more, or for social services for \$150,000 or more shall be awarded to any person or firm unless the head of the using agency has first determined that such person or firm is responsible within the meaning of Subsections A and B.

D. In any case where a contract for consulting services is for \$50,000 or more, or where a contract for social services is for \$150,000 or more, the head of the using agency shall prepare, sign, and place in the contract file a statement of the facts on which a determination of responsibility was based. Any supporting documents or reports and any information to support determinations of responsibility of the offerer or potential subcontractors should be kept on file with the agency, subject to inspection upon the request by the director of contractual review or his designee.

E. Before making a determination of responsibility, the

head of the using agency shall have sufficient current information to satisfy himself that the prospective contractor meets the standards in Subsections A and B. Information from the following sources shall be utilized before making a determination of responsibility:

1. information from the prospective contractor, including representations and other data contained in proposals, or other written statements or commitments, such as financial assistance and subcontracting arrangements;

2. other existing information within the agency, including financial data, the list of debarred and ineligible bidders and records concerning contractor performance;

3. publications, including credit ratings and trade and financial journals;

4. other sources, including banks, other financial companies, and state departments and agencies.

F. To the extent that a prospective contractor cannot meet the standard in Subsection A, Paragraph 2 except by means of proposed subcontracting, the prospective prime contractor shall not be considered to be responsible unless recent performance history indicates an acceptable subcontracting system or prospective major subcontractors are determined by the head of the using agency to satisfy that standard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

Subchapter B. Contracts Let via a Request for Proposals Process

§142. Source Selection Methods

Pursuant to R.S. 39:1494-1496 professional or personal services contracts for any amount, consulting services contracts less than \$50,000, and social service contracts meeting one of the requirements of R.S. 39:1494.1(A) may be awarded without competitive negotiation or bidding, therefore this Section shall be applicable to consulting services contracts for \$50,000 or more and social service contracts for \$150,000 or more which are not exempted by R.S. 1494.1(A).

A. Emergency Purchases

An emergency situation must be determined in writing by the director of contractual review or his designee. The using agency which requests an emergency procurement must indicate in writing the basis of the emergency.

B. Sole Source Procurement

A determination in writing, supported by using agency documentation, must be made by the director of contractual review or his designee that only one source exists for the services requested by the using agency.

C. A determination by the director of contractual review that contracts are necessary under Paragraphs A or B above will dispense with the requirement of a request for proposal pursuant to 39:1496(B) and 1494.1(B).

D. Record

A record of emergency procurements and sole source procurements shall be maintained by the Office of Contractual Review, and shall contain:

1. contractor's name;
2. the amount of contract;
3. services to be rendered;
4. reason for the emergency or sole source procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

§147. Contracts for Data Processing Consulting Services

Contracts for data processing consulting services in an amount equal to or greater than \$50,000 shall be subject to all the statutory and regulatory requirements generally applicable to consulting services contracts equal to or greater than \$50,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

Appendix C. Suggested Checklist for Review of Personal, Professional, Consulting and Social Services Contracts

1. Minimum Contract Content:

Yes	No	
_____	_____	1. Contains a date upon which the contract is to begin and upon which the contract will terminate.
_____	_____	2. Contains a description of the work to be performed and objectives to be met.
_____	_____	3. Contains an amount and time of payments to be made.
_____	_____	4. Contains a description of reports or other deliverables to be received, when applicable.
_____	_____	5. Contains a date of reports or other deliverables to be received, when applicable.
_____	_____	6. When a contract includes travel and/or other reimbursable expenses, it contains language to effect the following: <ol style="list-style-type: none"> a. travel and other reimbursable expenses constitute part of the total maximum payable under the contract; or b. no more than (a certain sum) of the total maximum amount payable under this contract shall be paid or received as reimbursement for travel or other reimbursable expenses; and c. travel expenses shall be reimbursed in accordance with Division of Administration Policy and Procedure Memorandum 49 (The State General Travel Regulation).
_____	_____	7. Contains the responsibility for payment of taxes, when applicable.
_____	_____	8. Contains the circumstances under which the contract can be terminated either with or without cause and contains the remedies for default.
_____	_____	9. Contains a statement giving the legislative auditor the authority to audit records of the individual(s) or firm(s).
_____	_____	10. Contains an assignability clause.
_____	_____	11. Budget Form BA-22 P.S. fully completed and attached to the contract.

2. Determination of Responsibility of Contractor:

Yes	No	
_____	_____	1. Has adequate financial resources for performance, or has the ability to obtain such resources as required during performance.
_____	_____	2. Has the necessary experience, organization, technical qualifications, skills, and facilities, or has the ability to obtain them (including probable subcontractor arrangements).

- _____ 3. Is able to comply with the proposed or required time of delivery or performance schedule.
- _____ 4. Has a satisfactory record of integrity, judgment and performance (contractors who are seriously delinquent in current contract performance, considering the number of contracts and the extent of delinquencies of each, shall, in the absence of evidence to the contrary or compelling circumstances, be presumed to be unable to fulfill this requirement).
- _____ 5. Is otherwise qualified eligible to receive an award under applicable laws and regulations.
- _____ 6. If a contract for consulting services is for \$50,000 or more, or for social services for \$150,000 or more, the head of the submitting agency has prepared, signed and placed in the contract file a statement of the facts on which a determination of responsibility was based.
- _____ 7. On subcontracting, it has been established that contractor's recent performance history indicates acceptable subcontracting systems; or, major subcontractors have been determined by the head of the submitting agency to satisfy standard.

3. Contract Let via a Request for Proposals Process:

Contract file attached and this includes:

- _____ Criteria for Selection
- _____ Proposals
- _____ Pertinent Documents
- _____ Selection Memorandum
- _____ Request for Proposals
- _____ Contract

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

Bonita B. Brown
Director

RULE

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

Facility Planning and Control hereby amends the insurance requirements of the 1985 Capital Improvement Projects Procedure Manual as follows:

**Title 34
GOVERNMENT CONTRACTS
PROCUREMENT AND PROPERTY CONTROL
Part III. Facility Planning and Control**

§111. Payments to the Designer (Amend)

A. Payments on account of designer's services shall be made as follows:

- 1. Basic Services
 - a. Upon satisfactory completion of all basic services for each phase as described in Section 113, submission of all documents to the owner and upon the owner's and user's approval of same, which approval shall not be arbitrarily withheld, payment for the following phases of the designer's services will be made in one lump sum (with the exception of the construction documents phase as described below in (2.)); such payments shall be up to the following percentages of the designer's fixed fee, either interim or final, as applicable, which percentages are cumulative:

Program completion phase	5%
Schematic design phase	15%
Design development phase	30%
Construction documents phase	65%
Bidding and contract phase	75%

- b. Monthly in proportion to the contractor's certificate for payment for the following phase:

Construction phase	95%
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- c. Upon satisfactory completion and furnishing required documents to the owner for the following phase:

Construction close-out phase	100%
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2. A partial payment for the construction documents phase shall be made when the designer has completed 100 percent of the construction documents and has submitted these to the owner, the user agency, and the other required statutory agencies and the owner determines by inventory check and conformity with Section 113 that all required documents have been submitted, and are complete, coordinated and ready to bid, then the designer shall be entitled to a payment of 70 percent of the fee for the construction documents phase. Should the owner's approval of the construction documents not be issued within 45 days of submittal due to no fault of the designer, then the designer shall be paid an additional payment of 20 percent of the fee for the construction documents phase. The balance of the fee for this phase will be due upon completion of review by owner and user, when corrections have been made, and when the project is approved for bidding. For projects with an AFC over \$10 million, interim payments up to 50 percent of the fee for the construction document phase may be made by agreement between the owner and the designer.

B . . .

§129. Other Conditions (Amend)

A. Insurance

Liability insurance shall be required as per the owner's requirements on a project by project basis.

B . . .

C . . .

D . . .

E . . .

Roger Magendie
Director

RULE

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

The Department of Health and Human Resources, Office of Family Security has adopted the following rule in the Food Stamp Program.

These revisions are mandated by federal regulations as published in the *Federal Register*, Vol. 52, No. 137, Friday, July 17, 1987, pages 26937-26942. It was necessary to adopt this as an Emergency Rule as an April 1, 1987 implementation date is mandated. The Emergency Rule was published in the *Louisiana Register* of August 20, 1987.

Exclusions From Resources

The following items shall not be counted as a resource in the Food Stamp Program:

(1) Non-liquid asset(s) against which a lien has been placed as a result of taking out a business loan and the household is prohibited by the security or lien agreement with the lien holder (creditor) from selling the assets.

(2) Property, real or personal, to the extent that it is directly related to the maintenance or use of an income producing vehicle or a vehicle necessary to transport a physically disabled household member. Only that portion of real property determined necessary for maintenance or use is excludable under this provision.

Income

Earnings to individuals who are participating in on-the-job training programs under the Job Training Partnership Act shall be counted as income. This provision does not apply to household members under 19 years of age who are under the parental control of another adult member.

Verification

In addition to federally required verification, the Office of Family Security may mandate verification of any other factor which affects household eligibility or allotment level, including household size where not questionable.

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

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a Notice of Intent in the *Louisiana Register* Vol. 13, No. 9, dated September 20, 1987.

Effective August 1, 1987, the dispensing fee for pharmacies participating in Medicaid shall be \$3.51 per prescription. The dispensing fee shall be utilized by the agency in its determination of the lesser of Estimated Acquisition Cost plus a dispensing fee or the pharmacy's usual and customary charge.

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

RULE

**Department of Health and Human Resources
Office of Management and Finance**

DIVISION OF POLICY, PLANNING AND EVALUATION

The Department of Health and Human Resources, Office of Management and Finance, Division of Policy, Planning and

Evaluation has adopted the following changes to the Louisiana State Health Plan effective November 20, 1987. These changes are made to the rule published in Volume 13, Number 8 of the *Louisiana Register*, August 20, 1987 and LAC 48:I:11523.

This rule amends the Long Term Care Bed section of Chapter IX of the Louisiana State Health Plan and can be found on pages 9-59 through 9-61 of the plan. The rule also amends the Administrative Code section as follows:

Title 48

PUBLIC HEALTH - GENERAL

Part 1. General Administration

Subpart 5. Health Planning

Chapter 115. Health Resource Requirements

Subchapter B. Facility or Service - Specific Criteria and Standards

§11523. Long Term Care Beds (Amends)

A.12. Adjustments to Resource Goals

* Circumstances may exist or be created which cause a particular group (see section on Health Care for Persons with Acquired Immunodeficiency Syndrome) or area to be underserved. When one of the following circumstances exists in a service area, an adjustment to the above resource goals may be justified: * *

i. Inaccessibility to minority groups.

It is recognized that certain factors may limit the accessibility of nursing home beds to minority groups. For this reason, a documented claim submitted by the applicant, of inaccessibility of nursing home beds to minority groups, may be considered a special circumstance in the determination of need in the service area. Inaccessibility refers only to situations where there is documented evidence of discrimination against a particular minority in a geographic area. This requirement will be deemed met only when the Title VI or Title VII agency has made a positive finding of systematic discrimination against a minority group on the part of an existing health care facility within the geographic area.

* ii. Inaccessibility in high occupancy areas.

It is recognized that in certain areas of the state nursing home care is not available. For this reason, a documented claim, submitted by the applicant, that nursing home care is not available may be considered a special circumstance in the determination of need in the service area. This requirement shall be deemed met only when the adjusted occupancy rate for all facilities in the service area exceeds 95 percent. The adjusted occupancy rate is computed for each quarter for the four most recent quarters due to have been reported to Division of Licensing and Certification and is calculated from a base bed inventory which includes licensed but not 1122 approved beds, 1122 approved and licensed beds and 1122 approved but not yet licensed beds. * *

This calculation shall include licensed general acute care beds which are Medicare certified as skilled nursing facility beds.

iii. Inaccessibility due to poor quality of care.

It is recognized that in some areas of the state the nursing home care being provided may not be of the quality desired by the residents of that parish. Therefore, in these areas, a documented claim, submitted by the applicant, that nursing home care is not accessible due to the poor quality of care provided in the parish may be considered a special circumstance in the determination of need in the service area. This requirement will be deemed met only when a facility in the service area has been disenrolled by the Office of Family Security as a Medicaid Provider or decertified or delicensed by the Division of Licensing

and Certification and the adjusted occupancy rate for the other facilities in the service area is greater than 95 percent. The adjusted occupancy rate is computed for each quarter for the four most recent quarters due to have been reported to Division of Licensing and Certification and is calculated from a base bed inventory which includes licensed but not 1122 approved beds, 1122 approved and licensed beds and 1122 approved but not yet licensed beds.

This calculation shall include licensed general acute care hospital beds which are Medicare certified as skilled nursing facility beds. The beds of the facility which was disenrolled, decertified or delicensed shall be excluded in computing the adjusted occupancy rate and the Section 1122 approval for such facility shall be revoked unless the facility obtains reenrollment, recertification and relicensure within 60 days of the loss of such approvals.

* A.13. Applications for Proposals Based on Inaccessibility Adjustments

a. All applications for proposed or existing facilities based on the foregoing inaccessibility adjustments will be referred by the Health Planning Staff to a committee of knowledgeable professionals who will review and provide written comments to Division of Policy, Planning and Evaluation on such applications. The following committee members are appointed by the governor: the assistant secretary of Office of Family Security, the administrator of Licensing and Certification, the chairman of the Statewide Health Coordinating Council (shall always be a consumer representative), the ombudsman coordinator of the governor's Office of Elderly Affairs, and the director of the Bureau of Civil Rights of DHHR. **

b. Division of Policy, Planning and Evaluation shall forward copies of the applications to be reviewed to the above noted committee members as soon as such applications are declared complete. The transmittal will include the date of the public hearing and the decision due date. Division of Policy, Planning and Evaluation shall also forward a summary of the public hearing comments to the committee members.

* c. Each committee member will forward individual comments and recommendations to the Division of Policy, Planning and Evaluation. Comments must be received by Division of Policy, Planning and Evaluation at least five working days prior to the decision due date. If available, such comments and recommendations will be included in the staff analysis and considered when a decision is rendered. The number of beds which may be approved in an area deemed inaccessible due to high occupancy shall not exceed the lesser of (1) the average of all the facilities in the service area, or (2) 10 percent of the number of beds in the service area. For all other resource goal adjustments based on inaccessibility, the number of beds which may be approved shall not exceed the average of all the facilities in the service area. **

d. Note: Specific requirements for meeting these exceptions shall be further established in the Section 1122 Policies and Guidelines promulgated by the Division of Policy, Planning and Evaluation.

CODING: Changes in wording follow * (single asterisk) and precede ** (double asterisk).

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

RULE

Department of Health and Human Resources Office of Management and Finance Division of Policy, Planning and Evaluation

The Department of Health and Human Resources, Office of Management and Finance, Division of Policy, Planning and Evaluation is continuing a health facility capital expenditure review program similar to the Section 1122 Review Program. Decisions rendered are binding for Medicaid reimbursement only. The Louisiana State Health Plan as previously promulgated, remains in effect. Policies and Guidelines for State Capital Expenditure Review are promulgated herein, with an effective date of November 20, 1987. Federal authority for health planning and development has been discontinued by the repeal of P.L. 93-641 and DHHS may not contract with the state to continue the Section 1122 review program, even though Section 1122 has not been repealed, after October 1, 1987. The Department of Health and Human Resources, however, is continuing the health facility review program under the authority of R.S. 36.256(b) for Medicaid only. This action requires changes to the Section 1122 Policies and Guidelines published as a rule in Volume 13, Number 6 of the *Louisiana Register*, June 20, 1987 and to LAC 48:1:101-125.

The Section 1122 Policies and Guidelines will be called Policies and Guidelines for Review of Capital Expenditures for Purposes of Medicaid Reimbursement and will read as follows:

Title 48

PUBLIC HEALTH - GENERAL Part I. General Administration Subpart 5. Health Planning

Chapter 125. Policies and Guidelines for Review of Capital Expenditures for Purposes of Medicaid Reimbursement

§12501. Introduction (Amends)

A. Introduction

1. Although Title XV of the Public Health Services Act (P.L. 93-641) has been repealed, the Department of Health and Human Resources (DHHR) is continuing health planning activities and regulatory authorization to contain costs related to capital expenditures for the Medicaid program. The Division of Policy, Planning and Evaluation (DPPE) conducts reviews to determine the need for health care facilities for purposes of capital reimbursement by Medicaid. The determinations of DPPE will be transmitted to the Office of Family Security (OFS), the office responsible for administering the Medicaid program.

2. The term "health care facility" includes hospitals, psychiatric hospitals, rehabilitation facilities, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers (including free-standing hemodialysis units), intermediate care facilities, and ambulatory surgical facilities. Physicians' offices are excluded.

3. The state agency designated to conduct reviews in Louisiana is the Department of Health and Human Resources. The Division of Policy, Planning and Evaluation, of the Department of Health and Human Resources, will submit applications to other agencies for review, as deemed necessary.

4. Applications are to be submitted to: Division of Policy, Planning and Evaluation, 200 Lafayette Street, Suite 406, Baton Rouge, LA 70801. (504) 342-2001.

B. Definitions

1. *Ambulatory Surgical Facility*: a facility, not part of a

hospital, which provides surgical treatment to patients not requiring hospitalization. The term does not include offices of private physicians or dentists, whether for individual or group practice.

2. *Approval*: a determination by DPPE that a proposal is in conformity with the criteria, standards, and plans under which the proposal was reviewed.

3. *Change in Bed Capacity*: any increase or decrease in the licensed bed capacity of a health care facility.

4. *Complete Date*: the date on which all of the information and materials required for a complete application are received by DPPE. "Deemed complete" refers to the complete date; "declared complete" refers to date of notification of completeness.

5. *Department of Health and Human Resources (DHHR)*: the designated planning agency responsible for performing review functions in Louisiana.

6. *DHHS*: United States Department of Health and Human Services.

7. *Disapproval*: a determination by DPPE that a proposal is not in conformity with the criteria, standards, and plans under which the proposal was reviewed, and that reimbursements related to the expenditure should be withheld from Medicaid payments.

8. *Division of Policy, Planning and Evaluation (DPPE), Bureau of Health Planning*: the division and bureau within the Louisiana DHHR designated to carry out review provisions.

9. *Home Health Agency*: a public or private organization, or subdivision thereof, which is primarily engaged in the provision of skilled nursing services and at least one additional therapeutic health service in the place of residence used as a patient's home.

10. *Health Planning District*: there are nine Health Planning Districts which are the defined service areas for certain proposed or existing health care facilities.

11. *Hospital*: an institution which is engaged in providing to inpatients (or to inpatients and outpatients) by or under the supervision of physicians, diagnostic and therapeutic medical services for the treatment and care of injured, disabled, sick or pregnant persons; the term does not include psychiatric hospitals, tuberculosis hospitals, or rehabilitation facilities.

12. *Notification*: is deemed to be given on the date on which a decision is mailed by DPPE or a hearing officer. This includes declarations of completeness or incompleteness, findings of conformity or non-conformity, and appeal decisions.

13. *Nursing Home*: a licensed long term care facility which provides, in addition to food and shelter, professional attendant and nursing care, 24 hours a day, to the chronically ill, convalescent, disabled, and elderly, with a full range of complementary services (therapeutic, dietary, social, etc.).

14. *OFS*: Office of Family Security; the office responsible for administering the Medicaid program in Louisiana.

15. *Person*: an individual, a trust or estate, a partnership, a corporation (including associations, joint-stock companies, and insurance companies), a state or a political subdivision or instrumentality of a state (including a municipal corporation).

16. *Psychiatric Hospital*: an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons.

17. *Reclassification of Beds*: beds are classified as general acute care, rehabilitation, psychiatric, and long term care. To change from one classification to another requires a full review when a capital expenditure is involved.

18. *Rehabilitation Facility*: an inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services provided under professional supervision.

19. *Relocation*: a proposal to change the location of a previously approved and licensed facility within the same service area.

20. *Review Period*: for full reviews, a period of at least 60 days, but not more than 90 days, from the "complete date"; for expedited reviews, a period of not more than 30 days from the "complete date."

21. *Service Area*: the area of analysis for a proposal: the State Health Plan defines "service area" for each particular type of service.

22. *Site Change*: a proposal to change the location of a previously approved unconstructed facility.

23. *State Health Plan*: a long range plan prepared by the State Health Planning and Development Agency (Division of Policy, Planning and Evaluation) and adopted by the Statewide Health Coordinating Council for the state, specifying the health goals considered appropriate by the agency, state health officials, and other experts.

24. *Substantial Change in Service*: a capital expenditure which results in the addition of a clinically related service (i.e., diagnostic, curative, or rehabilitative) not previously provided in the facility, or the termination of such a service previously provided.

25. *Timely Notice*: timely notice is given when a complete application is received by DPPE at least 60 days prior to the incurrence of an obligation.

26. *Tuberculosis Hospital*: an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36.256(b).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Management and Finance, LR 13:246 (April 1987); amended LR 13: _____ (November 1987).

§12503. Policies and Guidelines

A. Expenditures And Changes Subject To Review

1. Proposals subject to review are those which are not properly chargeable as expenses of operation and maintenance, and which

- exceed \$600,000, or
- change the bed capacity of the facility, or
- substantially change the services of the facility.

Questions regarding appropriateness of review should be directed to DPPE (in writing) for an official determination.

2. In determining the total amount of a capital expenditure, DPPE shall consider the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the construction, acquisition, improvement, expansion or replacement of the plant and equipment relative to the expenditure.

3. Proposals for the acquisition of facilities or equipment by lease or comparable arrangement, or through donation, may be subject to review.

4. A substantial site change for a previously approved project is subject to full review. The current need (and other criteria) for the proposal will be reevaluated in terms of the new

site.

5. A "reclassification" of approved beds which requires a capital expenditure, is subject to a full review. The current need and (other criteria) for the proposal will be reevaluated in terms of the new proposal. If, when a reclassification without capital expenditure is made, DPPE determines that the intent of the original application was to circumvent the program, the subsequent reclassification may be subject to review based on the capital expenditure from the original project. See "reclassification" definition.

6. A relocation of a previously approved and licensed facility within the same service area is subject to full review without a reevaluation of need. Other criteria will be reevaluated.

7. A lease of an approved, unconstructed facility is prohibited for review purposes. Upon construction of the facility, the proposed lease shall be subject to review.

8. A capital expenditure for which the obligation is incurred by or on behalf of a health care facility after December 31, 1972 is subject to review under these provisions.

9. "Sales, Transfers, and Other Transactions Which May Result in Changes in Ownership of Approvals, or Approved Facilities"

a. A proposal to sell an approved facility is subject to review.

b. A proposal to sell or transfer less than 25 percent of the ownership of the legal entity owning an approval is not reviewable under this program, but shall be reported promptly to the Division of Policy, Planning and Evaluation.

c. A proposal to sell or transfer 25 percent to 50 percent of the stock in a corporation owning an approval is subject to review.

d. A proposal to sell or transfer 25 percent to 50 percent of the ownership interest in a partnership (or other legal entity) owning an approval is subject to review.

e. A proposal to sell or transfer a majority (over 50 percent) interest in a corporation whose only or major asset is the approval shall be considered a sale of the approval, which is prohibited and invalidates the approval. Such majority transfers are also precluded for other legal entities owning approvals (partnerships, individuals, etc.).

B. Pre-Application Conference/Procedures

1. At any time prior to submitting an application, an applicant may request a formal conference with DPPE to discuss the proposed project. A mutually acceptable meeting time will be established between the applicant and the agency.

2. Applicants may request application forms in writing or by telephone from DPPE. The DPPE will promptly provide the applicant with the appropriate order form. A pre-application appointment may be requested, to be scheduled at a time which is mutually acceptable to the applicant and the agency.

3. Applications must be submitted on 8 1/2" x 11" paper, as follows:

Full review - Original and two copies

Expedited review - Original only

Adjustments to Long Term Care Resource Goals - Original and six copies.

4. The contact person specified on the application will be the only person to whom DPPE sends notification in matters relative to the status of the application during the review process. If the contact person (or his address) changes at any time during the review process, the applicant shall notify DPPE in writing.

C. Alternatives To Full Review Process

1. Election Not To Review

DPPE, at its option, may elect not to review a proposed capital expenditure which has been determined subject to review. The option of "election not to review", is designed to exempt from review certain proposed capital expenditures for which a review is not necessary. In order to be considered for a DPPE decision to elect not to review, one of the following criteria must be met:

a. Renovations to meet Life Safety Codes.

b. Capital expenditures for emergency situations.

An applicant proposing such an expenditure may submit a written request to DPPE for an "elect not to review". DPPE will review the information in the request, request additional information if necessary, and determine the appropriateness of the request. If DPPE elects not to review the proposal, the applicant and OFS will be notified. If DPPE determines that a review will be conducted, the applicant will be notified and provided with the appropriate forms.

2. Expedited Review

a. The DPPE may elect to conduct an expedited review of a proposed capital expenditure which is subject to review under this program. In order to be considered for an expedited review, the project (1) must not be a discrete part of a larger capital expenditure or phased project, (2) must be related to an approved facility, service, or equipment, and (3) must meet one of the following criteria:

i. replacement or modification of equipment with an expenditure in excess of \$600,000;

ii. sale of an existing facility with no change in beds or service;

iii. lease (or discontinuance of a lease) of an approved existing facility with no change in beds or services;

iv. renovation of an existing facility which costs between \$600,000 and \$1,000,000 and which does not result in a change in existing beds or services;

v. a cost overrun on an initially approved project, not to exceed 25 percent of the originally approved cost;

vi. addition of non-medical equipment or purchase of land;

vii. addition of a new service in an existing facility which will not exceed \$600,000;

viii. incorporation, reorganization, merger, consolidation, majority stock sale or transfer, or other changes in the person owning a health care facility;

ix. a site change which is not substantial (i.e. adjacent to the originally proposed site, with the same zoning and within the same parish); or which is a result of expropriation, zoning change or other governmental action restricting the development of all or part of the original site and is in the same service area;

x. a reduction in approved beds or a discontinuance of an approved service;

xi. the cost of site preparation for a mobile CT scanner which is the only capitalized expenditure the approved health care facility incurs to provide CT services;

xii. acquisition of an additional CT scanner which is not a replacement or backup CT scanner;

xiii. sale or transfer of 25 to 50 percent of the ownership of an entity owning an approval;

xiv. other proposals for expedited review may be submitted for consideration. Such proposals may be accepted for expedited review if no useful public purpose would be served by a full review;

xv. replacement construction contracts submitted after the expiration of the approval period.

b. An applicant proposing a capital expenditure which may qualify for an expedited review must submit a written request to DPPE. DPPE will review the request, determine whether a full review or an expedited review will be conducted, and send the appropriate forms to the applicant.

3. Expedited Review Procedures

a. Within 15 days of receipt of an application for an expedited review, DPPE shall review the application for completeness. The application is deemed complete for review purposes as of the date on which all required information is received.

b. If DPPE fails to notify the applicant within 15 days that additional information is required, the application is deemed complete as of the date received.

c. After an application is submitted, each time the applicant submits additional information subsequent to the date the original application was submitted, but prior to the application being declared complete, DPPE shall have 15 days from the date the most recent information was submitted to declare the application complete or incomplete.

d. If additional information is requested by DPPE (within 15 days), and subsequently received, the application is deemed complete as of the date on which the required information is received.

e. If additional information is requested by DPPE within 15 days, the applicant must provide the required information within 90 days or the application will be deemed withdrawn.

f. Each time additional information is received, DPPE has 15 days from the date of receipt to respond as to whether the additional information completes the application.

g. The date of completeness is the date on which the 30-day review begins. The applicant may not incur an obligation sooner than 60 days from the "complete date"; failure to provide 60 days timely notice may subject the applicant to a penalty if the project is subsequently approved. If approval is granted prior to the end of the review period, an obligation may be incurred at that point.

h. A longer review period will be permitted only when requested by DPPE and agreed to by the applicant. An applicant may not request an extension of the review period, but may withdraw (in writing) an application at any time prior to the notification of the decision by DPPE.

i. If additional information is received by DPPE after an application has been declared complete, DPPE will review the information to determine if it significantly changes the application. If the application is significantly changed, DPPE will again review the application for completeness (within 15 days), determine the appropriateness of the review and re-set the review period from the date the new information was received. When an application for an expedited review is declared complete by DPPE, press releases shall be issued, through local newspapers and public information channels, relative to the receipt of the complete application.

j. The DPPE shall conduct a review of the application within the specified time limits and provide written notification to the applicant of the decision that:

i. the proposal is in conformity with the criteria, standards, and plans in effect (a certificate shall accompany the notification), or;

ii. the proposal is not in conformity with the criteria, standards, and plans in effect (reasons for non-conformity shall be specified).

k. Notification shall also be submitted to OFS, on the appropriate form, with a copy to the applicant.

l. Failure of DPPE to provide notification by the end of the review period shall have the effect of an approval. The date of mailing shall be considered the date of notification.

m. A finding of conformity or non-conformity with respect to an application shall be publicized by DPPE through press releases, and made available to interested parties and organizations. In the case of a negative finding, a fair hearing will be offered to the applicant. (Refer to Appeal Procedures).

4. Full Review Procedures

a. Within 15 days of receipt of an application for a full review, DPPE shall review the application for completeness. The application is deemed complete for review purposes as of the date on which all required information is received.

b. If DPPE fails to notify the applicant within 15 days that additional information is needed, the application is deemed complete as of the date received.

c. After an application is submitted, each time the applicant submits additional information subsequent to the date the original application was submitted, but prior to the application being declared complete, DPPE shall have fifteen days from the date the most recent information is submitted to declare the application complete or incomplete.

d. If additional information is requested by DPPE (within 15 days), and subsequently received, the application is deemed complete as of the date on which the required information is received.

e. If additional information is requested by DPPE within 15 days, the applicant must provide the required information within 90 days or the application will be deemed withdrawn.

f. Each time additional information is received, DPPE has 15 days from the date of receipt to respond as to whether that additional information completes the application.

g. The date of completeness is the date on which the review period begins. The review period will be no less than 60 days, and will not exceed 90 days, as determined by the applicant's obligation date. The applicant may not incur an obligation sooner than 60 days from the "complete date"; failure to provide 60 days timely notice may subject the applicant to a penalty if the project is subsequently approved. If approval is granted prior to the end of the review period, an obligation may be incurred at that point.

h. A longer review period will be permitted only when requested by DPPE and agreed to by the applicant. An applicant may not request an extension of the review period, but may withdraw (in writing) an application at any time prior to the notification of the decision by DPPE.

i. If additional information is received by DPPE after an application has been declared complete, DPPE will review the information to determine if it significantly changes the application (i.e. change in site, project costs, project description, financial arrangements, etc.). If the application is significantly changed, DPPE will again review the application for completeness (within 15 days) and re-set the review period for a full review, from the date the new information was received. When an application for a full review is declared complete by DPPE, press releases shall be issued, through local newspapers and public information channels, relative to receipt of the complete applications and the time and place of the public hearing.

j. DPPE shall conduct a public hearing on the 3rd Wednesday of each month, at 10 a.m., to accept comments regarding applications which have been reviewed and declared complete in the previous month. The hearing shall be conducted by the Director of DPPE (or his designee), who will determine at

the time of the hearing the amount of time to be allowed for oral testimony. Written comments will also be accepted at public hearings. Comments will only be accepted for projects which are on the agenda for the hearing.

k. Applications will be scheduled for public hearing in the first month after the month in which the application was reviewed and declared complete. Agendas for each public hearing shall be made available to interested parties and organizations by the fifth day of the month of the public hearing.

l. When an application is declared complete, a copy is submitted to DHHR-Division of Licensing and Certification, for review and comments, and to any other agency deemed appropriate by DPPE (i.e. OMR, OMH, OHD), or required by the State Health Plan. Failure of any agency other than DPPE to comment timely on an application will not affect the finding reached by DPPE. Letters of support or opposition received by DPPE shall become part of the project file, and shall be taken into consideration in the decision to approve or disapprove the proposal.

m. DPPE shall conduct a review of the application within the specified time limits and provide written notification to the applicant of the decision that:

i. the proposal is in conformity with the criteria, standards, and plans in effect (a certificate shall accompany the notification), or;

ii. the proposal is not in conformity with the criteria, standards, and plans in effect (reasons for non-conformity shall be specified).

n. Notification shall also be submitted to OFS, on the appropriate form, with a copy to the applicant.

o. Failure of DPPE to provide notification to the applicant by the end of the review period shall have the effect of an approval. The date of mailing shall be considered the date of notification.

p. A finding of conformity or non-conformity with respect to an application shall be publicized by DPPE through press releases, and shall be made available to interested parties and organizations. In the case of a negative finding, a fair hearing will be offered to the applicant. (Refer to Appeal Procedures)

5. Reconsideration By DPPE

a. When DPPE determines that a proposal is not in conformity and that costs related to the capital expenditure shall not be included in determining Medicaid reimbursement, the applicant may request a reconsideration by DPPE. It shall be the responsibility of DPPE to determine if an application is a request for a reconsideration or a new application. A reconsideration may be requested in the form of a revised application, if one of the following criteria are met:

i. there has been a substantial change, since the previous DPPE finding, in existing or proposed health facilities or services, of the type proposed, in the service area;

ii. there has been a substantial change, since the previous DPPE finding, in the need for health facilities or services, of the type proposed, in the service area;

iii. at least three years have elapsed since the date of the previous negative finding of DPPE.

b. If the proposal is reconsidered by DPPE and found to be in conformity, DPPE shall notify the applicant and OFS. In determining future payments under Title XIX, expenses related to the capital expenditure will be included. However, such expenses will be included only for payments following the date of notification by DPPE to OFS of the reconsideration.

6. Negative Recommendation

When a proposal is found by DPPE to be in non-conformity, OFS excludes certain expenses related to the expenditure in determining Medicaid reimbursement.

7. Evidence of Obligation/Expiration of Approval

a. Evidence of an obligation to make a capital expenditure must be received by DPPE within one year of the approval of the project (unless a six-month extension has been granted), or the approval will expire.

b. The following documents are acceptable as evidence of an obligation for the specified types of proposals: . . .

c. Construction projects

i. A construction contract, enforceable under Louisiana law and duly executed by the appropriate parties is required. A construction contract must obligate the applicant and the building contractor to cause the capital asset approved to be constructed. When a construction contract, which has been accepted as evidence of an obligation, is to be replaced with another construction contract, the replacement construction contract must be submitted to DPPE for review. If the contract replacement occurs during the approval period (12 months following conformity with requirements or 18 months for good cause), no action other than submission of the contract to DPPE will be required. Refer to Paragraph e. for the policy regarding replacing an applicable original construction contract after expiration of the approval period.

ii. A construction contract submitted as evidence of an obligation to make a capital expenditure must include the following provisions:

(a). Commencement of construction by a date specified in the contract. The applicant shall submit a sworn affidavit from the contractor within 10 calendar days after construction begins showing that the construction has in fact begun. If documentation is not submitted in a timely manner, DPPE will presume that the contract is not an enforceable obligation and consider the finding of conformity expired.

(b). Vertical construction date. This date shall be no later than 18 months from the date of the Notice of Conformity or 24 months from such date if an extension to submit evidence of obligation was granted. The applicant shall submit a sworn affidavit from the contractor within 10 days after vertical construction date showing that vertical construction has in fact begun, and copies of construction progress reports substantiating vertical construction. If documentation is not submitted in a timely manner DPPE will presume that the contract is no longer an enforceable obligation and will consider the finding of conformity expired. Vertical construction has begun when all of the following conditions are met: (a) excavation of the foundation has begun; (b) the pilings for the foundation are driven; (c) the concrete for the foundation is poured; (d) the height of the structure is above ground level.

(c). Substantial completion of construction by a specified date. The applicant shall submit a sworn affidavit from the contractor indicating substantial completion of the project, within 10 calendar days of the substantial completion date shown in the contract, and copies of construction progress reports required in construction contract as of that date. If documentation is not submitted in a timely manner, DPPE will presume that the contract is not an enforceable obligation, and consider that finding of conformity expired.

(d). If commencement of construction, vertical construction or substantial construction is not completed by the dates specified in the construction contract, the individual possessing the Notice of Conformity shall submit written documentation to

Division of Policy, Planning and Evaluation describing the reasons for the delays in construction and the appropriate revised construction dates as required in (a), (b), (c) above.

(e). The reasons to be considered are Acts of God, labor disputes, unavailability of building materials or other documented causes beyond the control of the applicant. Such documentation shall be duly executed by the parties who execute the construction contract. After review of such documentation, Division of Policy, Planning and Evaluation at its option may grant an extension for the submittal of the sworn affidavit.

(f). If an applicant finds it necessary to replace the original contract after the approval period has expired and the replacement contract is intended to serve as evidence of a capital obligation, the applicant must include written documentation of the reasons for the change in contracts. The documentation must establish that the original contract was replaced for good cause. Good cause includes Acts of God, insolvency, bankruptcy, breach of contract or other situations beyond the control of the applicant. The documentation must establish that the original contract is legally unenforceable or that from a practical standpoint it is not in the best interest of the project to enforce the contract.

(g). The applicant must submit the proposed replacement contract for review along with the documentation described above. DPPE will review the required documentation and make a determination as to whether the replacement contract may serve as evidence of obligation for the project.

(h). If the documentation does not clearly establish that the replacement of the original contract was for good cause, the project must be constructed with the original contract or the approval will expire.

(i). If the applicant is unable to meet the time frames for vertical construction set forth in Subclause (b) above, the applicant may request an extension of time in accordance with Subclause (d).

d. Acquisition of a facility without financing.

The Act of Cash Sale shall be submitted.

e. Acquisition of a facility with financing.

A copy of the loan agreement or any other financial agreement shall be submitted. Loan guarantees and loan commitments do not meet requirements for evidence of obligation for such transactions.

f. Lease of facility.

A copy of the legally executed lease shall be submitted.

g. A formal internal commitment of funds by a facility (or organization) for a force account expenditure.

i. Documentation shall be submitted from a financial institution verifying that a specific separate account (with funds equivalent to the amount of the proposed expenditure) has been designated by the applicant/owner for the project. In the case of a state-owned facility, an appropriation is considered a force account expenditure.

ii. When a formal internal commitment of funds by a facility (or organization) for a force account expenditure is submitted as evidence of obligation for a project to be constructed, then vertical construction shall commence within 18 months from the date of the Notice of Conformity or 24 months from such date if an extension to submit evidence of obligation was granted. A substantial completion date shall be given upon timely commencement of vertical construction. Vertical construction and substantial completion shall be documented in the manner required in b through d above.

h. Donated property - Documentation including the date

on which the gift is completed, in accordance with applicable Louisiana law, shall be submitted.

i. As provided in the regulations, the one year approval period may be extended for up to six months at the discretion of DPPE, upon request of the applicant, if one of the following conditions exist:

i. delays have occurred which are beyond the control of the applicant, such as delays caused by review bodies, or delays in obtaining financing due to substantially greater interest rates than those projected in the application;

ii. refusal of an extension would be detrimental to the best interests of the community involved.

8. Procedures for Requests for Adjustment to Long Term Care Resource Goals

a. The applicant shall complete the appropriate section of the application form to identify the reason for which an adjustment is requested. The applicant shall be responsible for submitting evidence and documentation to substantiate the request for an adjustment to the resource goals. An original and six copies of the application shall be submitted to Division of Policy, Planning and Evaluation.

b. As soon as the application is declared complete, DPPE shall forward copies of the applications to the following committee members for review:

i. Assistant Secretary - Office of Family Security (DHHR);

ii. Administrator - Licensing and Certification (DHHR);

iii. Chairman - Statewide Health Coordinating Council (or the consumer designee of the Chairman, when the Chairman is a provider; this member shall always be a consumer);

iv. Director - Bureau of Civil Rights (DHHR);

v. Ombudsman - Coordinator - Governor's Office of Elderly Affairs.

c. The transmittal will include the date of the public hearing and the decision due date. DPPE shall also forward a summary of the public hearing comments to the committee members.

d. Each committee member will forward individual comments and recommendations to DPPE. Comments shall be received by DPPE at least five working days prior to the decision due date.

E. Criteria for Review

1. In reviewing projects DPPE shall use the following criteria:

a. the relationship of the proposal to the State Health Plan;

b. the relationship of the proposal to the long range development plan (if any) of the facility;

c. the need of the service area population for the proposed facility/services.

NOTE: In reviewing the need for beds, all proposed beds shall be considered available as of one projected opening date for the project. DPPE does not recognize the concept of "phasing in" beds, whereby an applicant provides two or more opening dates.

i. Delineation of the service area for the proposal (the definition of "service area" will be governed by the State Health Plan's definition for each particular type of service or facility).

ii. Current and projected availability of beds/services/facilities. DPPE will count as available:

(a). all health care facility beds as defined in the applicable State Health Plan Section;

(b). all health care facilities, as defined for review purposes;

(c). all services and equipment in health care facilities.

NOTE: For all reviews where a bed to population ratio is a factor, the facility bed inventory which will be used in the determination of need is that which is current on the date that the application is determined to be complete. This inventory will change during the review period only when bed increases or decreases are reviewed and approved for the area, or when fair hearing decisions or judicial decisions are effective prior to the decision on the application.

(Data sources to be used include information compiled by the Bureau of Research and Development, DPPE, as published, and the middle population projections recognized by the State Planning Office as official projections.)

(d). Number and distribution of similar facilities, services, or beds within the service area;

(e). Bed to population ratio in the service area;

(f). Comparison of bed to population ratio in the service area to that of other service areas in the state.

iii. Physical accessibility of the target population to existing and proposed facilities/services.

iv. Current and projected measures of utilization of existing facilities/services (i.e. occupancy or other appropriate utilization data).

NOTE: For all reviews where utilization is a factor, the occupancy report which will be used in the determination of need is that which is current on the date that the application is determined to be complete. The only exception to this rule will occur when determining the need for long term care beds under the overbedded exception. In such a case, the adjusted occupancy rate will be recalculated to reflect any increase or decrease in beds in the area which resulted from review decisions, fair hearing decisions or judicial decisions effective prior to the decision on the application.

v. Demographics of the service area for the proposal.

(a). The availability or potential availability of less costly or more effective alternatives to the proposal.

(b). The immediate and long-term financial feasibility of the proposal, and the availability of funds. DPPE will consider but not be limited to the following: (1) a commitment for financing from a reputable lending institution, including effective date and duration of commitment, amount and terms of loan, approximate beginning and ending dates of loan, and amount and type of collateral pledged; or (2) documentation of available internal funds equivalent to the proposed expenditure, or (3) documentation of the financial feasibility through the use of tax-exempt bonds. For proposed expenditures exceeding \$6,000,000, documentation of net assets exceeding 25 percent of the proposed expenditure shall be submitted and the documentation required in (1), (2), or (3), as stated above.

(c). The relationship of the proposed facility/services to other health care providers in the service area; documentation of agreements between the applicant and other health care providers; the extent of cooperation with other facilities in the service area.

(d). The relationship (including the organizational relationship) of the proposed services to ancillary or support services provided in the existing facility.

(e). The availability of health manpower and management personnel for the provision of the proposed services, including:

(i). availability and projected availability of physicians, nurses, and other personnel within the service area;

(ii). the adequacy of proposed staffing according to re-

quired standards.

(f). Special needs and circumstances:

i). health maintenance organizations;

ii). biomedical and behavioral research projects for which local conditions offer special advantages, and which are designed to meet a national need;

iii). facilities which provide a substantial amount of services or resources to non-residents of the service area or of adjacent service areas (i.e. medical and health professional schools, specialty centers, multi-disciplinary clinics).

(g). The cost and methods of the proposed construction, including energy provision.

(h). The probable impact of the project on the cost of health services within the facility and the service area.

(i). Evidence of ownership or legally executed option to acquire an appropriately zoned site.

(j). Support or opposition to the proposal by the local community, including health related agencies and professional organizations.

(k). Whether the project will foster cost containment or improved quality of care through improved efficiency and productivity or through increased competition between different health services delivery systems.

F. Appeal Procedures

1. In findings of non-conformity, DPPE will give the applicant an opportunity to request a fair hearing in writing. The written request for fair hearing, in order to be timely, must be received by DPPE within 30 days after the notification of non-conformity was received by the applicant and must be accompanied by a filing fee of \$500.

2. The hearing shall commence within 30 days after receipt of the written request for hearing (or later, at the option of the applicant) and shall be conducted by a hearing officer. Requests for extensions may be granted at the discretion of the hearing officer but shall not exceed 180 days from the date of notification of non-conformity. If the hearing is not concluded within this time, the findings of DHHR will be considered upheld.

3. Hearings shall be conducted by an agency or person, other than the DPPE, designated by the governor for that purpose; provided, that no person (or agency) who has taken part in any prior consideration of or action upon the proposed capital expenditure may conduct such hearing. (However, the same hearing officer who presided over a hearing and remanded the matter to DPPE may hear a subsequent appeal of the same application if DPPE again makes a finding of non-conformity.)

4. The hearing officer shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues.

5. The hearing shall be open to the public, but closed to television cameras and shall be publicized through local newspapers and public information channels. The hearing officer shall have the authority to control the decorum of the hearing room.

6. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs may be admitted and given probative effect. The rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced

substantially, any part of the evidence may be received in written form.

7. All evidence, including records and documents in the possession of DHHR of which it desires to avail itself, shall be offered and made part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within DHHR's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed.

8. The hearing officer shall have the power to sign and issue subpoenas, or to direct DPPE to do so, in order to require attendance and the testimony by witnesses and to require the production of books, papers and other documentary evidence. The applicant is required to notify the hearing officer in writing at least 10 days in advance of the hearing of those witnesses whom he wishes to be subpoenaed. No subpoena shall be issued until the party (other than DPPE) who wishes to subpoena a witness first deposits with the hearing officer a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. DHHR may request issuance of subpoenas without depositing said sum of money. The witness fee may be waived if the person is an employee of DHHR. Whenever any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, DHHR may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. It shall be the duty of the judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing, the judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

9. DHHR or any party to a proceeding may take the deposition of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in the review proceeding at issue. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the hearing officer in accordance with the rules of evidence provided in this Subsection.

10. The person proposing the capital expenditure, DHHR and any other agency which reviewed the application, and other interested parties, including members of the public and representatives of consumers of health services, shall be permitted to give testimony and present arguments at the hearing without formally intervening. Such testimony and arguments shall be presented after the testimony of the applicant and DHHR has been presented, or, at the discretion of the hearing officer, at any other convenient time. When such testimony is presented, all parties may cross-examine the witness.

11. The following issues shall not be considered at a hearing:

- a. the correctness, adequacy, or appropriateness of the standards, criteria, or plans against which the proposed expenditure was measured;
- b. whether the proposed expenditure is subject to review by DPPE; and
- c. the inadmissibility of prior or pending applications which are unrelated to the application pending appeal.

12. The hearing officer may submit his own finding as to whether the proposed expenditure is consistent with the applicable standards, criteria, and plans, and in the case of a negative finding, his recommendation as to whether or not OFS should exclude from reimbursement expenses related to the proposed expenditure. The hearing officer may also reach such supplementary conclusion (e.g., on the question of adherence to procedural requirements) and submit such further recommendation as he deems appropriate.

13. A record of the fair hearing procedures shall be maintained. Copies of such record together with copies of all documents received in evidence shall be available to the parties, provided that any party who requests copies of such material may be required to bear the costs thereof.

14. The hearing officer shall notify all parties, in writing or on the record, of the day on which the hearing will conclude and of any changes thereto; provided, a hearing must be concluded in accordance with the time requirements specified in Paragraph 2 of this Subsection. As soon as practicable, but not more than 45 days after the conclusion of a hearing, the hearing officer shall send to the applicant, to DPPE, and any interested parties who participated in the hearing, and to other interested parties at the discretion of the hearing officer, his decision and the reasons for the decision. Such decision shall be publicized by DPPE through local newspapers and public information channels.

15. In the event that the hearing officer fails to provide notice, as required above, within 45 days after the conclusion of a hearing, such failure to provide notice shall have the effect of a finding of conformity.

16. After rendering his decision, the hearing officer shall transmit the record of the hearing to DPPE.

17. Any decision of a hearing officer shall, to the extent that it reverses or revises the findings of non-conformity of DPPE, supersede the findings of DHHR.

18. Opponents of applicants who receive findings of conformity are not entitled to a fair hearing or to judicial review regarding said findings of conformity.

19. To the extent that any decision of a hearing officer requires that DHHR take further action, such action shall be completed by such date as the hearing officer may specify. Failure of DHHR to complete such action by such date shall have the effect of a finding of conformity of the proposed capital expenditure.

20. An applicant who fails to have the notification of non-conformity reversed shall forfeit his filing fee.

The final change is that, in the Louisiana Administrative Code, all references to P.L. 93-641, which has been repealed, in the authorization citations are deleted.

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

RULE

Department of Health and Human Resources Office of Preventive and Public Health Services

The Department of Health and Human Resources, Office of Preventive and Public Health Services amends the General Requirements for Frozen Desserts as prescribed by Chapter VIII, Sec. 8:013 (d) and (e) Sanitary Code, state of Louisiana.

The current requirements will be changed as follows:
8:013 GENERAL REQUIREMENTS

(d) Ice cream, ice milk, and other frozen desserts shall be offered to consumers who serve themselves only when dispensed from approved dispensing machines designed expressly for that purpose.

(e) The dipping and/or packaging of firmly frozen desserts by consumers who serve themselves is prohibited.

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

RULE

Department of Health and Human Resources Office of Preventive and Public Health Services

The Department of Health and Human Resources Office of Preventive and Public Health Services has changed the rule published in the *Louisiana Register*, Volume 11 on September 20, 1985 which amends the earlier rule promulgated in Volume 10 on July 20, 1984. These changes were necessary to implement ACT 374 passed in the 1987 Regular Session of the Louisiana Legislature.

II. Vendor Selection Criteria

A. Basic Vendor Eligibility Criteria

2. Cost containment:

a. An applying vendor must offer average food package cost, at or below 110 percent of the monthly median average food package cost charged by other authorized vendors in the parish as evidenced by submission of WIC Program price report sheets.

Applying vendor's submitted food shelf prices will be calculated using the highest cost brand items specified on the six food packages issued to participants. An average of the estimated six food package costs by vendor will be ranked from highest to lowest cost for all applying and authorized vendors. The midpoint of this ranking will be the established median average food package cost. Applying vendors may exceed this median by 10 percent to meet the program's cost containment criteria.

b. An applying vendor will be given one opportunity to lower food costs within 15 days of notification during the application process in order to meet program guidelines. Exceptions will be granted to vendors who can provide official wholesale invoice documentation which verifies that the price of the WIC food items offered does not exceed 10 percent above vendor's wholesale cost.

c. To maintain authorization, vendors may not exceed the monthly median by more than 110 percent, or provide official wholesale invoice documentation which verifies that the price of the WIC food items offered does not exceed a level of 10 percent above vendor's wholesale cost. Failure to lower costs within

15 days of notice of excessive prices will terminate the agreement.

d. Vendors shall provide the food package at the price or at less than the current price charged to other customers.

II. B. Criteria Determining the number of Authorized Vendors in Parish

2. b) omit

2. c) omit

(These changes remove the location and distance factors entirely).

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

RULE

Department of Health and Human Resources Office of the Secretary

The Louisiana Department of Health and Human Resources (DHHR) has applied for the supplemental Maternal and Child Health (MCH) Block Grant funding for FY 1987-88 and submitted an amended application for these funds in accordance with Public Law 99-509, the Omnibus Reconciliation Act of 1986. DHHR will continue to administer Maternal and Child Health Programs funded under this Block Grant in accordance with provisions set forth in Public Law 99-509 through the Office of Preventive and Public Health Services (OPPHS).

The supplemental Maternal and Child Health Block Grant appropriation will be used as follows: To continue Maternal and Child Health services previously specified in the Block Grant application for FY 1987-88 to 6500 additional patients; to provide special diagnostic tests for genetic disorders; to provide resource development, case management, and parent support services to "high tech" children with special needs and their families in the Lafayette area; to provide Family Planning medical services and case management services to adolescents.

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

RULE

Department of Natural Resources Office of the Secretary

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the secretary to the Department of Natural Resources has adopted the rules and regulations set forth below, with an effective date of November 20, 1987. Implementing Act 887 of the 1987 Regular Session of the Louisiana Legislature.

Copies of these rules can be viewed at the Legal Division of the Department of Natural Resources, Thirteenth Floor, 625 North Fourth Street, Baton Rouge, LA.

B. Jim Porter
Secretary

RULE

**Department of Natural Resources
Office of the Secretary**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the secretary to the Department of Natural Resources has adopted the rules and regulations set forth below, with an effective date of November 20, 1987.

**RULE FOR CLAIMING
SEVERANCE TAX EXEMPTION
UNDER ACT 430 OF 1987 (R.S. 47:648.11)**

Copies of these rules can be viewed at the Legal Division of the Department of Natural Resources, Thirteenth Floor, 625 North Fourth Street, Baton Rouge, LA 70802.

B. Jim Porter
Secretary

RULE

**Department of Public Safety and Corrections
Office of Alcoholic Beverage Control**

The following rule is an amendment and substitution to Louisiana Office of Alcoholic Beverage Control Regulation No. X. Such rule is an amendment by the Louisiana Office of Alcoholic Beverage Control under the rule making authority conferred on the office by R.S. 26:32 and R.S. 26:793.

The proposed amendment to Regulation No. X would grant some needed flexibility in the merchandising, stocking and pricing of alcoholic beverages by industry members in retail establishments. The distinction between alcoholic beverages containing more than six percent alcohol by volume and those alcoholic beverages containing six percent or less by volume is eliminated for purposes of application of the regulation.

Under the proposed amended Regulation No. X, industry members may maintain their product in retail dealer cold boxes and may build, price and maintain displays on the premises of retail dealers. Industry members are prohibited from stocking shelves on the premises of licensed retail dealers. Industry members are granted authority to maintain the quality of their product on retail shelves, provided, however, the products purchased from other industry members are not altered or disturbed. The rearranging or resetting of all or part of a store or liquor department is not authorized.

Michael W. Russell
Assistant Secretary

RULE

**Department of Public Safety and Corrections
Office of Motor Vehicles**

**Title 37
INSURANCE
Part VII. Motor Vehicles**

Notice is hereby given that the Office of Motor Vehicles, pursuant to the notice of intent published September 20, 1987,

and under authority provided in R.S. 32:852 has adopted amended rules contained in LAC 37:VII.123 and LAC 37:VII.125 for the reporting of Compulsory Motor Vehicle Liability Security policies by "Security Providers."

Copies of these amended rules may be obtained from the Office of Motor Vehicles, 1771 N. Lobdell Avenue, Baton Rouge, LA 70896 or by making written inquiry to the Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896.

John J. Politz
Assistant Secretary

RULE

**Department of Revenue and Taxation
Sales Tax Section**

The accompanying text of the regulation numbered 61:I.4417, entitled "Exclusions and exemptions; purchases made with United States Department of Agriculture Food Stamp Coupons and purchases made under the Women, Infants, and Children's Program" is hereby adopted.

**Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the
Secretary of Revenue and Taxation**

Chapter 44. Sales and Use Tax Exemptions

§4417. Exclusions and Exemptions; Purchases made with United States Department of Agriculture Food Stamp Coupons and purchases made under the Women, Infants, and Children's Program

A. This Section specifically exempts from the sales and use tax imposed by this Chapter, and any such taxes imposed by any parish, board, or municipality, purchases of the following items:

1. Eligible food items, as defined by the United States Department of Agriculture (USDA) regulations for the Food Stamp Program, when such food items are purchased with United States Department of Agriculture Food Stamp Coupons.

2. Eligible food items authorized for purchase under the Women, Infants, and Children's (WIC) Program as administered by the Louisiana Department of Health and Human Resources, when such items are purchased with WIC Program Vouchers.

B. Definitions

1. *United States Department of Agriculture Food Stamp Coupons (food stamps)* means coupons issued by the USDA Food Stamp Program.

2. *Eligible food items*, for purchases made with food stamps, means the definition of "eligible foods" as defined in the regulations of the Food Stamp Program of the United States Department of Agriculture.

3. *WIC Program Vouchers (WIC vouchers)* means payment vouchers issued by the Women, Infants, and Children's (WIC) Program.

4. *Eligible food items*, for purchases made with WIC vouchers, refers to the specific items authorized to be purchased with the WIC voucher used as the medium of exchange.

C. Limitations

1. The exemption for food items purchased with food

stamps is limited to those items defined as "eligible foods" in the regulations of the USDA Food Stamp Program. As the definition of "eligible foods" changes, the food items eligible for this exemption will automatically qualify or become disqualified.

2. The exemption for eligible food items purchased with WIC vouchers is limited to those items specifically stated on the voucher which is used as the medium of exchange.

3. The exemptions for purchases utilizing food stamps and WIC vouchers are further limited to the amount of food stamps and WIC vouchers used in the transaction. Eligible food items purchased with mediums of exchange other than food stamps or WIC vouchers, such as cash, will be subject to applicable state and local sales and use taxes.

D. Purpose and Method

1. Federal regulations require that the exemption for food stamp purchases be administered so as to minimize the sales tax burden on any order of eligible foods. A special problem arises when a patron presents a combination of food stamps and cash in payment of eligible food consisting of food for preparation and consumption in the home (exempt from state sales taxes) and eligible food items such as ice, bottled water, loose candy, and seeds and plants for the production of food which except for this exemption would be taxable. Grocers are currently required to "sort" each order by separating the eligible food items from the entire order, either physically or through the use of electronic equipment. Since ice, bottled water, etc. are otherwise taxable items, the federal regulations would require a second "sort" to ensure that the food stamps are applied to those items first.

2. In order to comply with federal regulations that mandate food stamps be allocated first to taxable "eligible food items," and to eliminate the need for "double-sorting" by dealers, purchases of eligible food items paid for with a combination of food stamps and cash will be given the following treatment for state sales tax purposes. Once the food stamps have been applied to the purchase, the remaining portion of eligible items which is to be paid for with cash will be treated as food for home consumption, notwithstanding any restrictions by R.S. 47:305(D). Thus, of the remaining portion of the eligible food items to be paid for with cash, items such as ice, bottled water, and loose candy will be taxed at the same rate as milk or bread. This method does not in any way affect ice, bottled water, loose candy, and other such items which are purchased by a patron who does not present food stamps in payment.

E. Purchases of items not considered eligible food items by the USDA regulations, such as detergent, will not be affected by this regulation and will remain subject to applicable state and local sales and use taxes.

Shirley McNamara
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Harvest Program

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, Wildlife and Fisheries Commission regulations, and/or Louisiana Department of Health and Human Resources Regulations.

A. 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.

B. Harvest season

The open season shall run for a 31-day period beginning on September 5, 1987 and continue through October 5, 1987. 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 in order to ship alligator skins below four feet in length.

C. 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 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.

D. 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, 1987. 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 14, 1987. 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 alligator parts into a finished product; or (c) purchases, cans, processes, or distributes alligator meat for wholesale or retail. A retailer selling canned alligator parts or a retailer purchasing alligator parts from an alligator parts dealer or restaurant selling prepared alligator meat for human consumption shall not be classified as an alligator parts dealer. The fee for the parts dealer license is \$50 per year. Persons or firms entering alligators or alligator skins and/or parts in interstate/foreign commerce in the course of a commercial activity must be licensed in accordance with state and federal regulations. Persons shipping alligators, or alligator skins and/or parts to another state 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.

E. Tagging

In addition to a valid commercial alligator hunting license, the hunter must also obtain from the department, and have in his possession while hunting, official tags which must be firmly attached to each alligator immediately upon taking. Numbered tags will only be issued in the name of license holders for a sum of \$5 (one fee charged regardless of the number of tags involved). Alligator tags will not be issued after September 14, 1987. The tag must be attached and locked in the last six inches of the tail. The tag must remain attached to the skin until finally processed by the fabricator. It shall be illegal to possess alligators/or alligator skins in Louisiana without valid official tags attached. Failure to properly tag an alligator or skin will result in confiscation of both the alligator or skin and tag. Official alligator tags will be issued only to alligator hunters, and farmers and only to those who have authorized applications. The number of tags will be issued on the basis of the quantity and quality of the habitat, the rate per acre will be fixed based on extensive population estimates. Tags will be issued for alligator habitat only, based on final decision of department biologists. Tags issued on public lakes are non-transferable and limited to five per hunter. No more than this fixed number of tags will be issued. Each official tag will bear a characteristic number, and the tag number issued to each hunter will be recorded. Hunters will be held accountable for all alligator tags issued to them. Unused tags must be returned by the hunter to the department no later than 15 days following the close of the season. Department personnel must be notified, within 15 days following the season, of any alligator hides not sold to a commercial buyer or dealer on official Louisiana Department of Wildlife and Fisheries forms provided. Lost or stolen tags will not be replaced but must be reported within 15 days of close of season. Tags can be used only on the lands applied for and approved on the application. Tags furnished by the Louisiana Department of Wildlife and Fisheries must be attached to all alligator meat/parts upon transfer by a hunter or farmer.

F. Alligator Farmers and Breeders

Licensed alligator farmers or breeders 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 alligators can be harvested during closed season with department approval). Alligator farmers or breeders must

have department authorization to sell or transfer live alligators or alligator eggs.

G. Sale of Alligator Skins

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

H. Buyer/Dealer Hide Records

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

I. 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.

J. Sale of Meat and Parts

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

K. Nuisance Removal Program

A statewide alligator nuisance removal program will be administered on an annual basis. This program will allow the taking of problem alligators within the confines of municipal, ward, parish, or state responsibility where there are alligator-people conflicts. Alligators taken under this program must be taken in accordance with state regulations and local regulations/ordinances. Skinning instructions issued by the department will be valid for one year, until the next year's skinning instructions are issued. The nuisance removal program depends upon close cooperation of state, parish, and local authorities. Tags may be issued by the department to an approved licensed hunter who has been designated by department supervisory personnel or of-

ficials of a local governing body. The number of tags issued will be based on the number of complaints received and the quantity and quality of alligator habitat involved. The commission is hopeful this program will lessen the threat to people and property by reducing human/alligator contact.

L. 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 hunter. Only the applicants whose names are drawn will be eligible to hunt public lakes.

M. 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 10 July, 1987. This data will be analyzed, harvest rates figured, and alligator tag allotments will be presented to department/commission administrators for their consideration.

N. 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.

J. Burton Angelle
Secretary

RULE

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

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the Louisiana Wildlife and Fisheries Commission has adopted regulations to restrict vehicles on certain roads within the department's Wildlife Management Area system.

The following rules designate the specific Wildlife Management Area on which roads will be restricted to soft wheel ATV type vehicles.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

Chapter 1. Responsibilities, Duties and Regulations

§105. Road Use Changes

A. Purpose

The changes to go into effect this fall are being made to improve hunter access and reduce maintenance costs while continuing to provide adequate access to harvest the available sources.

B. Overview

7 Wildlife Management Areas affected

Total ATV trails	83 miles
Changes	
Roads converted to ATV Trails	68.25 miles
Red River WMA - Converted to ATV (District IV)	20.5 miles
Three Rivers WMA - Converted to ATV (District IV)	9.0 miles
Saline WMA - Converted to ATV (District IV)	16.5 miles
Boeuf WMA - Converted to ATV (District IV)	11.0 miles
Big Lake WMA - Converted to ATV (District IV)	3.0 miles
Spring Bayou WMA - Converted to ATV (District IV)	5.5 miles
Grassy Lake WMA - Converted to ATV (District IV)	2.75 miles

J. Burton Angelle
Secretary

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission**

The Louisiana Horticulture Commission will consider amending the Horticulture Rules and Regulations, LAC 7:XXIX, Chapter 151, as follows:

§15105. Qualifications for Examination and Licensure or Permitting

A. All applicants for examination and licensure or permitting under the provisions of L.R.S. 3:3801, et seq., must have attained their eighteenth (18th) birthday.

B. All applicants for the landscape architect examination must meet one of the following qualifications:

1. Holds a degree in landscape architecture, or holds a degree in another field with a minimum of the following credit hours earned from an accredited university or college curriculum:

- 25 hours in Landscape Design
- 12 hours in Landscape Implementation (Construction)
- 6 hours in Plant Science or Plant Identification
- 6 hours in Landscape Drawing or Graphics
- 3 hours in Landscape History
- 3 hours in Professional Practice

and has completed an equivalent of one year internship under the direct supervision of a licensed landscape architect, land-

scape contractor, engineer, architect, or a licensed professional with a design or contracting firm.

2. Has completed the equivalent of six years of practical experience under the direct supervision of a licensed landscape architect, landscape contractor, or environmental designer. Must present a minimum of six examples of work in at least three of the following areas:

- site design
- staking or layout plan
- grading plan
- irrigation plan
- construction details
- planting plan with a plant list
- specifications

Examples of work submitted become the property of the Commission.

3. Has a combination of education and experience equivalent to Paragraph (1) and (2) above. In determining credit to be given for education other than in landscape architecture, the applicant may be given up to two years credit for a degree in horticulture/plant science, architecture, civil engineering, environmental design, or urban design.

C. Any application received under Paragraphs (2) or (3) above shall be reviewed by a committee appointed by the Commission to determine qualifications.

D. All applicants for licensure must successfully complete the examination prescribed by the Commission for the area in the practice of horticulture for which the license is sought.

1. Applicants for a landscape architect's license who are applying through reciprocity shall submit evidence of successful completion of the UNE and licensure in another state whose requirements for licensure are at least equal to those of this state. Such persons shall be required to pass the Louisiana section of the examination in order to be licensed in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982).

§15107. Procedures for Application for Examination and Licensure or Permitting

- A...
- B...
- C. Landscape Architect

1. Applicants who desire to take the examination for landscape architect must file the completed application, together with any supporting evidence, official transcript(s), and affidavit(s) as may be necessary, and with the fee required under Rule 5.2 [renumbered LAC 7:15109(B)], at the Commission's State Office in Baton Rouge no later than 4:30 p.m. on the deadline date established for applying for examination, which date shall be published in a prior issue of the *Louisiana Register*.

2. Any applicant for licensure as a landscape architect who successfully completes one or more of the six phases of the examination but does not successfully complete all six phases of the examination will not be required to submit to re-examination in any phase which was successfully completed. In such cases, the applicant may apply to re-take only the phase(s) of the examination which were not successfully completed.

D...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of

Agriculture, Horticulture Commission, LR 8:184 (April 1982).

§15109. Fees for License or Permit and Renewal Thereof

- A...
- B. Landscape Architect

1. The fee for complete examination for licensure as a landscape architect shall be as follows:

1988 -	\$270
1989 -	\$285
1990 -	\$295
1991 -	\$305

2. The fee for examination or re-examination in the various sections of the examination for landscape architect shall be as follows:

	1988	1989	1990	1991
Section 1	\$16	\$18	\$19	\$20
Section 2	\$22	\$25	\$26	\$28
Section 3	\$88	\$91	\$93	\$96
Section 4	\$79	\$81	\$84	\$86
Section 5	\$50	\$55	\$58	\$60
Section 6	\$15	\$15	\$15	\$15

- C...
- D...
- E...
- F...
- G...
- H...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3806, R.S. 3:3805, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982).

§15113. Examination Schedule

- A...
- B. Landscape Architect

1. The examination for licensure as a landscape architect shall be given by the Commission on the date selected for administration of the examination nationally by the Council of Landscape Architects Registration Board.

2. The Commission shall publish the time and location selected by the Council of Landscape Architects Registration Board for administration of the examination for landscape architect in an issue of the *Louisiana Register* to be published prior to the scheduled examination date and will disseminate information concerning the scheduled examination to all interested applicants.

3. The Louisiana section of the examination for landscape architect shall be given on the date selected for administration of the examination nationally by the Council of Landscape Architects Registration Board and at no more than one other time during the year, if deemed necessary by the Commission based on the number of applicants desiring to take the Louisiana section.

- C...
- D...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982).

§15117. Required Standards of Practice

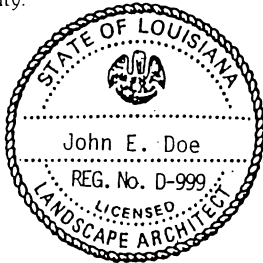
- A...
- B. General requirements of Landscape Architect

1. Without good cause, all designs must make use of plant materials commonly found growing in Louisiana or which are suitable for growth in Louisiana's growing conditions.

2. Licensees must meet the standards established by the Council of Landscape Architects Registration Board.

3. Each landscape architect must obtain a seal of the design authorized by the Commission. The seal shall be placed on all professional documents, including contracts, maps, plans, designs, drawings, specifications, estimates and reports, issued by a licensed landscape architect for use in this state.

a. The seal required shall be circular and one and five-eighths (1 5/8) inches in diameter. The words "State of Louisiana" shall be along the top circumference and the words "Licensed Landscape Architect" shall be along the bottom circumference. The individual's name shall be placed horizontally in the center of the field with his registration number below. Letters and figures shall be as shown on the example printed herein to insure uniformity.



b. A rubber stamp facsimile, which conforms to the official design of the seal described in subparagraph (a) above, may be obtained and used in place of the seal by a licensed landscape architect.

c. The licensee shall sign his or her legal name on each document and shall then affix his or her seal over that signature. The presence of one's seal over the signature on any document constitutes proof that he or she accepts all legal and professional responsibility for the work accomplished. The seal shall be used only by the licensee responsible to this Commission for authorship of the documents thus identified. No person other than the licensee represented shall use or attempt to use the prescribed seal, and no unlicensed person shall be authorized to use the prescribed seal. Authorized use of the prescribed seal is an individual act whereby the licensee must personally inscribe the seal over his or her signature. The licensee is responsible for the security of the seal when not in use.

C...

D...

E...

F. General Requirements for Landscape Contractor

1. All nursery stock used in landscaping shall be of high quality and free from any injurious insects, diseases, and other pests.

2. All plant beds must be properly prepared and must allow for proper drainage.

3. Sod used in landscaping shall be of high quality and free from any injurious insects, diseases, and other pests.

4. Licensees must display their license at all times in a location accessible to the general public or any representative of the Commission.

5. Landscape contractors who prepare drawings to indicate the planting and location and arrangement of plant materials by that landscape contractor shall place his name and license number on each drawing prepared by him. Drawings prepared by a landscape contractor may be used only by that landscape

contractor and no one else in connection with the submission of a bid proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185, amended LR 9:410 (June 1983), LR 11:317 (April 1985).

A public hearing will be held on December 3, 1987, in House Committee Room 6, at the State Capitol in Baton Rouge, LA, at 7:00 p.m., to consider these proposed amendments. Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to Craig M. Rousel, Director, Louisiana Horticulture Commission, Box 44517, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries regarding these proposed amendments.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Horticulture Commission

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an estimated increase in costs to the Horticulture Commission as follows:

1988 - \$4,175

1989 - \$5,175

1990 - \$5,875

1991 - \$6,550

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an estimated increase in revenue collections by the Horticulture Commission as follows:

1988 - \$4,175

1989 - \$5,175

1990 - \$5,875

1991 - \$6,550

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The total estimated cost to the landscape architect industry in Louisiana for the purchase of the seal will be \$6,000.

There will be an estimated increase in the cost to applicants taking the landscape architect exam as follows:

1988 - \$4,175

1989 - \$5,175

1990 - \$5,875

1991 - \$6,550

There will be no impact on receipts and/or income to the industry as a result of these changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule, as required by law, requires an applicant for the landscape architect exam to have a degree and/or experience which is not required by current rule. Under the current rule, approximately 25% of the exam applicants would not meet the requirements.

Richard Allen
Assistant Commissioner

David W. Hood
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Louisiana Forestry Commission and Tax Commission, as required by R.S. 56:1543, intends to adopt the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1988:

- 1. Pine Sawtimber \$145 per M bd. ft.
- 2. All Hardwoods \$ 72 per M bd. ft.
- 3. Pine Pulpwood \$ 13 per Cord
- 4. Hardwood Pulpwood \$ 5 per Cord

Interested persons may submit written comments on these proposed stumpage values through December 7, 1987, to Michael P. Mety, State Forester, Office of Forestry, Department of Agriculture and Forestry, Box 1628, Baton Rouge, LA 70821.

Michael P. Mety
State Forester

Jamar W. Adcock
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Timber Stumpage Values for 1988**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no additional implementation costs or savings to state or local governmental units as a result of this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated revenue for calendar year 1987 from Timber Severance Taxes should approximate \$6.8 million. Three of the proposed values for 1988 are slightly higher than current values and one is lower. Assuming production levels for 1988 are similar to 1987, expected tax revenue from timber severance should again approximate \$7 million.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
75 percent of this tax is remitted to the parish in which the timber was served and 25 percent is remitted to the State Treasury. The increased stumpage value will increase the tax revenues by \$200,000 to \$250,000, which will be paid by the Wood-Using Industries who purchase the timber.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule has been in effect for many years and has little effect on competition or employment.

Richard Allen
Assistant Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of State Civil Service
Civil Service Commission**

The State Civil Service Commission will hold a public hearing on Wednesday, December 2, 1987 to consider amending certain Civil Service rules, as listed below. The public hearing will begin at 8 a.m. in the Twelfth Floor Commission Hearing Room, Republic Tower Building, 5700 Florida Boulevard, Baton Rouge, LA.

Consideration will be given to the following:
PROPOSAL - AMEND RULE 1.5.2:

1.5.2—'Career field' means any one of a job series or group of positions considered to have a close occupational relationship and categorized as such by the Department of State Civil Service. A career field shall include a job series, or series of jobs that were created to provide a natural progression. The career field(s) used by an agency in a layoff shall be the career field(s) in the official career field listing as updated through the latest Transmittal Sheet dated before the layoff plan is received by the Department of State Civil Service.

EXPLANATION

The last sentence has been added to this rule to clarify that the latest official update concerning career fields issued before an agency's official layoff plan is received by Civil Service will be used for that layoff. Updates will be coming out at regular intervals as new jobs are added, deleted, etc.

PROPOSAL - AMEND RULE 6.5(c):

- 6.5 Hiring Rate.
- (a) . . .
- (b) . . .
- (c) Reentering the Classified Service.

The pay of an employee reentering the classified service, other than one being restored to duty following military service, may be fixed at any rate in the range that does not exceed the highest salary he previously earned while serving with permanent status in a classified position other than detail to special duty. If the range for the job has been adjusted and the range minimum is higher than his former salary, he will enter at range minimum. If the former salary is higher than the range maximum, his pay rate shall be set no higher than the range maximum. The appointing authority may at any time grant, to the extent permitted by other provisions of these Rules, any increase for which an employee having reentered the classified service possesses eligibility under this Subsection. This rule shall not apply to a former employee who was separated for delinquency, misconduct or unsatisfactory performance, or who resigned to avoid disciplinary action.

EXPLANATION

This amendment is necessary to clarify that even though a classified employee may have reentered the classified service at a rate of pay less than that for which he or she was eligible due to prior permanent classified service, the appointing authority may at anytime increase their pay to the equivalent of their highest pay earned as a permanent classified employee, to the extent permitted by the rule's provisions. The provision of this amendment were incorporated in Rule 6.4(c) prior to the June 29, 1987 Chapter 6 rule changes.

PROPOSAL - AMEND RULE 8.27(f):

8.27 Status of Nonclassified Employees Whose Positions are Declared to be in the State Classified Service or are Acquired

by a State Agency.

- (a) . . .
- (b) . . .
- (c) . . .
- (d) . . .
- (e) . . .

(f) An employee who enters the state classified service in accordance with this rule shall have his eligibility for merit increases under Rule 6.14 determined based on the original date of appointment with his former employer and, upon appointment in the state classified service, shall not be treated as a new employee under the provisions of Rule 6.14.

EXPLANATION

Chapter 6 was revised in its entirety effective June 29, 1987. As a result, the contents of the former Rule 6.15 became Rule 6.14 effective with the June 29, 1987 change. Therefore, the above amendment replaces reference to Rule 6.15 with Rule 6.14. There is no material change in Rule 8.27(f).

PROPOSAL - AMEND RULE 17.24:

17.24 Department Preferred Reemployment Lists

A person must apply in writing to the Department of State Civil Service no later than 30 calendar days following his layoff in order to be eligible for the department preferred reemployment list. This time limit can be extended only with the approval of the director.

Except as provided in Rule 17.16.1(f), eligibility for the department preferred reemployment list does not extend to an employee whose two most recent service ratings were unsatisfactory when he was affected by a layoff action. Also, eligibility for the department preferred reemployment list does not extend to any person who, after being affected by a layoff action, is terminated for disciplinary reasons, or resigns to avoid disciplinary action, except that a person terminated for disciplinary reasons and who is later reinstated will have his eligibility for the department preferred reemployment list restored. Also, a person who retires from state service shall not be eligible for such a list.

An employee's name will be removed from such applicable lists when he declines an offer or fails to respond to an offer. Also, his name will be removed from the list(s) in accordance with Subsections (d), (e), (f), (g) and (h) of this rule. If an employee declines an offer to the same job from which he was laid off, he shall be removed from all preferred lists for which he is eligible. If he declines an equivalent job, he shall stay on the list only for the job from which he was laid off.

(a) A permanent employee who, under the provisions of Rule 17.15, 17.16, and 17.17 is laid off or officially moved out of his regularly assigned position to another position in a different job title or the same job but in a different parish as the result of a layoff action shall, in accordance with his stated conditions of availability, and after receipt by the Department of State Civil Service of the layoff report as stipulated in Rule 17.23, have his name entered on the department preferred reemployment list for:

- 1. . . .
- 2. . . .
- (b) . . .
- (c) . . .
- (d) . . .
- (e) . . .
- (f) . . .
- (g) . . .
- (h) . . .

EXPLANATION

A new first paragraph has been inserted to allow an eligible person who is affected by a layoff action up to 30 days after the layoff to apply in writing to get on the department preferred reemployment list. Previously, an employee was allowed one year from the date of layoff to get on such list. The shorter time period has three advantages:

- 1. Civil Service will be able to quickly establish a complete preferred list(s);
- 2. the affected agency will not have to wonder if new names have been added to the list every time it gets ready to fill such vacancies;
- 3. the state will save money on unemployment benefits, since laid off employees could, under the old provisions, draw unemployment for months before deciding to get on the preferred list.

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 Commerce
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend rule LAC 35:XIII.11501-11521 "Triple Play" (New Chapter) as follows.

**Title 35
HORSE RACING
Part XIII. Wagering**

Chapter 115. Triple Play (New Chapter)

§11501. Scope

The triple play pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator board, nor to the rules governing the distribution of such other pools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

§11503. Ticket is Evidence of Binding Contract

A triple play ticket shall be evidence of a binding contract between the holder of the ticket and the racing association and the ticket shall constitute an acceptance of the triple play provisions and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

§11505. Distinctive Name

A triple play may be given a distinctive name to be selected by the association conducting these races, subject to the approval of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

§11507. Pari-Mutuel Pool

The triple play pari-mutuel pool consists of amounts contributed for a selection for win only in each of three consecutive races designated by the association with the approval of the commission. Each person purchasing a triple play ticket shall designate the winning horse in each of the three races comprising the triple play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

§11509. Coupled Entries and Fields

Those horses constituting an entry of coupled horses or those horses coupled to constitute the mutuel field in a race comprising the triple play, shall race as a single wagering interest for the purpose of triple play pari-mutuel pool calculations and payoffs to the public. However, if any part of either an entry or the field, racing as a single wagering interest, is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the triple play calculation, and the selection shall not be deemed a scratch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

§11511. Calculation of Pool

The triple play pari-mutuel pool shall be calculated as follows:

A. 100 percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the three races comprising the triple play.

B. In the event no pari-mutuel ticket is sold combining the three winners of the triple play, 100 percent of the net amount in the pari-mutuel pool shall be distributed among the holders of pari-mutuel tickets which include the winners of two of the three races comprising the triple play.

C. In the event no pari-mutuel ticket is sold combining two winners of the triple play, 100 percent of the net amount in the pari-mutuel pool shall be distributed among holders of pari-mutuel tickets which include the winner of any one race comprising the triple play.

D. In the event no pari-mutuel ticket is sold that would require distribution of the triple play pool to a winner under this part, 100 percent of the net amount in the triple play pari-mutuel pool shall be carried over and included in the triple play pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed.

E. On the last day of the race meeting, 100 percent of the net amount in the triple play pari-mutuel pool shall be distributed to the holders of tickets correctly designating the most winning selections comprising the triple play, in accordance with §11511A, B and C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

§11513. Canceled Triple Play Race(s)

A. If, for any reason, one or two of the races comprising the triple play is canceled, the net amount of the pari-mutuel pool shall be distributed as provided in §11511B, C and D.

B. If, for any reason, all of the races comprising the triple play are canceled, a full and complete refund must be made of the pari-mutuel tickets sold on the triple play on that day. 100 percent of the remaining amount in the triple play pari-mutuel pool shall be carried over and included in the triple play pari-mutuel pool for the next succeeding racing date as an additional

net amount to be distributed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

§11515. Actual Favorite Substituted for Scratch

A. In the event a triple play ticket designates a selection in any one or more of the races comprising the triple play and that selection is scratched, excused, or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs.

B. In the event that the money bet in the win pool for two or more favorites is identical, the selection identified in the lowest program number shall be substituted for the nonstarting selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

§11517. Dead Heats

In the event of a dead heat for win between two or more horses in any triple play race, all the horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

§11519. No Ticket Sold, Exchanged or Canceled

No pari-mutuel ticket for the triple play pool shall be sold, exchanged or canceled after the time of the closing of wagering in the first of three races comprising the triple play, except for refunds on triple play tickets as required by §11513B, and no person shall disclose the number of tickets sold in the triple play pool or the number or amount of tickets selecting winners of triple play races until the stewards have determined the last race comprising the triple play to be official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

§11521. Announcing Payoff Prices

After the second of the three races comprising the triple play has been declared official, an association may, with the approval of the commission, post possible payoff prices to the public before the start of the third race of the pick three.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, 149.1 and 149.2.

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Tom Trenchard or Alan J. LeVasseur at (504) 568-5870 or LINC 621-5870, holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, December 7, 1987 to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5111.

Albert M. Stall
Chairman

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: LAC 35:XIII.11501-11521 "Triple Play"

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this new rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no way to determine the effect on a proposed new type of wagering. However, the effect is expected to be positive.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The benefits of this new type of wagering will go to the wagering public. Any additional or alternative type of wagering usually sparks an added interest in the bettors. Also, this new interest, resulting in a higher handle, will increase the state and track portion of the wagering dollar; and wagering on three-horse wagers has a higher state and track takeout than the regular win-place-show bets.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition nor employment.

Albert M. Stall
Chairman

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Commerce
Real Estate Commission**

Notice is hereby given that the Louisiana Real Estate Commission will consider amendments to the following rules and regulations, of the commission:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate**

Chapter 65. Real Estate Schools

§6529. Causes for Suspension or Revocation of School Certificate of Authority

C. In addition to causes for suspension or revocation outlined in this Chapter, the commission may suspend or revoke a school's Certificate of Authority if, in the opinion of the commission, the school, through its owner(s), director(s) or instructor(s) is performing or attempting to perform or has performed or has attempted to perform any of the following acts:

1. falsely certifying hours of attendance for any student;
2. recruiting students for any brokerage firm or knowingly allowing others to use school classroom facilities to discuss sponsorship of potential licensees for any brokerage firm;
3. failure to properly coordinate or supervise classroom activities;
4. failure to inform instructors on License Law changes or rule and policy changes of the commission;
5. refusal of the school owner(s) or director(s) to appear or testify under oath when subpoenaed to do so at any hearing held by the commission;
6. any school owner having been convicted of a felony or entered a plea of guilty or nolo contendere to a felony charge;
7. failure to enter into a written contract with any of its

students;

8. any school director, instructor or other school representative possessing, claiming to possess, revealing or distributing, attempting to or obtaining questions utilized in examinations given by or under the direction of the commission.

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70808, and may be obtained by writing to Bert Coles Bernard, Information Representative, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70808. Interested parties may direct inquiries and present their views in writing to the commission.

Anna-Kathryn Williams
Executive Director

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

**Rule Title: Causes for Suspension or
Revocation of School Certificate of Authority**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no savings to the state or local government by passage of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on state or local government revenues from this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no way to estimate costs. Certified schools found to be in violation of the law and/or rules and regulations could be subject to disciplinary action by the commission. The benefit would be to the public, mostly those who attend the real estate schools, in passage of the rule to insure compliance with the law and rules on the part of the school.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment. All schools certified by the commission are bound to comply with the law and rules.

Anna-Kathryn Williams
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Commerce
Real Estate Commission**

Notice is hereby given that the Louisiana Real Estate Commission will consider amendments to the following rules and regulations, of the commission:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate**

Chapter 65. Real Estate Schools

§6507. Certificate of Authority

I. The commission shall issue a certificate of authority to operate a real estate school after a determination has been made by its Education Division that the applicant has met all requirements of certification.

1. Anyone desiring to purchase, lease or otherwise obtain a certificate of authority issued by the Louisiana Real Estate Commission, must obtain the prior approval of the commission, and further must comply with all the regulations herein as an original applicant before the commission can consider or approve the transfer.

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70808, and may be obtained by writing to Bert Coles Bernard, Information Representative, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70808. Interested parties may direct inquiries and present their views in writing to the commission.

Anna-Kathryn Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Certificate of Authority**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no savings to the state or local government by adoption of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on revenue for state or local government by adoption of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no way to estimate costs. The rule would insure that all persons interested in obtaining a certificate of authority for a real estate school comply with the established rules and regulations and commission review process.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The only way competition and employment would be affected would be to insure that qualified persons were awarded certificates of authority to operate a real estate school.

Anna-Kathryn Williams
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Commerce
Real Estate Commission**

Notice is hereby given that the Louisiana Real Estate Commission will consider amendments to the following rules

and regulations, of the commission:

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate**

Chapter 28. Disbursement of Escrow Deposits

§2801. Escrow Disputes

When a broker determines or has knowledge that a dispute exists as to the ownership or entitlement of funds held in escrow, as a result of a real estate transaction, it shall be the obligation of the broker to immediately notify in writing all of the parties involved of the dispute, and within 90 days of the determination or knowledge that such a dispute exists, it shall be the obligation of the broker holding the funds to do one of the following: . . .

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70808, and may be obtained by writing to Bert Coles Bernard, Information Representative, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70808. Interested parties may direct inquiries and present their views in writing to the commission.

Anna-Kathryn Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Escrow Disputes
Chapter 28, Section 2801**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no savings to the state by adoption of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on revenue collections from this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no economic benefit or cost to the licensees through adoption of this rule that can be estimated at this time. The benefit to the brokers and buyer and sellers involved in the dispute is that a longer time period to resolve the complaint could possibly result in a savings of court cost and legal fees on the part of those involved.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Adoption of this rule should not affect competition and employment.

Anna-Kathryn Williams
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Commerce Real Estate Commission

Notice is hereby given that the Louisiana Real Estate Commission will consider amendments to the following rules and regulations, of the commission:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate

Chapter 28. Disbursement of Escrow Deposits

§2801. Escrow Disputes

b. through a concursus proceeding, deposit the funds into the registry of any court of competent jurisdiction and proper venue.

§2803. Escrow Disbursement Order

e. may deposit the disputed funds into a concursus proceeding in any court of competent jurisdiction and proper venue, if determination of ownership or entitlement cannot be made.

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70808, and may be obtained by writing to Bert Coles Bernard, Information Representative, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70808. Interested parties may direct inquiries and present their views in writing to the commission.

Anna-Kathryn Williams
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Disbursement of Escrow Deposits Sections 2801 and 2803

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no cost or savings to the state by adoption of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections by adoption of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no way to estimate any cost or benefit to the industry. The benefits or cost savings to the brokers, buyers and sellers involved in the escrow dispute by adoption of this rule would be the savings of time and travel or long distance communication should the complaint result in court action in the court of competent jurisdiction and proper venue rather than all automatically in the 19th Judicial District Court.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this rule would not affect competition and employment.

Anna-Kathryn Williams
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Commerce Real Estate Commission

Notice is hereby given that the Louisiana Real Estate Commission will consider amendments to the following rules and regulations, of the commission:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate

Chapter 65. Real Estate Schools

§6525. School Advertising

G. No form of advertising by any real estate school shall refer, either directly, indirectly or by implication, to any other real estate school, instructor or employee without the written consent of the real estate school, instructor or employee mentioned in the advertisement.

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70808, and may be obtained by writing to Bert Coles Bernard, Information Representative, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70808. Interested parties may direct inquiries and present their views in writing to the commission.

Anna-Kathryn Williams
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: School Advertising Section 6525 G

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this rule will have no effect on costs or savings to the state or local government.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections by adoption of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Adoption of this rule will significantly restrict use of comparative advertising among real estate schools. While unfair or false advertising would presumably be reduced, this rule could also be used to prohibit advertising which presents one or more schools in an unfavorable comparative light, even though the comparison is based on factual information. The rule thus works to the benefit of schools which desire to prevent such unfavorable information from being made public. The dollar value of such a benefit cannot be quantified.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

By significantly reducing the ability of schools to provide factual comparative information on other schools, the ability of schools to compete through advertising will be diminished. The losses to consumers and real estate students re-

sulting from this reduction in competitive information cannot be estimated. There is no projected impact on employment as a result of adopting these rules.

Anna-Kathryn Williams
Executive Director

David W. Hood
Legislative Fiscal Analyst

There should be no effect on competition and employment. All certified real estate schools currently operate under a designated director.

Anna-Kathryn Williams
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Commerce
Real Estate Commission**

Notice is hereby given that the Louisiana Real Estate Commission will consider amendments to the following rules and regulations, of the commission:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate**

Chapter 65. Real Estate Schools

§6508. School Director

Each approved school shall designate an individual as director of the school who shall be in responsible charge of all its operations and the specific courses of education to be conducted.

Copies of the proposed rules will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70808, and may be obtained by writing to Bert Coles Bernard, Information Representative, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70808. Interested parties may direct inquiries and present their views in writing to the commission.

Anna-Kathryn Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: School Director**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no savings to the state or local government by passage of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on state or local revenues from this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no way to estimate costs. Each certified school must designate an individual as director of the school and that person shall be accountable for the activities of the school.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

NOTICE OF INTENT

Board of Elementary and Secondary Education

Early Retirement - Act 487 (1987)

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 adopted Act 487 (R.S. 42:697.7) of the Regular Session, 1987 relative to state and statewide retirement systems with respect to the reemployment of retirees, that is, any person who retires from employment with a department of state government, upon reemployment by the same department of state government shall be governed by the laws of the retirement system from which he retired. Any person who retires under any early retirement incentive plan shall not be reemployed for two years after the effective date of retirement.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., January 8, 1988 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Dr. James Meza, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Early Retirement - Act 487**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will incur no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The state Department of Education has no means of estimating the 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 state Department of Education has no means of estimating the costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The state Department of Education has no means of estimating the effect on competition and employment. The group that will be affected will be that group who have retired within the last two years.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Qualifications for the Appointed
State Superintendent of Education

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following qualifications for the appointed Louisiana State Superintendent of Education.

GENERAL

1. Advanced degree in public administration, education or related area;
2. Background in the formulation and implementation of public policy; and
3. Strong academic background.

EXPERIENCE

1. Proven record of success in administration;
2. Demonstrated ability to achieve positive results;
3. Credibility in his/her current profession;
4. Proven record of team building.

PROFESSIONAL SKILLS

1. Proven decision-making;
2. Proven leadership skills;
3. Ability to work effectively with the Legislature and executive branches of the government, education, business and civic organizations;
4. Outstanding interpersonal and communication skills.

SALARY

The board established a salary range of \$70,000 to \$80,000 exclusive of related benefits for the state Superintendent of Education.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., January 8, 1988 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Dr. James Meza, Jr.
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Qualifications for the Appointed Superintendent of Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will cost the state of Louisiana approximately \$21,874. The present salary of the state Superintendent of Education is \$60,169. Increasing the maximum salary of the appointed superintendent to \$80,000 will require an additional allocation of \$19,831 in the line item category of salaries and an additional \$2,043 in the line item category of related benefits for retirement system payments. This cost should not be incurred before July 1, 1988.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT (Summary)

There will be no effect on competition and employment.

Dr. James Meza, Jr.
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Education Proprietary School Commission

Add Title IX to the Advisory Commission on Proprietary Schools, Louisiana State Department of Education, Rules and Regulations, Bulletin 1443.

PSC-11

Appendix K

APPLICATION FOR ASSOCIATE IN OCCUPATIONAL STUDIES DEGREE (R. S. 17-3141.15 A-G)

STATE OF LOUISIANA
DEPARTMENT OF EDUCATION
PROPRIETARY SCHOOL COMMISSION
P.O. BOX 94064, BATON ROUGE, LOUISIANA 70804-9064

The State Board of Elementary and Secondary Education (BESE) shall approve or disapprove occupational degree proposals as submitted by eligible licensed postsecondary proprietary schools under its jurisdiction.

KNOW ALL MEN BY THESE PRESENTS:

That we, _____
Of the City of _____ State of _____
are:

- (1) licensed by the State Board of Elementary and Secondary Education
- (2) domiciled in the state of Louisiana
- (3) accredited by the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, or the Southern Association of Colleges and Schools

A. The State Board of Elementary and Secondary Education shall revoke the degree of granting status of any post-secondary proprietary school which loses its accreditation.

B. Eligible postsecondary proprietary schools shall award a nonacademic degree entitled "The Associate in Occupational Studies." No proprietary school shall award the Associate of Arts or Associate of Science. All advertising, recruiting, and publications shall state clearly that such occupational degree awarded by a post secondary proprietary school is nonacademic and does not imply, promise, or guarantee transferability.

C. Each student admitted to an occupational degree program in an accredited post secondary proprietary school shall be required to:

- 1) have a high school diploma or equivalent;
- 2) complete a minimum of two years, four semesters, or six quarters of course work for each occupation degree program.

D. Each "Associate in Occupational Studies" degree program shall have a minimum of 75 percent of its course of study

in a specific occupational area.

E. Each course of study shall have a minimum of 96 quarter hours if using quarter hours and a minimum of 1800 clock hours.

We have attached 25 copies of the following to our application:

1. An "Associate in Occupational Studies Degree" certificate for each course of study.

2. Of each "Course of Study" a schedule showing course numbers, course titles, clock hours (if used) for each subject, and total clock hours and credit hours (if used).

3. A synopsis of each subject must be provided indicating the number of credit hours (if used) and clock hours. The rule for converting clock hours to credit hours is as follows:

10 clock hours = 1 credit hour in lecture-type courses

20 clock hours = 1 credit hour in laboratory-type courses

30 clock hours = 1 credit hour in shop-type courses

Your Associate in Occupational Studies Degree course of study may exceed 96 quarters if you use quarter hours but it cannot be less. It may exceed 1800 clock hours but it cannot be less.

Your Associate in Occupational Studies Degree course of study must meet both provisions above if you use credit hours; however, if you do not use credit hours, you must have a minimum of 1800 clock hours.

Name of Institution _____

Signature of Owner or Authorized Official _____

Title: _____

Address: _____

Notary Public Signature and Seal

* Attach one original and 24 copies of this notarized statement, along with other copies and then mail it to the Louisiana Proprietary School Commission.

Inquiries and comments should be addressed in writing to Andrew H. Gasperecz, Executive Secretary, Louisiana Proprietary School Commission, State Department of Education, Box 94064, Baton Rouge, LA 70804-9064, through December 5, 1987.

The public hearing will be held at 10 a.m., February 3, 1988, in the conference room on the second floor of the State Department of Education Building, 626 North Fourth Street, Baton Rouge, LA.

Andrew H. Gasperecz
Executive Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Application for Associate in
Occupational Studies Degree**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation cost or savings to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no cost or economic benefits to directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Andrew H. Gasperecz
Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement and Administration of
Criminal Justice**

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice
Subpart 6. Grant Applications or Subgrants Utilizing
Federal, State, or Self-Generated Funds**

**Chapter 51. Appeals Procedure
§5101. Appeals Procedure**

A. When an application for funding is rejected by the commission, or when an approved subgrant is discontinued, the applicant or subgrantees may appeal the decision of the commission by filing a notice of appeal with the Louisiana Commission on Law Enforcement at the recognized business address (2121 Wooddale Boulevard, Room 610, Baton Rouge, LA 70806). The notice of appeal must be by certified mail and must be filed no later than 15 business days after receipt of the notice of denial by the applicant or subgrantee.

B. Upon receipt of the notice of appeal by the LCLE, the executive director will notify the commission that an appeal hearing will be held on the date of the next regularly scheduled commission meeting. The Priorities Committee will hear the appeal and make recommendations to the commission. The executive director shall designate the time and place of the meeting, and a copy of the notice shall be sent to the applicant or subgrantee.

C. On the date of the next regularly scheduled commission meeting, the Priorities Committee shall meet and hear evidence by the applicant or subgrantee relative to reasons the appeal should be granted. The applicant or subgrantee may present as many witnesses as may be necessary to support his appeal, except that the committee chairman may limit the number or time allotted to the witnesses where necessary. The secretary to the commission shall take minutes of the appeal hearing and the entire hearing shall be recorded. The committee may also request other evidence relating to the application or project.

D. At the conclusion of the hearing, the committee shall

present its findings and make recommendations to the commission.

E. A vote shall then be taken on the appeal.

F. In the event the appeal is denied, the applicant or subgrantee may, within 15 days of the date of denial, file with the Office of the Governor and the Louisiana Commission on Law Enforcement, a notice of appeal to the governor. The notice of appeal must be by certified mail.

G. Upon receipt of the notice of appeal to the governor, the Louisiana Commission on Law Enforcement shall have 15 days to provide the applicant or subgrantee and the governor with the minutes of the appeal hearing and a copy of the vote of the commission. The recorded tapes shall also be made available to the governor at his request.

H. The results of the appeal to the governor shall be communicated to the Louisiana Commission on Law Enforcement within 20 days.

I. Nothing herein shall preclude the resubmission of an application through the use of regular Louisiana Commission on Law Enforcement procedures.

Michael A. Ranatza
Executive Director

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no estimated costs and/or economic benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Michael A. Ranatza
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement and Administration
of Criminal Justice**

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice
Subpart 5. Crime Victim Assistance**

Chapter 49. Policies and Procedures

§4901. Eligibility for Funding

A. Priority will be given to programs serving victims of sexual assault, spousal abuse, and child abuse.

B. The state of Louisiana has chosen Option 1 under the Crime Victim Assistance (CVA) guidelines which will, "Allocate at least 10 percent of the total crime victims assistance funds granted to the state to each of the three priority categories."

C. CVA funds will be distributed on a formula basis to each of the state's eight districts. The other funds administered by the commission (Justice Assistance Act, State Grant-In-Aid, Juvenile Justice and Delinquency Prevention) all utilize this formula.

D. An eligible crime victim program must:

1. Be operated by a public agency or non-profit organization, or a combination thereof, that provides service to crime victims.

2. Promote within the community served coordinated public and private efforts to aid crime victims. Program must demonstrate (in its application) that it will coordinate its activities with other service providers in the community so that the best interests of the crime victim are served and interagency communication enhanced.

3. Assist victims in seeking available crime victim compensation benefits. An eligible program must demonstrate that it will coordinate its activities with the state compensation program.

4. Victims should be encouraged by subgrantees to cooperate with and contact local law enforcement agencies.

§4903. Application Requirements

A. All applications submitted for CVA funds shall be reviewed by the CVA Advisory Board and submitted to the full commission for approval or disapproval. Local level applications must have local council approval. Documentation of approval must accompany application to state office.

B. Application must include the original A-95 Review for Federal Assistance form. This form must have a State Clearinghouse "Identifier" Number assigned to it before it is submitted. Have original signature on all documents (no copies).

C. Include as a separate part of the budget narrative, your agency's current operating budget. Include the dollar amount for each source of funding. If your agency provides other non-victim services (sheriff's department, YWCA recreational programs, etc.), include only that part of the budget directly related to victim services.

D. Application must include a federal tax identification number (agency's). Place in Box 6 of application. No funds will be released until this number is submitted.

E. Match is required for crime victims assistance funds.

1. If the program is an existing program, has a record of providing effective services to victims of crime, and has financial support from other services, the enhancement or expansion of services will require a 25 percent match (includes in-kind contributions). The enhancement or expansion can request 75 percent of program costs from CVA funds. To determine amount of match, divide federal funds by three.

2. If a new program is applying for funds, one that has not yet demonstrated a record of effective services, the proposed program budget must provide a 50 percent hard cash match.

F. Application must include a statement in budget narrative if match is in-kind or cash. Specify source, amount, and method of derivation of match (EX. 25% of Director's salary - \$4,000; 10 percent rent - \$800, etc.) If volunteers are used as

match, limit the hourly rate to \$5. Have documentation on file listing name of volunteer, number of hours contributed, date of volunteer hours. In-kind match must not be incorporated into individual budget categories on page 2 of the application; cash match must be incorporated into the individual budget categories on page 2. In-kind match should be explained on a separate page.

G. Each program must utilize volunteers in some capacity.

H. Application must contain what duties and functions are performed by volunteers. Indicate number of volunteer hours per duty/function for 1986.

I. Include the total number of hours of training provided (1986) to volunteer and salaried victim assistance staff who deliver direct services to crime victims. Include only training whose function is to develop skills of direct service providers in working with crime victims.

J. Application must include the total number of hours of training presented by program staff to other disciplines, e.g. - police, mental health, social services. Include only training to people who provide direct service to victim, not public awareness/information training.

Include the total number of hours contributed by paid and volunteer staff (full time - unpaid staff to delivering direct services to crime victims).

K. Application must indicate how applicant has/will coordinate their activities with other criminal justice system/private service providers in the community. Letters of support indicating awareness of and cooperation with applicant agency and/or written cooperative agreements would satisfy this requirement.

L. Application must include a specific plan how agency has or will interface with the Louisiana Crime Victims Reparations Program. Keep data on number of referrals to program, amount received by each victim referred.

M. Personnel:

1. Salary rates to be comparable with salaries of similar jobs in region served by the project.

2. Supplanting not permitted. Grant funds are intended to enhance or expand services, not substitute for other sources of support.

3. Percentage of time which person(s) devote to project must be shown.

4. Job Description (in grant materials) to be provided for each funded position.

5. Qualifications - Education/work experience to be provided for each position.

a. Qualifications to meet those established for the particular position and/or comparable to existing positions in funded grants.

b. Qualifications to be at minimum level to perform duties described and in line with salary rate established.

6. Retroactive pay increases not approvable.

7. No dual compensation permitted.

8. Time/attendance records to be maintained on current basis.

N. Fringe Benefits:

1. Apply only to those salaries funded in grant.

2. Types:

a. Social Security (F.I.C.A.) - 1986 - 7.15%
1987 - 7.15%

b. Public Retirement

c. Health/Life Insurance

d. Workman's Compensation

e. Private Retirement Plan

3. Only one bona fide retirement plan is eligible.

4. Fringe benefits not to exceed 25 percent of the total salary.

5. In the absence of fringe benefits budgeted when grant personnel are shown, these benefits to be supported with local funds. Documentation to this effect must be included in the application.

O. Travel:

1. State Travel Regulations prevail in all grants (may be below, but not exceed state levels).

a. Lodging - \$40 plus tax
\$55 plus tax (New Orleans)

b. Meals - \$18 (\$4-\$5-\$9) - Time constraints determine eligibility.

c. Mileage - 21 cents per mile.

2. Travel is a reimbursable expenditure for actual travel, not a flat allowance.

3. Amount of funds budgeted for travel to be in line with project duration, scope of travel required, etc.

4. Travel expenditures restricted to persons in grant. (Training exempted)

5. Travel reimbursement for mileage not allowable in public vehicle where gas, operating expenses are provided by agency.

6. Oil, gas, operating costs, etc. are not travel expenditures -these are other direct costs.

7. Questions will be asked when travel is required in the project, but no travel funds are budgeted.

8. Travel funds budgeted need to be detailed - type of expense; where travel is to; out-of-state, etc. - not in a lump sum.

P. Equipment:

1. Distinguish between equipment and supplies; i.e. depreciable, life of at least three years.

2. Reimbursement for equipment to be evidenced by invoice (preferably) or purchase order - payment will not be processed unless these are submitted with request.

a. Purchase(s) must be made within grant period (invoice date must reflect this).

3. Competitive procurement must be utilized - special condition imposed on all grants.

4. Cost of equipment to be reviewed in terms of cost effectiveness.

5. Items of equipment to be reviewed in terms of project needs and justification.

6. Equipment to be listed by item and unit cost for each item.

7. The following equipment items cannot be purchased or leased with Crime Victims Assistance funds: Vehicles, police automobile radios, walkie talkies, computers, word processors, typewriters, copy machines, calculators.

8. Office furniture is limited to the following and is not to exceed \$700: Desk, chair(s), file cabinet

9. Telephone purchased with CVA funds shall be limited to standard models.

10. Audio visual equipment limited to \$1,000 per program.

11. All equipment must be tagged and proper inventory controls established.

12. No equipment may be disposed of (sold, destroyed, given away) without state office approval.

Q. Supplies:

1. Distinguish between supplies and equipment.
2. Uniforms are not eligible for funding.
3. Types of supplies:
 - a. Office supplies - paper, pencils, etc.
 - b. Training supplies - books, manuals, audio-visual aids, films (if life of less than 3 years), etc.
 - c. Other supplies as may be related to project.
 - d. Postage
4. Lump sum amounts for supplies not acceptable - major categories must be itemized by unit cost.
5. Supplies to be related to functions of project.
6. Supplies to be consumed generally during grant period.
7. Amount budgeted for supplies to be reviewed in relation to total funds budgeted; re: cost effectiveness.
8. Films, audio visuals, books, periodicals, bulletins - titles to be shown.
9. Office supplies limited to \$500 per program.
- R. Contractual Services:
 1. Consultants' rate - not to exceed \$150 for eight-hour day (\$18.75 per hour (M-7100-1985)).
 2. Competitive procurement for sole source when \$10,000 and over (must send to Washington, D.C. for approval).
 3. Contractual Agreement review by LCLE with approval prior to drawdown of funds - special condition on grants:
 - a. review of consultants' qualifications;
 - b. review of prior comparable types of work performed - agency names, etc., date;
 - c. rates paid for prior comparable work performed;
 - d. references.
 4. Contractual agreement to contain description of work to be performed.
- S. Other Direct Costs:
 1. Types:
 - a. Gas and oil for vehicles;
 - b. maintenance costs for equipment/vehicles;
 - c. insurance/surety bonds;
 - d. audit costs;
 - e. printing (All printed material must bear a prominent statement to the effect that it was printed with Crime Victims Assistance funds obtained through a grant from Louisiana Commission on Law Enforcement.);
 - f. meeting room rentals;
 - g. utilities;
 - h. rent.
 2. Telephone installation and expenses, including "hot line" is limited to \$1,000 per program. This does not include statewide hot line.

Hot lines cannot be information and referral - must be direct "crisis counseling" to victims.
 3. Service contracts and insurance coverage - review to insure that these cover only expenditures during grant period; i.e. three-year service contract to be paid from grant with duration of only 12 months not eligible.
 4. Rent charges - (M 7100-1985)
 - a. Not to exceed \$10 per square foot. (\$12.50 when maintenance and operation provided).
 - b. Rental space requirements not to exceed 150 square feet per employee.
- T. Indirect Costs:

Not allowable with CVA funds. Exceptions may be made on a case-by-case basis when indirect cost is used as cash or in-

kind match.

§4905. Application Requirements

A. Any training must meet the standards and curriculum requirements of the Peace Officer Standards and Training Council (POST).

B. Each applicant receiving \$25,000 and above must make provisions for an audit and comply with all federal audit requirements. Grant funds up to 15 percent may be used for the audit.

C. Each applicant must agree to the reporting requirements established by the commission.

D. Legal fees are not allowable.

E. Landlord/tenant relations programs are not allowable.

F. Funds to pay private security guards or private escort services are not allowable.

G. Renovation and construction costs are not allowable.

H. Funds may not be used to pay for radio or television ads.

I. Subgrantee must comply with all guidelines contained in the *Federal Register*, Vol. 50, No. 205, Oct. 23, 1985 and Vol. 52, No. 62, April 1, 1987.

J. Training is eligible for funding for those persons (salaried or volunteer staff) who provide direct services to crime victims. Funds may only be used for training programs that improve the skills of service providers in meeting the needs of crime victims. Management training and training aimed at persons who do not provide direct services are not eligible for support.

K. Expenses must be in accordance with Louisiana State Travel Regulations. Costs are permitted only for travel within the state and comparable geographic region.

L. Only individuals who provide direct services to victims are eligible to receive funds for training and will only be reimbursed for 50 percent of expenditures for training expenses. A clear audit trail for expenditures must be kept available for review by auditors.

M. In-service training - Payment of trainer will be reimbursed at 100 percent providing training is direct service training to staff or volunteers. A copy of the training curriculum must be provided with the application.

N. Travel and per diem for trainer shall be eligible for 100 percent reimbursement.

O. CVA funds may not be used solely to support a training activity or program. (No subgrants will be granted solely for the purpose of supporting a trainer or training activity.)

P. All requests for charges to subgrants related to travel, per diem, and conference fees must be submitted to LCLE and will be carefully reviewed before approval. Justification must be provided with training program description and brochures.

Q. All subgrantees with private, non-profit status are required to obtain a surety bond in the amount of the federal funds requested. Those private, non-profit subgrantees who have previously received at least one year CVA funding and who have demonstrated good performance, i.e., completing progress reports, fiscal reports, and performance report information, will not be required to obtain a surety bond.

Interested persons may submit written comments on these amendments to Michael A. Ranatza, Executive Director, Louisiana Commission on Law Enforcement and Administration

of Criminal Justice, 2121 Wooddale Boulevard, Baton Rouge, LA 70806; telephone (504) 925-4418.

Michael A. Ranatza
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Crime Victim Assistance
Program Guidelines**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no estimated effect on competition and employment.

Michael A. Ranatza
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Division of Administration
Office of State Planning**

Louisiana Community Development
Block Grant (LCDBG) Program
FY 1988 Final Statement

I. PROGRAM GOALS AND OBJECTIVES.

The LCDBG Program, as its primary objective, provides grants to units of general local government in nonentitlement areas for the development of viable communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this objective, not less than 51 percent of the aggregate of fund expenditures shall be for activities that benefit low and moderate income persons. (At this time there is proposed legislation which would increase the percentage to 75 percent; the actual percentage will be based upon the final disposition of that legislation.)

Each activity funded must meet one of the following two national objectives:

A. Principal benefit (at least 51 percent) to low-moderate income persons.

B. Elimination or prevention of slums and blight. In order to justify that the proposed activity meets this objective, the following must be met. An area must be delineated by the grantee which:

1. meets the definition of slums and blight as defined in Act 570 of the 1970 Parish Redevelopment Act, Section Q-8 (See Appendix 1); and

2. contains a substantial number of deteriorating or dilapidated buildings or improvements throughout the area delineated.

The grantee must describe in the application the area boundaries and the conditions of the area at the time of its designation and how the proposed activity will eliminate the conditions which qualify the area as slum/blight.

To accomplish these national objectives, the state has established the following goals:

A. strengthen community economic development through the creation of jobs, stimulation of private investment, and community revitalization, principally for low and moderate income persons.

B. benefit low and moderate income persons,

C. eliminate or aid in the prevention of slums or blight, or

D. provide for other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

II. GENERAL.

A. APPLICATION PROCESS

This statement sets forth the policies and procedures for the distribution of LCDBG funds. Grants will be awarded to eligible applicants for eligible activities based on a competitive selection process to the extent that funds are available. The State shall establish deadlines for submitting applications and notify all eligible applicants through a direct mailing. The applications submitted for FY 1988 funds for housing and public facilities will be rated and ranked and funded to the extent that monies are available. The ranking under the FY 1988 program will also be used to determine the grants selected for funding under the FY 1989 LCDBG Program. In other words, the top ranked applications to the extent that monies are available will be funded in FY 1988; the next highest ranked applications will be funded in FY 1989 to the extent that monies are available. Only one application for housing or public facilities can be submitted; that same application will be considered for funding in FY 1988 and FY 1989. No new applications for housing and public facilities will be accepted in FY 1989. Only new applications for economic development and demonstrated needs will be accepted for FY 1989.

B. ELIGIBLE APPLICANTS

Eligible applicants are units of general local government, that is, municipalities and parishes, excluding the following areas: Alexandria, Baton Rouge, Bossier City, Terrebonne Parish Consolidated Government, Jefferson Parish (including Grand Isle, Gretna, Harahan, Jean Lafitte, and Westwego), Kenner, Lafayette, Lake Charles, Monroe, New Orleans, Shreveport, Slidell and Thibodaux. Each eligible applicant may only submit an application on its own behalf. Two or more eligible applicants may submit a joint application for activities of mutual need of each eligible applicant. Joint projects shall necessitate a meeting with state staff prior to submitting the application to determine who would be the appropriate applicant. All local governing bodies involved must be eligible according to the threshold criteria.

C. ELIGIBLE ACTIVITIES

An activity may be assisted in whole or in part with LCDBG funds if the activity meets the provisions of Title 24 of the U. S. Code of Federal Regulations, Subpart C, as provided

in Appendix 2. For application purposes, eligible activities are grouped into the program areas of housing, public facilities, economic development or demonstrated need.

D. TYPES OF GRANTS

The state will only accept applications for single purpose grants. A single purpose grant provides funds for one need (water or sewer or housing, etc.) consisting of an activity which may be supported by auxiliary activities. Single purpose economic development grants are for one project, consisting of one or more activities.

E. DISTRIBUTION OF FUNDS

Approximately \$24,000,000 (subject to federal allocation) in funds will be available for the FY 1988 LCDBG Program. Figure 1 shows how the funds available will be allocated between the various program categories. Of the total CDBG funds allocated to the state, up to \$100,000 plus two percent will be used by the state to administer the program.

FIGURE 1

TOTAL FUNDS ALLOCATED TO LOUISIANA

Administration	
\$100,000 + 2%	
Demonstrated Needs Fund	
\$1,000,000	
Remaining LCDBG Funds	
Economic Development 25%	Housing and Public Facilities 75%
Housing _____ % *	Public Facilities _____ % *

* The percentage distribution among the housing and public facilities program categories will be based upon the number of applications received and amount requested in each category. Half of the funds will be distributed based on percentage of applications received in each category and half on the basis of amount of funds requested in each category. However, the dollar amount allocated for housing will be no more than ten percent of the total funds available for housing and public facilities. Three subcategories (water, sewer, and other) will be established under public facilities. The dollar amount for each of these subcategories will be distributed based upon the percentage of applications submitted and amount of funds requested in each subcategory.

In addition, \$1,000,000 will be set aside for the Demonstrated Needs Fund. Since creation and retention of permanent jobs is so critical to the economy of the state of Louisiana, 25 percent of the remaining LCDBG funds will be allocated specifically for economic development type projects. Only economic development applications will compete for these funds. Economic development applications and demonstrated needs proposals will be accepted on a continual basis within the time frame designated by the state. Public facilities and housing applications will be funded with the remaining LCDBG funds. There will be one funding cycle for housing and public facilities applications. This fund will be divided into two program categories as identified in Figure 1; the exact distribution of these funds will be based upon

the number of applications received and amount of funds requested in each program category as established under the FY 1988 LCDBG Program. Half of the money will be allocated based on the number of applications received in each category and half based on the amount of funds requested in each category with a maximum of 10 percent of the funds allocated to housing. The public facility category will be allocated in the same manner, by number and dollar amount of applications for sewer, water, and other type projects.

F. SIZE OF GRANTS

1. Ceilings. The state has established a funding ceiling of \$550,000 for single purpose housing grants and \$600,000 for single purpose public facilities grants with the exception of sewer grants which have a funding ceiling of \$750,000. The state has established a funding ceiling of \$500,000 for economic development projects.

Within the ceiling amounts, the state allows administrative costs not to exceed the following: housing rehabilitation - 11.7 percent of total housing costs, public facilities - 7 percent of public facilities project costs, and economic development - the greater of \$12,000 or maximum of 3 percent of the LCDBG funds requested for project costs. For demonstrated needs projects for which the total project cost is less than \$200,000, the state will make the final determination as to the appropriate allowable administrative cost.

Engineering fees are also allowed within the ceiling amounts. The amounts charged for engineering fees must be in compliance with those established by the American Society of Civil Engineers and/or Farmer's Home Administration.

2. Individual grant amounts. Grants will be provided in amounts commensurate with the applicant's program. In determining appropriate grant amounts for each application, the state shall consider an applicant's need, proposed activities, and ability to carry out the proposed program.

G. RESTRICTIONS ON APPLYING FOR GRANTS

1. Each eligible applicant may apply for one housing or public facilities grant; that application will be considered for funding under the FY 1988 and FY 1989 LCDBG Program years. Any eligible applicant may apply for an economic development project or demonstrated needs fund grant, even those applicants previously funded under the housing and public facilities components. The number of demonstrated needs grants which an eligible applicant may receive during each program year is limited to one.

2. Capacity and performance: threshold considerations for grant approval. No grant will be made to an applicant that lacks the capacity to undertake the proposed program. In addition, applicants which have previously participated in the Block Grant Program must have performed adequately. Performance and capacity determinations for FY 1988 will be made as of the deadline date for submittal of the application and may be the basis for rejecting an application for further consideration. Performance and capacity determinations for FY 1989 will be made as of the date the state receives its executed grant agreement from HUD. In determining whether an applicant has performed adequately, the state will examine the applicant's performance as follows.

In order to be eligible for a grant award in FY 1988, the following thresholds must have been met:

(a) Units of general local government will not be eligible to receive funding unless past LCDBG programs awarded by HUD have been closed out.

(b) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1982, FY 1983 (including Jobs Bill Programs), FY 1984, FY 1985, FY 1986, and FY 1987) awarded by the state have been at least conditionally closed-out.

(c) Audit and monitoring findings made by the state or HUD have been cleared.

(d) All required reports, documents, and/or requested data have been submitted within the timeframes established by the state.

In order to be eligible for a grant award in FY 1989, the following thresholds must have been met:

(a) Units of general local government will not be eligible to receive funding unless past LCDBG programs awarded by HUD have been closed out.

(b) Units of general local government will not be eligible to receive funding unless past LCDBG programs (FY 1982, FY 1983 (including Jobs Bill Programs), FY 1984, FY 1985, FY 1986, FY 1987 and FY 1988) awarded by the state have been conditionally closed-out.

(c) Audit and monitoring findings made by the state or HUD have been cleared.

(d) All required reports, documents, and/or requested data have been submitted within the timeframes established by the state.

All applications will be rated upon receipt. Any applications that are determined to be ineligible for FY 1988 funding will be re-evaluated for eligibility for FY 1989 funding. The state is not responsible for notifying applicants as to their performance status. No waivers to the thresholds will be given by the state except for economic development projects and for requests under the Demonstrated Needs Fund which addresses a critical need which is documented as having developed within six months prior to application submittal under the Demonstrated Needs Fund. All requests for waivers must be submitted in writing to the state prior to the submittal of the application. There shall be no waiver granted if funds are due to HUD or the state unless a satisfactory arrangement for repayment of the debt has been made and payments are current.

H. DEFINITIONS. For the purpose of the LCDBG Program or as used in the regulations, the term:

1. *Unit of general local government* means any municipal or parish government of the state of Louisiana.

2. *Low-moderate Income Persons* are defined as those having income within the Section 8 income limits as determined by the Department of Housing and Urban Development. (See Appendices 3 and 4.)

3. *Auxiliary Activity* means a minor activity which directly supports a major activity in one program area (housing, public facilities). Note: The state will make the final determination of the validity (soundness) of such auxiliary activities in line with the program intent and funding levels and delete if deemed appropriate.

4. *Slums and Blight* is defined as in Act 590 of the 1970 Parish Redevelopment Act, Section Q-8. (See Appendix 1.)

5. *Division* refers to the Division of Administration.

III. METHOD OF SELECTING GRANTEEES

The state has established selection and rating systems which identify the criteria used in selecting grantees.

A. DATA.

1. *Low-Moderate Income*. The low-moderate income limits are defined as being within the Section 8 income limits as established by HUD. In order to determine the benefit to low-

moderate income persons for a public facility project, the applicant must utilize either census data (if available) or conduct a local survey. A local survey must be conducted for housing activities and must involve 100 percent of the total houses within the target area. Local surveys which have been conducted within 12 months prior to the application submittal date will be accepted, provided the survey conforms to current program requirements.

(a) *Census Data*. If 1980 census data on income is available by enumeration district, then the state will calculate the applicant's low-moderate income percentage. If the applicant chooses to utilize census data, the low-moderate income levels as shown in Appendix 4 will be followed. However, the applicant must request this data prior to submittal of the application.

(b) *Local Survey*. If the applicant chooses to conduct a local survey, the survey sheet in the FY 1988 application package must be used. Local surveys must be conducted for all housing activities.

The annual income limits for low-moderate income persons (regardless of family size) when conducting a survey are shown in Appendix 3. If the applicant chooses to determine low-moderate income based on family size, the following sliding scale must be used:

# OF PERSONS IN HOUSEHOLD	% OF PARISH/MSA * MEDIAN INCOME
1	50
2	64
3	72
4	80
5	85
6	90
7	95
8 or more	100

*MSA = Metropolitan Statistical Area

When a local survey, rather than census data, is used to determine the low-moderate income benefit, a random sample which is representative of the population of the entire target area must be taken. There are several methodologies available to insure that the sample is random and representative. The methodology used must be stated in your application. If you have questions on the methodology to use, you should contact the state for assistance. The appropriate sample size varies with the total number of households in the target area, and is determined by using the following formula:

$$n = .9604 \times N - (.0025N + .9579)$$

Where n = required number of households in sample

Where N = total number of occupied households in target areas
If the situation arises where it must be determined as to whether or not the sample taken was indeed random, then standard statistical tests at the appropriate geographical level will be used.

B. PROGRAM OBJECTIVES

Each activity must address one of the two national objectives previously identified under Section I. Program Goals and Objectives.

C. RATING SYSTEMS

All applications submitted for housing, public facilities, and economic development will be rated according to the following criteria established for each program category. Each housing and public facilities activity will be rated/ranked against all similar activities in the appropriate program category/subcategory.

1. HOUSING (Total of 100 points)

All units which will be rehabilitated or replaced must be occupied by low/moderate income persons. Also, the number

of housing target areas may not exceed two. In delineating the target areas, it must be kept in mind that the boundaries must be coincident with visually recognized boundaries such as streets, streams, canals, etc.; property lines cannot be used unless they are also coincident with visually recognized boundaries.

(a) PROGRAM IMPACT (Maximum Possible Points - 25)

This will be determined by dividing the total number of owner occupied units to be rehabilitated and/or replaced plus vacant units to be demolished in the target area by the total number of owner-occupied substandard units in need of rehab and/or replacement plus vacant units in need of demolition in the target area.

$$\frac{\# \text{ of owner-occupied units to be rehabbed and replaced} + \# \text{ of vacant units to be demolished}}{\# \text{ of owner-occupied substandard units including those in need of demolition and replacement} + \text{vacant units in need of demolition inside the target area.}}$$

The raw scores will be ranked and the top ranked applicant(s) will receive 25 points. All other applicants will receive points based on how they score relative to that high score:

$$\text{Program Impact Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 25$$

No activity will be funded that meets less than 75 percent of the identified need. Rental units which are occupied by low-moderate income persons are eligible as long as the number of rental units to be treated does not exceed 10 percent of the total owner occupied units proposed for rehab; the rehab of rental units will not affect the impact score in any way. All units must be brought up to at least the Section 8 Existing Housing Quality Standards and HUD's Cost Effective Energy Conservation Standards.

(b) NEEDS ASSESSMENT (Maximum Possible Points- 25)

This will be determined by comparing the total number of owner-occupied and vacant units to be treated in the target area to the overall needs of the target area.

$$\frac{\# \text{ of owner-occupied and vacant units to be treated in target area}}{\# \text{ of units in need of treatment in target area}} = \text{Raw Score}$$

The raw scores will be arrayed and the top ranked applicant(s) will receive 25 points.

$$\text{Needs Assessment Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 25$$

(c) PROJECT FEASIBILITY (Maximum Possible Points- 50)

This will be rated based upon the project's cost effectiveness and overall needs of the area including housing as well as infrastructure.

2. PUBLIC FACILITIES (Total of 120 Points)

For the purpose of ranking public facilities projects, three separate subcategories will be established (sewer, water, and other)

(a) PROGRAM IMPACT (Maximum Possible Points - 50)
Maximum Impact - 50 points

The proposed project would completely remedy existing conditions that are in violation of a state or federal standard promulgated to protect public health and safety. The existing conditions and the standard being violated must be documented by cognizant state or federal agencies.

Moderate Impact - 25 points

The proposed project would result in substantial progress

being made towards improving existing conditions that are in violation of a state or federal standard promulgated to protect public health and safety. The existing conditions and the standard being violated must be documented by cognizant state or federal agencies.

Minimal Impact - 0 points

The project would improve a community's infrastructure but would not address a violation of state or federal standard promulgated to protect public health and safety or the conditions in violation of the standard inadequately documented.

(b) BENEFIT TO LOW-MODERATE INCOME PERSONS (Maximum Possible Points - 10)

Projects consisting of more than one activity which involve different numbers and percentages of beneficiaries for each activity must specifically identify the numbers and percentages for each activity.

Percent of Low-Moderate Income (Maximum Possible Points - 5)

The percentage of low-moderate income persons benefitting will be calculated by dividing the number of low-moderate income persons benefitting (as defined by the state) by the total persons benefitting. Points for percentage of low-mod benefitting will be assigned according to the following ranges:

- greater than 85% 5 points
- greater than 65 to less than 85% - 4 points
- greater than 51 to less than 65% - 3 points

Number of Low-Moderate Income (Maximum Possible Points - 5)

Points for the number of low-moderate income persons benefitting will be assigned according to the following ranges:

- greater than 500 - 5 points
- greater than 200 to less than 500 - 4 points
- less than 200 - 3 points

(c) COST EFFECTIVENESS (Maximum Possible Points - 10)

Cost estimates per person benefitting will be carefully evaluated. The cost per person benefitting will be calculated for all projects. All applicants for the same type project (water, sewer, and natural gasline or other) will be grouped, and each of these groups will then be grouped by whether the project is for a new system or for repair to an existing system. Once all of these separate groups are established, they will each be separated into categories based on the number of persons benefitted. An average cost per person benefitting will be determined for each of these categories. Each applicant in a given category will then be scored relative to that average cost per person figure determined for that given category. An average cost project will receive five points, a project with lower than average cost per person benefitted will receive more than five points (a maximum of 10), and a project with higher than average cost per person will receive fewer than five points. The following formula will be used to determine the cost effectiveness points for each applicant in each grouping:

$$\text{CE Points} = \frac{\text{Average Cost per Person Benefitted} \times 5}{\text{Applicant Cost per Person Benefitted}}$$

If the calculation yields more than 10, it will be revised downward to the 10 point maximum. This will allow all applications for new sewer systems, sewer system repairs, new water systems, water system repairs, etc., to be rated against similar type projects. It also allows those projects benefitting many people and those benefitting few people to be rated against other projects helping a similar number of persons.

(d) PROJECT SEVERITY (Maximum Possible Points - 50)

This will be rated based upon the severity of the problem and extent of the effect upon the health and welfare of the community. Priority will be given to water, sewer, and gas systems.

In assigning points for project severity, the following general criteria will be critiqued for type of project proposed.

Gas Systems - the percentage of unaccounted for gas, the amount and magnitude of leaks, the type of material used in the distribution system, and the number of customers served. Water Systems primarily for fire protection purposes - well capacity, reliability of supply, amount of water stored, extent of hydrant coverage or spacing, and water pressure and volume for fire fighting.

Water systems addressing potable water and sewer systems - the existence of conditions in violation of those provisions of the State Sanitary Code that most directly safeguard public health, and the adequacy of the proposed improvements to eliminate such conditions. The assessment will be based upon the problem as documented by DHHR records, the relative degree of risks to human health posed and the number of persons most directly affected.

Problems that are generally attributable to a lack of routine operation and maintenance will result in a less favorable evaluation. The proposed actions to eliminate verified problems will be evaluated in terms of the direct applicability of the solution; superfluous or inadequate solutions will result in a lowering of the overall rating.

3. ECONOMIC DEVELOPMENT (Total of 100 Points)

The economic development loan set aside is to be used to provide loans to businesses for job creation or retention projects. The LCDBG-ED funds go from the state to the local unit of government to the private developer. A three way agreement (contract) is signed by these three participants, and other parts of the application are reviewed by them, to ensure a complete understanding by the three parties of the planned development, the expected number of jobs to be created or retained, the sources and uses of all funds to be committed to the project, the payback arrangements for all funds borrowed, the security assigned to each loan granting institution or agency, the financial and other reporting requirements of the developer and the local unit of government to the state, and all other obligations of the developer, the local governmental unit and the state.

A minimum of 60 percent of the FY 1988 LCDBG-ED funds will be targeted to expansions of currently operating businesses and a maximum of 40 percent to start-up businesses. Depending on the number and quality of applications received in each category, these targeted percentages may be changed by the state. Should the state of Louisiana ever officially designate particular types of businesses/industries as its targeted businesses/industries for diversification, the LCDBG-ED program rules will reflect that needed initiative immediately.

An application for LCDBG-ED funds may be submitted at any time during the year, may not exceed \$500,000, may not request more than \$10,000 per job created or retained, and must be for a project which will create or retain a minimum of 10 jobs.

The term "developer" shall mean the corporate identity as well as the individual investors, stockholders, and owners of the applicant business. As an example of the effect of this definition, an LCDBG-ED loan to Company A cannot be used to purchase equipment, land, etc., from Company B, when both Company A and Company B are substantially owned by one or

more of the same individuals.

The state will recoup 100 percent of the payback of LCDBG-ED loans (program income to the state) unless the local governing body will utilize the payback for expansion of the originally funded development. These program income funds received by the state will be placed in an Economic Development Revolving Loan Fund which will be used for economic development projects under the guidelines currently in use upon their receipt by the state.

The interest rate charged on the LCDBG-ED loan depends on the financial and cash flow projections of the applicant business. The first rate to be considered will be the commercial bank rate.

If it is necessary in order to ensure a financially viable operation, the state may allow lower interest rates to be used in the analysis of the project and in the loan payback arrangements.

In some instances it may be necessary and appropriate for a local unit of government to receive a grant for infrastructure improvements needed by a specific developer before his proposed job creation project can be fully implemented. This economic development grant could be used by the local unit of government to provide sewer, water, and street/road access on public property to the industrial/business site. It cannot be used for general industrial park projects created with the hope that a business client will then be attracted. It must be tied to a specific developer creating a specific number of jobs for low to moderate income people. It must be a "but for" situation, where the business cannot locate or expand at that site unless the particular infrastructure is provided. The developer must show why this location, which lacks proper infrastructure, must be used instead of another site which already has proper infrastructure. The developer must provide sufficient financial and other statements, projections, etc., to establish that the business is likely to be successful, and will create the appropriate number of jobs at the site in a specified time frame.

Certain assurances by the developer, related to the timing of his development on the site, will be required. Other agreements between the local governing body and the developer/property holder, relative to public rights of way, availability of site to local governing body upon failure or change in operation by the developer, etc., will be required as needed on an individual project basis.

The maximum amount available to the local governing body for an infrastructure type project grant is \$5000 per job created or retained, with a \$250,000 limit on any single project. Any funds used as grant funds, in a situation where the grant is combined with a loan, decreases the amount available as a loan to the developer on a dollar for dollar basis. For example, if \$200,000 is used as grant funds, then only \$300,000 is available as loan funds to the developer. Since \$500,000 would be the total amount used on this project, at least 50 jobs should be created or saved, even though 40 jobs would have allowed the \$200,000 grant and 30 jobs would have allowed the \$300,000 loan.

The following five requirements must be met by all economic development applicants:

A. A firm financial commitment from the private sector will be required upon submission of the application. The private funds/public funds ratio must not be less than 1:1. Private funds must be in the form of a developer's cash or loan proceeds. Revenues from the sale of bonds may also be counted if the developer is liable under the terms of the bond issue. Previously

expended funds will not be counted as private funds for the purpose of this program, nor will private funds include any grants from federal, state or other governmental programs, nor any recaptured funds.

The value of land, buildings, equipment, etc., already owned by the developer, and which will be used in the new or expanded operation, will not be considered as private match. Personal endorsement from all principals of corporations, partnerships, or sole proprietorships shall be required on the LCDBG loan documents. The principals shall: 1) endorse the LCDBG loan to the corporation and 2) guarantee the payment and fulfillment of any obligation of the corporation. Normally, a principal is defined as owning five percent or more of the business.

B. If cost per job created or retained exceeds \$10,000 for the LCDBG monies, applications will not be considered for funding.

C. A minimum of 10 jobs created or retained is required for LCDBG-ED assistance.

D. A minimum of 51 percent of the employment will be made available to people who at the time of their employment are living in households whose total income is below the low to moderate income limit for the parish where the development occurs (See Appendix 3).

E. The application must include documentation showing that the project is feasible from the management, marketing, financial and economic standpoints. Management feasibility has to do with the past experience of the developer in managing the type project described in the application, or other similar managerial experience. Marketing feasibility deals with how well the market for the product has been documented at the application stage - the best case being that the developer has verifiable commitments substantiating the first year's sales projection. A typical market study includes a detailed analysis of competition, the expected geographical sales plan, and letters of intent to buy, specifying quantity and price. Economic feasibility relates to whether or not the developer has realistic projections of revenues and variable costs, such as labor and cost of materials, and whether they are consistent with industry value added comparisons. An assessment will be made of the industry sector performances for the type industry/business described in the project application. Financial feasibility has to do with the ability of the firm to meet all its financial obligations in the short and long run, determined by a cash flow analysis on the financial history and projections of the applicant business. In analyzing the financial feasibility of a project, the state may suggest alternatives in the timing of expenditures, the amount and proposed use of public and private funds, as well as other financial arrangements proposed in the application. To be funded, a project must score a minimum of 60 points. Applications will be scored in the areas of internal rate of return of the project, cost effectiveness, and leverage ratio.

The total points are delineated according to the following categories:

(a) INTERNAL RATE OF RETURN OF THE PROJECT (Maximum Possible Points - 35)

This will be calculated by dividing the discounted present value of the project cash flow over the term of the LCDBG loan by the grant amount less administration (the loan amount), and multiplying the ratio by 35. If the ratio is greater than 1, the maximum 35 points will be allowed.

$$\text{Internal Rate of Return Points} = \frac{\text{Discounted PV of Project Cash Flow}}{\text{Grant Amount Minus Administration}} \times 35$$

For start-up projects, the state retains the right to use industry standard data or other verifiable sources.

(b) COST EFFECTIVENESS (Maximum Possible Points - 30)

This will be calculated by dividing the \$10,000 maximum by the LCDBG funds cost per job and multiplying this number by the ratio of the industry multiplier to 2.8.

$$\text{Cost Effectiveness Points} = \frac{\$10,000}{\text{LCDBG cost/job}} \times \frac{\text{Industry Multiplier}}{2.8} \times 12$$

(c) LEVERAGE RATIO (Maximum Possible Points - 35)

The maximum points will be awarded by dividing the actual project leverage ratio by the corresponding leverage scale ratio as shown below:

$$\text{Leverage Points} = \frac{\text{Actual Project Leverage Ratio}}{\text{Target Private/LCDBG Funds Ratio}} \times 35$$

\$ Amount of LCDBG Funds Requested	Target Private/LCDBG Funds Ratio
0- 99,999	1.00
100,000-249,999	1.50
250,000-500,000	2.00

D. DEMONSTRATED NEEDS FUND.

A \$1 million reserve fund will be established to alleviate critical community needs. Monies that are recaptured upon closeout of previously awarded housing and public facilities grants will be transferred to the Demonstrated Needs Fund for subsequent year funding. Monies that are recaptured from previously awarded economic development projects will initially be transferred to the current economic development program category. All monies remaining in the housing, public facilities, and economic development program categories at the end of the FY 1988 program year will then be transferred to the Demonstrated Needs Fund.

A proposal cannot be submitted for consideration under this fund if the same application is currently under consideration for funding under any other LCDBG program category.

(a) Criteria for Determining Eligibility

Each proposed activity must address one of the national objectives and must address a critical need which is verified by an appropriate authority (cognizant state or federal agency) other than the applicant.

Proposed activities must be eligible under Section 105(a) of the Housing and Community Development Act of 1974, as amended (see Appendix 2).

(b) Proposal Requirements

Communities must request funds by submitting a written proposal to the division. If funded, a full application as described in Section E. must be submitted.

The proposal must include:

- (1) A detailed description of the proposed project;
- (2) Documentation to support that a national objective will be met;
- (3) An explanation as to how the proposed project and its funding will remedy the documented need;
- (4) A detailed cost estimate signed by a licensed architect or engineer for the monies requested;
- (5) Documentation that the citizen participation requirements of Section E.(10) have been met;
- (6) A map which meets the requirements identified in Section E.(3).

E. SUBMISSION REQUIREMENTS.

Applications shall be submitted to the division on forms provided by the division and shall consist of the following:

(1) Community Development Plan. A description of the applicant's community development and housing needs, including those of low and moderate income persons; and a brief description of the applicant's community development and housing needs to be served by the proposed activity.

(2) Program Narrative Statement. This shall consist of:

i. Identification of the national objective(s) that the activity will address.

ii. A detailed description of each activity to be carried out with LCDBG assistance. The description of each activity must clearly identify the target area or areas by street names, highway names or numbers for each street within the target area or for boundaries within the target area. The written description must clearly and exactly conform to the designated area or areas on the map(s). A detailed cost estimate is also required for each activity. If the proposed activity is dependent on other funds for completion, the source of funds and the status of the commitment must also be indicated.

iii. A statement describing the impact the activity will have on the problem area selected and on the needs of low and moderate income persons, including information necessary for considering the program impact.

iv. A statement on the percent of funds requested that will benefit low and moderate income persons. The statement should indicate the total number of persons to be served and the number of such persons that meet the definition of low and moderate income.

(3) Maps. A map of the local jurisdiction which identifies by project area:

i. census tracts and/or enumeration districts by number;

ii. location of concentrations of minorities, showing number and percent by census tracts and/or enumeration districts;

iii. location of concentrations of low and moderate income persons, showing number and percent by census tracts and/or enumeration districts;

iv. boundaries of areas in which the activities will be concentrated;

v. specific location of each activity.

(4) Program Schedule. Each applicant shall submit, in a format prescribed by the state, a listing of dates for major milestones for each activity to be funded.

(5) Title VI Compliance. All applicants shall submit, in a form prescribed by the state, evidence of compliance with Title VI of the Civil Rights Act of 1964. This enables the state to determine whether the benefits will be provided on a nondiscriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(6) Certification of Assurances. The certification of assurances required by the state, relative to federal and state statutory requirements, shall be submitted by all applicants; this certification includes, but is not limited to, Title VI, Title VIII, and affirmatively furthering fair housing. In addition, each recipient should target at least 15 percent of all grant monies for minority enterprises. All assurances must be strictly adhered to; otherwise, the grant award will be subject to penalty.

(7) Certification to Minimize Displacement. The applicant must certify that it will minimize displacement as a result of activities assisted with LCDBG funds. In addition to minimizing displacement, the applicant must certify that when displacement occurs reasonable benefits will be provided to persons involuntarily and permanently displaced as a result of the LCDBG assistance to acquire or substantially rehabilitate property. This provision applies to all displacement with respect to residential

and nonresidential property not governed by the Uniform Relocation Act.

(8) Certification to Promote Fair Housing Opportunities. Applicants are required to certify that they will make every effort to further fair housing opportunities in their respective jurisdictions.

(9) Certification Prohibiting Special Assessments. The applicant must submit a certification prohibiting the recovery of capital costs for public improvements financed, in whole or in part, with LCDBG funds through assessments against properties owned and occupied by low and moderate income persons. The prohibition applies also to any fees charged or assessed as a condition of obtaining access to the public improvements.

(10) Certification of Citizen Participation. Applicants shall provide adequate information to citizens about the Community Development Block Grant Program. Applicants shall provide citizens with an adequate opportunity to participate in the planning and assessment of the application for Community Development Block Grant Program funds. One public hearing must be held prior to application submittal in order to obtain the citizen's views on community development and housing needs. A notice must be published informing the populace of the public hearing. Citizens must be provided with the following information at the hearing:

i. The amount of funds available for proposed community development and housing activities;

ii. The range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income;

iii. The plans of the applicant for minimizing displacement of persons as a result of activities assisted with such funds and the benefits to be provided to persons actually displaced as a result of such activities.

iv. If applicable, the applicant must provide citizens with information regarding the applicant's performance on prior LCDBG programs funded by the state.

A second notice must be published after the public hearing has been held but before the application is submitted. The second notice must inform citizens of the proposed objectives, proposed activities, the location of the proposed activities and the amounts to be used for each activity. Citizens must be given the opportunity to submit comments on the proposed application. The notice must further provide the location at which and hours when the application is available for review. The notice must state the submittal date of the application. Applicants must submit notarized proofs of publication of each public notice.

(11) Local Survey Data. Those applicants who conduct a local survey to determine specific data required for the application must include one copy of all completed survey forms.

(12) Submission of Additional Data. Only that data received by the deadline established for applications will be considered in the selection process unless additional data is specifically requested, in writing, by the state. Material received after the deadline will not be considered as part of the application, unless requested by the state.

F. APPLICATION REVIEW PROCEDURE

(1) The application must be mailed or delivered prior to any deadline dates established by the division. The applicant must obtain a "Certificate of Mailing" from the Post Office, certifying the date mailed. The division may require the applicant to submit this Certificate of Mailing to document compliance with the deadline, if necessary.

(2) The application submission requirements must be

complete.

(3) The funds requested must not exceed the ceiling amounts established by the division.

(4) Review and notification. Following the review of all applications, the division will promptly notify the applicant of the actions taken with regard to its application.

(5) Criteria for conditional approval. The division may make a conditional approval, in which case the grant will be approved, but the obligation and utilization of funds is restricted. The reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a termination of the grant. Conditional approval may be made:

- i. where local environmental reviews have not yet been completed;
- ii. where the requirements regarding the provision of flood or drainage facilities have not yet been satisfied;
- iii. to ensure the project can be completed within estimated costs;
- iv. to ensure that actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time.

(6) Criteria for disapproval of an application. The division may disapprove an application if:

i. Based on field review of the applicant's proposal or other information received, it is shown that the information was incorrect, the division will exercise administrative discretion in this area.

ii. The Division of Administration determines that the applicant's description of needs and objectives is plainly inconsistent with facts and data generally available. The data to be considered must be published and accessible to both the applicant and state such as census data, or recent local, areawide, or state comprehensive planning data.

iii. Other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time.

iv. The activities cannot be completed within the estimated costs or resources available to the applicant.

v. Any of the items identified under E. SUBMISSION REQUIREMENTS are not included in the application.

G. PROGRAM AMENDMENTS FOR LCDBG PROGRAM

The division may consider amendments if they are necessitated by actions beyond the control of the applicant. Recipients shall request prior division approval for all program amendments involving new activities or alteration of existing activities that will change the scope, location, or objectives of the approved activities or beneficiaries.

A. New or altered activities are considered in accordance with the criteria for selection applicable at the time the original application was reviewed and the policy, current at that time, regarding amendments.

B. All amended activities must receive environmental clearance prior to construction.

C. The state will ascertain as to whether or not the proposed activity is an integral part of the originally approved project and is necessary to complete the project as originally approved. The state will also review the site location of the proposed activity in relation to the originally approved target area. As a general rule, activities which are not an integral part of the originally approved project and which are not located within the boundaries of the originally approved target area will not be ap-

proved.

IV. STATE'S PAST USE OF FUNDS

Federal regulations require the state to provide a description of the past use of funds within the Final Statement. The description includes FY 1982, FY 1983, FY 1984, FY 1985, FY 1986, and FY 1987 state-awarded grants. Appendix 5 provides:

A. a description of the use of funds under each previous allocation;

B. an assessment of the relationship of the use of funds to the community development objectives identified by the state in each prior Final Statement; and

C. an assessment of the relationship of the use of funds to the requirements of Section 104 (b) (3) of the Act, as they existed at the time of the certification.

V. ADMINISTRATION

Rule for Policy Determination. In administering the program, while the division is cognizant of the intent of the program, certain unforeseeable circumstances may arise which may require the exercise of administrative discretion. The division reserves the right to exercise this discretion in either interpreting or establishing new policies.

VI. REDISTRIBUTION OF FUNDS

Any monies awarded by the state that are later recaptured by or returned to the state will be reallocated in accordance with the division's policy, then in effect. The sources of these funds may include, but not be limited to, program income, questioned costs, disallowed expenses, recaptured funds from loans, unallocated monies, previously awarded funds not spent by grant recipients, etc.

With the following exceptions, the monies as defined above will be placed in the Demonstrated Needs Fund and will be distributed in accordance with the regulations governing that fund. This policy will govern all such monies as defined herein from the FY 1982, FY 1983, FY 1984, FY 1985, FY 1986, FY 1987 and FY 1988 LCDBG Program years as well as subsequent funding cycles, until later amended. One exception to this rule is that funds recaptured from economic development loans which were not spent by the grant recipients will initially be transferred to the current economic development program category. Those monies remaining in the economic development program category, as well as monies remaining in the housing and public facilities categories, at the end of the FY 1988 program year will be transferred to the Demonstrated Needs Fund. Another exception is that all funds recaptured by the state from the payback of economic development loans will be placed in an economic development revolving loan fund which will be used for economic development projects under the guidelines then in effect.

These regulations are to be effective on January 20, 1988, and are to remain in force until they are amended or rescinded. Anyone having comments should submit them in writing by December 15, 1987, to: J. W. Vaughn, Assistant Commissioner, Division of Administration, Box 94095, Baton Rouge, LA 70804-9095. A public hearing will also be held to receive comments. The hearing will be held in the Committee Room on the third floor of the Capitol Annex on December 7, 1987, at 2 p.m.

Stephanie L. Alexander
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LCDBG Program - FY 1988
Final Statement**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state's cost of administering the LCDBG Program neither increases nor decreases. Approximately \$580,000 in federal funds will be provided to administer the Program; a state match of \$480,000 is required which will be allocated in the division's budget. To ensure that the local units of government do not have to expend local funds to administer these grants, administrative funds are provided in the grant to cover the cost of program implementation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state anticipates receiving approximately \$24,000,000 of which \$23,420,000 will be used to benefit local governmental units in the areas of housing, public facilities, and economic development. The distribution of these funds will increase the amount previously available for economic development and public facilities and decrease the amount previously available for housing.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The LCDBG Program basically benefits persons of low/moderate income throughout the state. Although fewer persons will receive housing assistance, more persons will receive the benefit of infrastructure improvements and more jobs will be made available through economic development projects.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All construction projects are subject to state and federal bid laws. All professional contracts must be awarded in accordance with OMB Circular A - 102.

The allocation of less funds to housing will result in fewer contracts to small contractors whereas the allocation of more funds to public facilities will increase the amount of heavy construction contracts.

Sally Clausen
Deputy Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Board of Examiners for Nursing Home Administrators**

The Louisiana State Board of Examiners for Nursing Home Administrators intends to adopt changes in Chapter 5, §509. C of Title 46 as follows to amend an existing requirement:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Nursing Home Administrators**

Chapter 5. Examinations

§509. Subjects for Examination and Continuing Education (Amend)

C. The board may periodically conduct courses on nursing home administration, especially designed for licensure applicants, when the demand is sufficient to defray expenses. Applicants who desire this course will pay up to \$15 per hour of instruction.

Interested persons may submit written comments on the proposed changes until 3:30 p.m., January 4, 1988, at the following address, Winborn E. Davis, Executive Director, Louisiana State Board of Examiners for Nursing Home Administrators, Suite 205, 4550 North Boulevard, Baton Rouge, LA 70806.

Winborn E. Davis
Executive Director

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

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional costs to the state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board estimates it will collect an additional \$7,500 of revenue. There will be no effect on other state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There would be an additional cost of \$75 to each applicant for licensing who decided to take the seminar. Taking the seminar is voluntary.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There would be no effect on competition and employment.

Winborn E. Davis
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Board of Medical Examiners**

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270B(1) and (6), intends to amend its existing rule governing the criteria and procedure for reinstatement of licensure by physicians and surgeons. Louisiana Administrative Code §46:XLV.1181. The proposed rule, as amended, is set forth hereinafter. Inquiries concerning the proposed rule amendment may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions**

§1181. Reinstatement of License

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Reinstatement of License
(Physicians & Surgeons)**

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided, provided that application for reinstatement is made within four years of the date of expiration.

B. With respect to an application for reinstatement made more than one year from the date on which the license expired, as a condition of reinstatement, the board may require:

1. that the applicant complete a statistical affidavit, upon a form supplied by the board, and provide the board with a recent photograph;
2. that the applicant possess a current, unrestricted license issued by another state; and/or
3. if the applicant does not at the time of the application for reinstatement possess a current, unrestricted license issued by another state, that the applicant take and successfully pass all or a designated portion of the FLEX, or its successor examination.

C. An applicant whose medical license has been revoked, suspended or placed on probation by the licensing authority of another state or who has voluntarily or involuntarily surrendered his medical license in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges, following the date on which his Louisiana medical license expired, shall be deemed ineligible for reinstatement of licensure.

D. An application for reinstatement of licensure meeting the requirements and conditions of this Section may nonetheless be denied for any of the causes for which an application for original licensure may be refused by the board as specified in R.S. 37:1285.

E. An applicant ineligible for reinstatement of licensure under the Section may apply to the board for an initial original or reciprocal licensure pursuant to the applicable rules of this Chapter.

F. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable physicians of the former licensee's last professional location, together with the applicable renewal fee and examination fees, if any, plus a penalty computed as follows:

1. If the application for reinstatement is made more than one year but less than two years from the date of license expiration, the penalty shall be equal to the renewal fee.
2. If the application for reinstatement is made more than two years but less than three years from the date of license expiration, the penalty shall be equal to twice the renewal fee.
4. If the application for reinstatement is made more than three years from the date of license expiration, the penalty shall be equal to three times the renewal fee.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, Louisiana, 70112-1499. Written comments must be submitted and received by December 20, 1987. A request pursuant to R.S. 49:953A(2) for oral presentation, argument or public hearing must be made in writing on or before December 6, 1987.

Delmar Rorison
Executive Director

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that implementation of the proposed rule amendment will result in any additional costs to the Board of Medical Examiners.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that implementation of the proposed rule amendment will have a material or significant effect on the board's revenue collections. Penalty fees applicable to reinstatement of licensure will be reduced by the amendment, but the effect of such reduction—which is difficult to estimate with any reasonable accuracy—will be offset by additional fee revenues attributable to the requirement of original application following a licensure lapse of four years.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Individual physicians whose Louisiana medical licenses have lapsed by virtue of nonrenewal and who apply to the board for reinstatement within four years of such lapse will realize an economic benefit from the proposed rule amendment, as the range of applicable reinstatement penalties will be reduced from \$300 to \$600 (under the existing rule) to \$100 to \$400 under the amended rule. Conversely, however, individual physicians who apply to the board for reinstatement beyond four years from the date of lapse will be required to pay the higher fees applicable to application for original licensure, including, in some cases, fees for examination.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that the proposed rules amendments will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Board of Medical Examiners**

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270B(1) and (6) and R.S. 37:3351-61, intends to amend and supplement its rules governing the qualifications for licensure of respiratory therapists and respiratory therapy technicians, to provide a limitation on the number of times an applicant may fail and retake registration, certification and licensing examinations before being deemed ineligible for licensure in Louisiana. The proposed amendments and new rules are set forth hereinafter. Inquiries concerning the proposed rules amendment may be

directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLV. Medical Professions

§2507. Requirements for Licensure of Respiratory Therapist

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

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

§2509. Requirements for Licensure of Respiratory Therapy Technician

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

4. possess at least one of the following credentials:

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

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

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

§2536. Restriction, Limitation on Examination

With respect to any written examination the successful passage of which is a condition to any license or permit issued under this Chapter, an applicant having failed to obtain a passing score upon taking any such examination four or more times shall not thereafter be considered eligible for licensing.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA, 70112-1499. Written comments must be submitted and received by December 20, 1987. A request pursuant to R.S. 49:953A(2) for oral presentation, argument or public hearing must be made in writing on or before December 6, 1987.

Delmar Rorison
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Licensure of Respiratory Therapists and Respiratory Therapy Technicians

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that implementation of the proposed rules amendments will result in any additional costs to the Board of Medical Examiners.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that implementation of the proposed rules amendments will have a material or significant effect on the board's revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed rules amendments will have any effect on the revenue of any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules amendments will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt the following rule in the Medical Assistance Program.

Currently, the guidelines for Title XIX transportation providers require that the initial vehicle operated by a transportation provider be a van with windows and wheelchair capability. Also every fifth vehicle (20 percent) shall be a van with windows and wheelchair capability. A review of this situation indicates that this rule should apply in every base (service area) in which the provider operates. This will assure comprehensiveness of transportation services to Title XIX recipients in all areas of the state.

Effective January 20, 1988, transportation providers who operate from multiple bases (service areas) shall assure that a van type vehicle with windows and wheelchair capability is available at each base (service area). Currently certified Title XIX transportation providers shall meet these requirements by the next annual recertification, February 28, 1988, to continue participation in the Title XIX program. This requirement shall not apply to the individual class of transportation providers who provide transportation to one other individual.

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule. A copy of this proposed rule and its fiscal and economic

impact statement is available for review in each local Office of Family Security.

A public hearing on this proposed rule will be held on December 9, 1987 in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

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

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

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Transportation Guidelines for Vehicles

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact resulting from this proposed rule. There will be no effect on the rates paid providers which are established by negotiation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact resulting from this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed rule will increase the quality of transportation services provided to recipients under Title XIX. Providers who operate in multiple service areas will be required to maintain a van type vehicle with wheelchair capability at each base. The financial impact of this rule on individual providers cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule may result in fewer individuals applying to become medical transportation providers because of the initial cost of obtaining vehicles which meet program requirements. Current providers may provide services in fewer service areas because of the cost of modifying vehicles to remain in compliance with program requirements.

Marjorie T. Stewart
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Preventive and Public Health Services

The Department of Health and Human Resources (DHHR), Office of Preventive and Public Health Services (OPPHS) intends to adopt as a rule the following policies and procedures in the operation of the Handicapped Children's Service Program (HCSP) in accordance with the Administrative Procedure Act R.S. 46:950-970.

These policies and procedures relate to the establishment

of a fee system for charging parents or legal guardians a percentage of the cost of all services provided by the HCSP.

Presently, children found to be financially and diagnostically eligible for the HCSP receive all services free of charge, unless they have a third party payor, such as Medicaid or private insurance.

This rule establishes a formula to be used by HCSP staff to determine the eligible parent's or legal guardian's capability to pay a percentage of the costs of the services the child receives.

The purpose of this rule is to establish a fee collection system in the HCSP so that parents or guardians, who are able, will pay a portion of the costs of the medical rehabilitation services rendered to their handicapped child. This rule clarifies the procedures by which the HCSP staff will determine financial eligibility and set the family's rate of payment. It also outlines the accounts receivable system necessary to implement the system and related other fiscal opportunities derived from such a system.

DEFINITIONS

FAMILY-A family is a group of two or more persons residing together who are related through birth, marriage, or adoption or through a "common law marriage" or concubinage; all such related persons are considered as members of one family.

FAMILY INCOME-Refers to total annual cash receipts before taxes from all sources. (Income data for a part of a year may be annualized in order to determine eligibility—for instance, by multiplying by four the amount of income received during the most recent three months). Income includes money, wages and salaries before any deductions, but does not include food or rent received in lieu of wages. Income also includes regular payments from social security, railroad retirement, unemployment compensation, strike benefits from union funds, veterans' benefits, public assistance (including Aid to Families with Dependent Children, and Supplemental Security Income), training stipends, alimony, child support, and military family allotments or other regular support, from an absent family member or someone not living in the household; private pensions, government employee pensions, and regular insurance or annuity payments; and income from dividends, interest, rents, royalties, or periodic receipts from estates or trusts.

Income includes tax refunds, lump sum inheritance, one time insurance payments, or compensation for injury.

Excluded are noncash benefits, such as employer or union paid health insurance or other fringe benefits, food or rent received in lieu of wages, the value of food produced and consumed on farms.

FAMILY SIZE-For the purpose of this financial determination a family's size shall be defined as the number of persons living together, under one roof, who are dependent upon a mutual income. A person with an individual income living within the household should be included only if some portion of that income is utilized to meet the needs of the defined household. Foster parents are not to be counted as family members. If a child is in a foster placement and is in the custody of the Department of Health and Human Resources, he shall be considered a family of one.

HCS MEDICAL CATEGORY NUMBER-is a value of 1, 5 or 10 used in the financial determination formula to reflect the relative weight of the costliness of the medical condition of the child. This value enables the family with the highest medical costs or larger family to be allowed a lower percentage rate of payment.

All parents or guardians of children now being served by the HCSP and all those newly eligible in the future will be interviewed to ascertain their ability to pay a portion of the costs of the HCSP services their child will receive.

Those found to have Medicaid eligibility in force shall not be required to make additional co-payments.

All other families shall have a further financial eligibility determination according to a formula for identifying the percentage of the cost of care the family is expected to pay. The formula uses the size of the family and numerical values for family income (Table I) and cost of treatment (Table II) to calculate a number which identifies the percentage (Table III) as follows: Family income minus family size plus expense of treatment = number on which percentage is based.

If the number equals 10 or above, the percentage of charges owed is calculated in increments as shown in Table III.

Example: The formula for a family of six with an income of \$15,000 and a child with a very costly handicapping condition would be:

$15 - 6 + 1 = 10$ and $10 = 1\%$ of charges (see Table III)

The following tables shall be used to determine the numerical values to be used in the formula.

FAMILY INCOME-FORMULA NO. DETERMINATION
TABLE I

FAMILY INCOME	=	FORMULA NO.
1,000 - 1,999	=	1
2,000 - 2,999	=	2
3,000 - 3,999	=	3
4,000 - 4,999	=	4
5,000 - 5,999	=	5
6,000 - 6,999	=	6
7,000 - 7,999	=	7
8,000 - 8,999	=	8
9,000 - 9,999	=	9
10,000 - 10,999	=	10
11,000 - 11,999	=	11
12,000 - 12,999	=	12
13,000 - 13,999	=	13
14,000 - 14,999	=	14
15,000 - 15,999	=	15
16,000 - 16,999	=	16
17,000 - 17,999	=	17
ETC.	=	ETC.

TABLE II
HCSP MEDICAL CATEGORY NUMERICAL DETERMINATION

HCSP MEDICAL CATEGORY	PHASE OF TREATMENT	NUMBER 1 = High cost 5 = Moderate cost 10 = Least costly
AUDIOLOGY	Diagnosis Testing	5
	Aud. Appliances and mold	5
	Follow up visits	5
AMPUTEE	New/change prosthesis	1
	Therapies only(outpatient)	5
	M.D. recheck	10
ARTHRITIS	Active treatments	1
	Inactive - Remission	10
CARDIOLOGY	Surgery	1
	Diagnostic tests(outpatient)	5
	Follow up visits	10
CEREBRAL PALSY	Active treatments	1
	Minor ortho devices	5
	Follow up only	10
CLEFT PALATE & LIP	Surgery	1
	Orthodontic treatment	1
	Follow-up only	10
CLEFT LIP ONLY	Surgery	1
	Recheck	10
CONGENITAL ANOMALIES	Surgery	1
	Diagnostic evaluations(otpt.)	5
	Follow up visits	10

TABLE II
HCSP MEDICAL CATEGORY NUMERICAL DETERMINATION

HCSP MEDICAL CATEGORY	PHASE OF TREATMENT	NUMBER 1=High cost 5=Moderate cost 10=Least costly
CYSTIC FIBROSIS	Treatments	1
LEARNING DISABILITIES	Follow Along	10
NEUROLOGY	Hospitalizations Diagnostic)	1
	or) Drugs only)	5
	Follow-up visits	10
NEUROSURGERY	Surgery	1
	Follow-up visits	10
OPHTHALMOLOGY	Surgery	1
	Glasses/treatment	5
	Follow-up visits	10
ORTHOPEDIC	Hospitalization	1
	Diagnostic Evaluation Studies(otpt.)	5
	Follow-up	10
OTOLOGY	Surgery	1
	Drugs	5
	Follow-up only	10
PLASTIC SURGERY	Surgery	1
	Evaluation Studies (outpatient)	5
	Follow-up	10
SCOLIOSIS	Surgery, Bracing	1
	Diagnostic & evaluation studies (X-ray, etc.) (outpatient)	5
	Follow-up	10
SPINA BIFIDA	Active Treatments	1
	Follow-up	10
SPINAL CORD INJURY	Active Treatment	1
	Follow-up	10
UROLOGY, NEPHROLOGY	Hospitalization	1
	Outpatient Active Treatments	5
	Follow-up	10

If a child has multiple conditions in mixed levels of activity the lesser value shall be chosen.

If 2 handicapped children of one family have varying levels of severity the lower of those values shall be chosen.

TABLE III
PARENT OR GUARDIAN'S FINANCIAL RESPONSIBILITY
FOR COST OF SERVICES RENDERED

<u>DECISION NO.</u>	<u>% OF TOTAL CHARGES OWED</u>
0 - 9	free
10	1
11	2
1% increments	3
12	4
13	5
14	6
15	7
16	7
<hr/>	
17	9
18	11
2% increments	13
19	15
20	17
21	19
22	21
23	21
<hr/>	
24	24
25	27
3% increments	30
26	33
27	36
28	39
29	42
30	42
<hr/>	
31	46
32	50
4% increments	54
33	58
34	62
35	66
36	70
37	70
<hr/>	
38	75
39	80
5% increments	85
40	90
41	95
42	95
43	100

No parent or legal guardian shall be required to pay over 20 percent of their annual income in any one calendar year.

For new patients this formula shall be calculated at the time of establishing eligibility for the program and annually thereafter, or whenever major changes in any portion of the formula occur, i.e. salary raises, unemployment, additions or deletions of family members from the home, or drastic changes in the diagnostic category such as an unexpected hospitalization.

To initiate this process for children already on the program, this determination will be made as they receive their first service from the HCSP following rulemaking.

Families will be notified of the findings at the time of the calculations and shall sign agreement to pay this rate. Family or staff may appeal individual cases by documenting the extenuating circumstances such as other outstanding medical bills of other family members. This documentation shall be sent to the program administrator for final decision.

Based on the use of the formula parents or legal guardians shall pay bills by check or money order either at the time of clinic or by mail.

Delinquent bills with no payment made over three months period, will be sent to DHHR's collection agency in the Office of Management and Finance for collection.

Inquiries and comments may be addressed to Joseph D. Kimbrell, Deputy Assistant Secretary of Programs, Office of Pre-

ventive and Public Health Services, Box 60630, New Orleans, LA 70160.

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

**Fiscal and Economic Impact Statement
 For Administrative Rules
 Rule Title: Family Co-Pay System**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that \$239,946 is necessary to implement this program during the last six months of FY 87-88. The initial funds will come from self-generated private insurance collections with the costs ultimately covered by insurance and family co-payment collections. Costs for FY 88-89 and 89-90 are \$349,425 and \$337,425 respectively. Implementation costs include adequate statewide staff to determine family eligibility, bill an estimated 7000 families and insurance companies, and perform necessary collections and audit procedures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We estimate revenue collections to be a minimum of \$850,000 per full year or \$425,000 for first six months from this effort. (\$150,000 from increased private insurance reimbursements and \$275,000 for family co-pay collections in the first 6 months.)

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

COSTS-1. An estimated 2000 families would have to pay an average of \$275.00 per year toward the medical care of their chronically handicapped child. This amount would be calculated on a sliding scale, based on family income above poverty, family size, and costliness of the medical rehabilitation of their child in that year as described in the rule. No parent or legal guardian shall be required to pay over 20 percent of their annual income in any one calendar year. 2. Private insurance companies will be billed for direct services of the HCSP staff estimated to be \$150,000 for the last six months of FY 87-88.

BENEFITS: The families would still have major portions of medical bills paid by the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment.

Joseph D. Kimbrell
 Deputy Asst. Secretary-Programs

David W. Hood
 Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Preventive and Public Health Services

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:953) the Department of Health and Human Resources (DHHR), Office of Preventive and Public Health Services (OPPHS) gives notice as to how it proposes to use \$301,076 grant from the U.S. Department of Health and Human Services. The Department of Health and Human Resources intends to use the grant to purchase Azidothymidine (AZT), which has been determined by the Food and Drug Administration to prolong the life of a person with acquired immunodeficiency syndrome (AIDS).

The Department of Health and Human Services intends to stipulate that state residents who are low income individuals not covered under the State Medicaid program or another third-party payor, or whose state Medicaid program does not provide this coverage, shall be targeted as recipients of this state-purchased AZT. The grant gives Louisiana the latitude to define low-income for purposes of this program and to establish medical eligibility criteria for potential recipients of the drug. In order to develop these eligibility criteria, the state health officer established a review board consisting of experts in the AIDS field to establish financial and medical criteria and to grant approval status to applicants. The review board has met and established the following criteria for use in determining potential recipients of AZT.

Criteria for Patient Eligibility for Federally Funded Azidothymidine (AZT).

1. The patient must have been diagnosed with AIDS or Advanced AIDS Related Complex (ARC).

2. The patient must be ineligible for any non-placebo controlled AZT study. Eligibility for current studies may be determined by calling (504) 584-3605, the number of the LSU-Tulane AIDS Treatment and Evaluation Unit in New Orleans.

3. The patient must be willing to be followed as felt necessary by his/her physician. Poor patient compliance can be reason for discontinuing medication.

4. The patient's financial status is within the definition of 200 percent of the federal poverty level as follows:

- 1 - person household \$ 900/mo.
- 2 - person household \$1233/mo.
- 3 - person household \$1530/mo.
- 4 - person household \$1867/mo.

5. The patient must have no other financial means for access to AZT.

Program Referral Procedures:

All referrals of potential recipients shall be directed to the program review board by the patient's physician. The referring physician shall assure that the patient meets all of the above stated eligibility criteria.

A referral form for use by the referring physician has been developed and will be distributed through the parish health units or by calling the Office of Preventive and Public Health Services Epidemiology Section, at (504) 568-5005. The referral form contains instructions for proper completion and routing to the review board for their consideration for program participation.

The review board shall review all applications on a first come first serve basis using the above criteria to determine eligibility for approved participation in the program at no cost to patients. This program to purchase AZT is totally dependent upon federal funds and will continue as long as funds are avail-

able under the limited award of \$301,076. The state does not guarantee funding beyond that of this awarded amount or the grant expiration date of 9/30/88, whichever occurs first.

Interested parties may submit their comments to the following address: Dr. Louise McFarland, Epidemiology Section, Office of Preventive and Public Health Services, Department of Health and Human Resources, Box 60630, New Orleans, LA. 70160.

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

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Federally Funded AZT Purchase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs associated with the adoption of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Federal funds in the amount of \$301,076 for the purchase of drugs are expected to be collected during fiscal year 1987-88.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs to persons or non-governmental groups who are directly affected by this rule. Program recipients may possibly experience a delay in the fatality of their illness/disease.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Joseph D. Kimbrell
Deputy Asst. Secretary/Programs

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of the Secretary

The Department of Health and Human Resources, (DHHR) in compliance with R.S. 40:1099 (Act 805 of the 1987 Regular Session of the Louisiana Legislature) proposes the following procedures regarding required hospital notification and consultation of any person who has provided emergency treatment or transportation of a patient who is subsequently diagnosed as having certain infectious diseases.

In accordance with R.S. 40:1099, DHHR defines hospital to mean any public or private health care facility which is primarily operated for the purposes of diagnosis, treatment or care of persons admitted for health care services. This definition expressly includes emergency rooms and outpatient clinics operated in connection with said health care facilities. In addition, R.S. 40:1099 B requires notification to and by nursing homes.

R.S. 40:1099 lists the following infectious diseases which

are subject to notification and consultation procedures of this rule:

1. untreated pulmonary tuberculosis
2. acute meningococcal meningitis
3. acute hepatitis virus B infection (or diagnosed carriers of chronic hepatitis B)
4. human immunodeficiency virus (HIV) infection or acquired immune deficiency syndrome (AIDS)

These diseases must be reported within 48 hours of the confirmation of patient diagnosis.

In accordance with R.S. 40:1099, the following notification and consultation procedures shall be carried out in each hospital:

1. Each hospital shall maintain a registry or sign in log which shall include the name, address and telephone number of the person(s) who provided emergency treatment and/or transportation of the patient, when the provider is someone other than an ambulance transportation service provider (transporting ambulance providers shall continue to use the existing ambulance transportation log). The logs shall later be referred to in the event that it becomes necessary to identify and notify such providers of the exposure to a patient who is subsequently diagnosed and confirmed as having one of the above listed infectious diseases.

2. Each hospital shall post a visible sign to advise the public that Louisiana law requires the hospital to notify, within 48 hours after diagnosis confirmation, any person who has provided emergency treatment or transportation of a patient who is later diagnosed to have infectious diseases as listed in R.S. 40:1099. In order to comply with this law, anyone transporting a patient into the hospital must register in the hospital log book. Transporting ambulance service providers, however, will continue to sign the existing ambulance log which is currently completed whenever a patient is transported by ambulance to the hospital.

3. The hospital's Infection Control Officer (ICO) or other administratively designated staff person shall be promptly notified of all cases involving confirmed diagnoses of the above listed infectious diseases. The ICO shall confidentially contact the listed person(s) or transporting ambulance firm to advise of the exposure to a confirmed case of an infectious disease. The notification, which shall be done within 48 hours, must include a statement that the transporting individual contact a designated hospital staff person for necessary consultation. The hospital must document that the required notification and consultation, if held, has taken place.

R.S. 40:1099 further requires that a physician who has actual knowledge of his patient's infectious disease as listed above shall notify the hospital or nursing home of his patient's disease upon admission. Furthermore, whenever a patient with a listed infectious disease is transferred from a nursing home to a hospital or vice versa, the transferor shall follow the same notification procedures.

Hospitals and nursing homes must assure that their policies and procedures on confidentiality are updated to include such notification procedures as required by R.S. 40:1099.

In addition, the existing reporting requirements of Chapter II of the State Sanitary Code shall continue to be met.

Interested persons may submit written comments on the proposed rule to Dr. Louise McFarland, Department of Health

and Human Resources, P.O. Box 60630, New Orleans, LA. 70160.

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Act 805 Mandate**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs associated with the adoption of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Costs to directly affected medical facilities are expected to be minimal and involve additional administrative duties. Benefits to affected persons may be realized in that the notification and advisement requirements of this rule should provide early detection and/or treatment of persons who have been exposed to certain infectious diseases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Joseph D. Kimbrell
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Office of the Secretary**

The Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification proposes to establish rules for the licensing of Board and Care homes.

These proposed rules are to implement R.S. 40:2151-2163 which defines a board and care home as a publicly or privately operated residence that provides personal assistance, lodging and meals for compensation to five or more adults who are unrelated to the residence licensee, operator or administrator.

A copy of the proposed rule may be obtained by writing the Division of Licensing and Certification, Box 3767, Baton Rouge, LA 70821 or by calling (504) 342-5774.

Interested persons may submit written comments on the proposed rule to Steve Phillips, Director, Division of Licensing and Certification, Box 3767, Baton Rouge, LA 70821. Written comments must be received by January 11, 1987.

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

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

Rule Title: Licensure rules for Board and Care Homes

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of these rules will result in estimated costs of at least \$15,500 in 1987-88, \$25,500 in 1988-89 and \$35,500 in 1989-90. This estimate is based on the assumption that fifty homes will be licensed the first year and an additional fifty to sixty every year thereafter, leveling off at 150 homes after the third year.

The cost in 1987-88 will be absorbed by current staff but one additional clerical staff position and one additional surveyor may have to be hired in subsequent years to handle workload increases.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A licensing fee of \$75 will be collected from each applicant. Self-generated revenues will increase by an estimated \$3,750 in 1987-88, \$7,500 in 1988-89 and \$11,250 in 1989-90.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Some currently unlicensed board and care homes may incur significant increases in operating costs in order to meet licensing requirements. The rules require certain minimum staff and certain criteria for physical facilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employment may increase in certain areas where board and care homes may be required to hire staff to meet minimum ratios for licensure.

Steve D. Phillips
Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Insurance
Licensing Division**

The commissioner of insurance of the state of Louisiana under powers granted to him in the HMO Act of 1986, R. S. 22:2001 et seq., and other laws, hereby gives notice by publication in the *Louisiana Register* that a hearing has been scheduled for November 30, 1987, at the office of the commissioner, seventh floor, Insurance Department Building, State Capitol Grounds, Baton Rouge, Louisiana 70804, for the purpose of hearing testimony relative to the promulgation of a proposed regulation, hereinafter enumerated.

Whereas, the HMO Act of 1986 was introduced as House Bill No. 1681, by Representative Alphonse Jackson, and became Act No. 1065 of 1986; and

Whereas, the Act amended Title 22 of the Louisiana Revised Statutes of 1950, to add Sections 2001 through 2025; and

Whereas, Section 2011 of the Act (R.S. 22:2011) provides relative to the regulation of agents; and

Whereas, the commissioner has studied and observed the

HMO Act of 1986 in actual operation, especially the licensing requirements or agents appointed or employed by HMO's to engage in solicitation of membership in such organizations; and

Whereas, the commissioner has found that products of HMO's and presentation to employer groups and enrollees thereof requires

1. substantial training, experience and professional reputation in insurance and health care matters;

2. that solicitation for such plants to employer and enrollees requires a high degree of professional competence and responsibility;

3. requires a high degree of trust, professional ethics and personal integrity; and

4. that licensed insurance agents represent the best available outside outlet and contact for such health care products to be offered to the public;

Now, therefore, the following regulation is proposed for rulemaking under the Administrative Procedure Act, to wit:

§1. Regulation of agents

A health maintenance organization agent means a person licensed as a health insurance agent in the state of Louisiana, as provided in R. S. 22:1114, who is appointed or employed by a health maintenance organization to engage in solicitation of membership in such organization. It shall not include a person enrolling members on behalf of an employer, union, or other organization to whom a master group contract has been issued.

§2. Effective date

This regulation shall become effective December 10, 1987, or as soon as possible after final promulgation in the *Louisiana Register*.

John B. Fontenot
General Counsel

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Regulation of HMO Agents**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on costs of operation to state or local governments. Present staffs can absorb any additional workload due to this new licensure requirement.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no effect on revenue collections of state or local government units. There are presently 9 HMO's operating in Louisiana that may employ roughly 110 HMO agents. All these agents are now licensed by the Commissioner of Insurance to sell accident and health coverage. Thus, all these agents now meet the proposed licensure requirement.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The 9 HMO's operating in Louisiana will incur no additional costs or economic benefits as a result of this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There would be no impact of this rule change on competition and employment.

John B. Fontenot
General Counsel

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Labor
Board of Barber Examiners**

The Board of Barber Examiners gives notice in accordance with R.S. 49:950 et seq. and R.S. 37:341-392, that it intends to repeal and readopt regulations in Chapter 3 of LAC 46:VII:

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part VII. Barbers**

Chapter 3. Barber Demonstrator

§301. Requirements to Demonstrate

Any barber who is entitled by this board to demonstrate or hold seminars in all phases of advanced barbering such as hairstyling, hair-straightening, coloring, hair-piece fitting, styling, shaping and etc. must comply with the following.

- A. Must be a licensed barber or cosmetologist.
- B. Must abide by all the sanitation rules and regulations as required by the Louisiana State Barber Laws.
- C. Those complying with the above rules and regulations will be approved to demonstrate, or hold seminars with registered barbers, and students in hairstyling and other related services in advanced barbering after application is made in writing to the Louisiana State Board of Barber Examiners.

§303. Rules for Barber Demonstrator

A. When demonstrating or having seminars the following rules must be observed.

- 1. All classes must be held in private, not open to the general public.
- 2. All demonstrating classes will be held with all sanitation regulations observed and work must be done as approved by the board.
- 3. All barber shops, during the demonstration classes must keep blinds down and curtains drawn closed at all times and doors locked other than to enter or exit.
- 4. No advertising shall be done concerning these classes.
- 5. A board member, inspector or secretary may be present at all times to see that the above rules are observed.

B. Any demonstrator who fails to observe these rules and regulations may have their privileges suspended or revoked.

§305. Out-of-State Barber Demonstrator

A. Make sure before inviting someone from another state to help in a show or with any demonstrator that he or she meets and complies with the following:

- 1. Have available a copy of their current barber or cosme-

tology license available to the board for inspection while working.

§307. Barber Demonstrator Limitations

A. Demonstrators may demonstrate:

- 1. only to barber students that are presently enrolled in any approved Louisiana Barber College and all current Louisiana licensed barbers and/or cosmetologists in good standing.
- 2. not more than four days in a 30 day period to the same group, unless the demonstrator has PRIOR approval of the board.
- 3. as a guest to show techniques; not to teach or demonstrate on a regular basis without a valid barber instructors certificate.

B. Demonstrators who exceed the above limitations are required to hold a valid instructor (teachers) certificate.

These limitations do not cover people who teach that are not covered in the barber curriculum: such as fashion, make-up, psychology, banking business, insurance, health, management etc.

Persons wishing to make comments and responses may do so by contacting: Kathy Berry, Louisiana Board of Barber Examiners, 1000 Scenic Highway, Baton Rouge, LA 70802. This can be done by writing, or in person between 9 a.m. and 4 p.m., until Friday December 4.

On Monday, December 6, 1987, at 9 a.m. a public hearing will be held at the Board Office, located at 1000 Scenic Highway, Baton Rouge LA 70802, for interested persons to present their views on rules.

Kathy Berry
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Barber Demonstrator**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated cost or savings in implementing these rules. The existing staff can handle the work load associated with these rules.

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, because these rules clarify existing procedures and will not require payments by those affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

In comparison to currently published rules, economic benefit will be experienced by Barber Demonstrators; however it is impossible to determine the monetary impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

In relation to the currently published rules, adoption of these rules will effect competition and employment by providing barber demonstrators the opportunity to more easily participate in the barber teaching profession.

Kathy Brown Berry
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Labor
Board of Barber Examiners**

The Board of Barber Examiners gives notice in accordance with R. S. 49:950 et seq. and R.S. 37:341-392, that it intends to amend the following sections of Chapter 1 of LAC 46:VII:

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part VII. Barbers**

Chapter 1. Shops

§107. Minimum Equipment and Supplies Required for a New Barber Shop

- A. One Chair Shop
- 3. One mirror, not less than 32 inches in diameter and/or not less than 800 square inches in size.

§113. Water Supply

B. All barber shops shall be supplied with sanitary drinking facilities.

Persons wishing to make comments and responses may do so by contacting: Kathy Berry, Louisiana Board of Barber Examiners, 1000 Scenic Highway, Baton Rouge, LA 70802. This can be done by writing or in person between 9 a.m. and 4 p.m., until Friday December 4, 1987.

On Monday, December 6, 1987, at 9 a.m. a public hearing will be held at the Board Office, located at 1000 Scenic Highway, Baton Rouge, LA 70802, for interested persons to present their views on these proposed amendments.

Kathy Berry
Secretary

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated implementation costs. The existing staff can handle any increase in work load.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections, because no additional revenues will be collected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
These rule changes correct a grammar and typographical error. These changes are consistent with the current industry standards. There is no anticipated cost or benefit to those affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition. All those affected will be treated equally.

Kathy Brown Berry
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Juvenile Services**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections advertises its intent to adopt the proposed rules providing for the assignment and reassignment of juvenile offenders disposed by the juvenile courts to the custody of the Department of Public Safety and Corrections.

The text of these proposed rules may be found in the Emergency Rule section of this Register.

Interested persons may submit written comments on the proposed rules until January 10, 1988, to Don Wydra, Assistant Secretary of Juvenile Services, Box 94304, Baton Rouge, LA 70804-9304.

C. Paul Phelps
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Assignment & Reassignment
of Juvenile Offenders**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of the proposed rules which are being promulgated in accordance with Act 171 of the 1987 Regular Legislative Session will result in additional costs for the payment of per diem to sheriffs or other local correctional agencies for housing juveniles in detention facilities. The per diem rate will be \$18.25/day which is the current rate paid to local agencies for housing adult prisoners in state custody. The estimated cost is \$999,188 for 150 juveniles in 1987-88; \$1,165,719 for 175 juveniles in 1988-89; and \$1,332,250 for 200 juveniles in 1989-90. Additional costs will be incurred by the Department of Public Safety and Corrections for monitoring facility admissions and discharges, validation and payment of invoices and development and printing of forms. These administrative costs can be absorbed within the department's currently authorized budget.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of these rules will result in increases in revenues to local governmental units of \$999,188 in 1987-88; \$1,165,719 in 1988-89; and \$1,332,250 in 1989-90. These additional revenues will be received in payment for housing juveniles in local detention facilities as provided by Act 171 of the 1987 Regular Legislative Session.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Implementation of these rules will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Implementation of these rules will not result in any effect on competition and employment.

John Nipper
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Department of Corrections Office of Juvenile Services

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections advertises its intent to adopt rules providing for the terms, rate and method of payments by the Department of Public Safety and Corrections to local governing authorities for the care and feeding of juveniles who are adjudicated delinquents and placed in the legal custody of the Department of Public Safety and Corrections and held in a local facility or institution due to the department's inability to accept physical custody.

Interested persons may submit written comments on the proposed rule until December 10, 1987, to Don Wydra, Assistant Secretary of Juvenile Services, Box 94304, Baton Rouge, LA 70804-9304. Copies of these rules may be obtained by contacting Don Wydra at the above address.

C. Paul Phelps
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Juvenile Offender Custody and Transfer

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will result in additional costs to the Department of Public Safety and Corrections, Office of Juvenile Services primarily in the area of travel. An estimated additional cost of \$2,500 in mileage and \$1,000 in meals and lodging is expected. Reductions in the length of stay for some offenders in secure facilities will result in some potential savings though costs for non-secure residential and non-residential services may off-set these savings. No reliable estimates can be made at this time.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Federal revenue collections for food costs at the secure facilities in the 403 budget should not be impacted in the immediate future as the total population of the secure facilities is not expected to decline during that period. However, if the current rate of low to medium risk offenders placed in agency custody is sustained, projected federal collections will drop in proportion to the number of offenders in secure facilities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is a possibility that as the number of offenders in secure custody is reduced, the number of youth placed in residential facilities in the community will rise. The parents of offenders placed in residential care facilities are expected to contribute to the cost of care. Total contributions annually have been approximately \$50,000. Though this figure may rise as a result of increased placements, the impact is expected to be minimal overall. Parental contributions are calculated on a sliding scale based upon income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The short-term impact in this area will be minimal. If institutional populations can be reduced in favor of less expensive and more appropriate community-based services, the funds left unencumbered may be used to stimulate the growth and development of a broader range of community services. Contracts for these services are awarded competitively and operate on a local or regional level.

John W. Nipper
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police Hazardous Substance Control Section

The Department of Public Safety and Corrections announces its intent to adopt rules relative to motor carrier safety and hazardous materials regulations for carriage by public highway in accordance with R.S. 32:1504.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Materials and Hazardous Waste Subpart 2. Department of Public Safety and Corrections - Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials Regulations for Carriage by Public Highway

§10301. General Provisions

A. Through contract between the Department of Public Safety and Corrections and the United States Department of Transportation, the state has agreed to adopt and assume responsibility for enforcing certain federal regulations as required by 49 CFR 350.11, and additional regulations listed below. The authority to adopt such regulations is provided in R.S. 32:1501 et seq.

B. Only the Office of State Police may enforce the regulations adopted or enacted under this Chapter.

C. Any term used in these rules is used in its commonly accepted meaning except where the term has been specifically defined in R.S. 32:1502 or 49 CFR.

D. All rules or parts of rules adopted pursuant to R.S. 32:1504 that relate to highway transportation regulations and promulgated prior to the effective date of these rules are hereby repealed.

E. All authorizations for alternate means of compliance with prior regulations as provided in R.S. 32:1506, and all special permits and exemptions as provided in R.S. 32:1507, which relate to highway transportation and granted prior to the effective date of these rules, are hereby revoked.

§10303. Adopted Regulations

A. The following Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations promulgated by the United States Department of Transportation, revised as of October 1, 1987, and contained in the following parts of 49 CFR, as now in effect or as hereafter amended, are made a part of this

Chapter.

HAZARDOUS MATERIALS REGULATIONS

Part 171 - General Information, Regulations, and Definitions

Part 172 - Hazardous Materials Tables and Hazardous Materials Communications Regulations

Part 173 - Shippers - General Requirements for Shipping and Packagings

Part 177 - Carriage by Public Highway

Part 178 - Shipping Container Specifications

MOTOR CARRIER SAFETY REGULATIONS

Part 390 - Federal Motor Carrier Safety Regulations: General

Part 391 - Qualifications of Drivers

Part 392 - Driving of Motor Vehicles

Part 393 - Parts and Accessories Necessary for Safe Operation

Part 395 - Hours of Service of Drivers

Part 396 - Inspection, Repair, and Maintenance

Part 397 - Transportation of Hazardous Materials, Driving and Parking Rules

§10305. Applicability of Regulations

A. For the purpose of this Chapter, the federal regulations, as adopted or amended herein, shall govern all carriers, drivers, or vehicles -

1. to which the federal regulations apply;
2. engaged in the transportation of hazardous materials within this state.

B. For the purpose of this Chapter, the federal Motor Carrier Safety Regulations, as adopted or amended herein, shall also govern all carriers, drivers, or vehicles not subject to the federal regulations if the vehicles operated have a single or combined gross vehicle weight rating greater than 20,000 pounds.

C. The adopted federal regulations applicable to all carriers, drivers, or vehicles set forth in Subsections A and B shall be amended as follows:

1. For the adopted regulations governing all carriers, drivers, or vehicles as specified in Subchapter B, substitute "20,000 pounds" for all references made to "10,000 pounds";
2. In Section 390.33, delete "in accordance with the following table" and exclude the commercial zone table;
3. Section 390.40 is excluded;
4. Part 391.11(b)(1) shall read "is at least 21 years old, or is at least 18 years old and lawfully possesses an appropriately classified driver's license secured from the Louisiana Department of Public Safety and Corrections;"
5. If a driver has been regularly employed by a motor carrier for a continuous period of no less than three years immediately prior to the effective date of these regulations, such driver is exempt from complying with Sections 391.21, 391.23, 391.31, 391.33, and 391.41(b)(1),(2),(3),(4),(5),(10), and (11); However, should such a driver be no longer regularly employed by the carrier that qualified the driver for exemption from any of the noted regulations, the driver shall not reapply, transfer, or be subject to the provisions stated herein;
6. Sections 391.2(a), 392.1(c), 393.1(b), 396.1(b)(1) and 397.1(c) are amended to read: "Intracity Operations - The rules in this Part will apply to a driver or vehicle wholly engaged in exempt intracity operations as defined in Section 390.16;"
7. When applicable, the words "Louisiana Department of Public Safety and Corrections" and/or "Office of State Police" shall be substituted where "U.S. Department of Transportation", "Federal Highway Administration", "Federal Highway Administrator", "Director", "Bureau of Motor Carrier Safety", or "Office of Motor Carrier Safety" appear;

8. Where special U.S. Department of Transportation forms or procedures are specified or required, substitute the compatible Louisiana Department of Public Safety and Corrections forms or procedures if such are required by the state.

§10307. Assessment of Civil Penalties

A. Any person who is determined by the Secretary of the Department of Public Safety and Corrections, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of R.S. 32:1501 et seq., or adopted or promulgated regulations as provided in this Chapter, is subject to a civil penalty not to exceed the amount determined by applicable law.

§10309. Recovery of Civil Penalties

A. To enforce the collection of a civil penalty levied after due process upon a person determined by the secretary of the Department of Public Safety and Corrections to have committed an act that is a violation of R.S. 32:1501 et seq., or adopted or promulgated regulations as provided in this Chapter, the secretary -

1. may order the removal of the offending vehicle's license tag if the registration is from this state;
2. may seize any vehicle not registered within this state which is owned by the person or company in violation;
3. shall have the driver's or operator's license suspended for a violation(s) committed by the driver or operator.

§10311. Records of Violations

A. Records of violations of adopted or promulgated regulations as provided in this Chapter shall not be subject to the requirements of R.S. 32:393.1.

Interested persons may submit written comments on the proposed rules to Lieutenant Richard P. Hart, Hazardous Substance Control Section, Office of State Police, Box 66614, Baton Rouge, LA 70896.

J. C. Willie, Colonel
Deputy Superintendent

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Motor Carrier Safety and Hazardous Materials
Regulations for Carriage by Public Highway**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) to state and local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The Federal Motor Carrier Safety Regulations and highway related portions of the Federal Hazardous Materials Regulations, as adopted or amended, shall govern all carriers, drivers, or vehicles - (1) to which the federal regulations apply; (2) engaged in the transportation of hazardous materials

within this state; (3) not subject to the federal regulations if the vehicles operated have a single or combined gross vehicle weight rating greater than 20,000 pounds. The U.S. Department of Transportation currently enforces the regulations as provided in subparagraph one. The Office of State Police currently enforces the regulations as provided in subparagraph two. The proposed regulations will include instances provided for in subparagraph three. Expenses to an affected person will include a nominal medical examination (\$45-\$60) every two years, and trip logs and vehicle condition reports (@\$20 annually).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

James L. Thibodeaux
Deputy Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Transportation and Development
Office of Highways**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Department of Transportation and Development intends to amend EDSM No. IV.2.1.6 issued on September 26, 1980, and amended on March 13, 1981, to provide for Outdoor Advertising Visibility Maintenance. (This notice of intent amends the notice of intent on this subject which was published on July 20, 1987.)

1. PURPOSE - To establish policy and procedures relating to visibility maintenance of outdoor advertising displays or on-premise business identification signs adjacent to highway right-of-way.

2. POLICY - Where existing trees or vegetation do obscure displays which were lawfully in place prior to the existence of the trees or vegetation, or that were permitted after the existence of the trees or vegetation, judicious trimming, removal, or replacement will be considered as warranted by local conditions.

The department may consider the following, on a case by case basis:

a. Removal of plantings without replacement only if the plantings obscure a display lawfully in place prior to the plantings.

b. Topping of a tree up to 10 percent of its height, subject to there remaining at least 20' of height.

(Examples: 1. A 30' tree may be topped 3' max.

2. A 21.5' tree may be topped 1.5' max.)

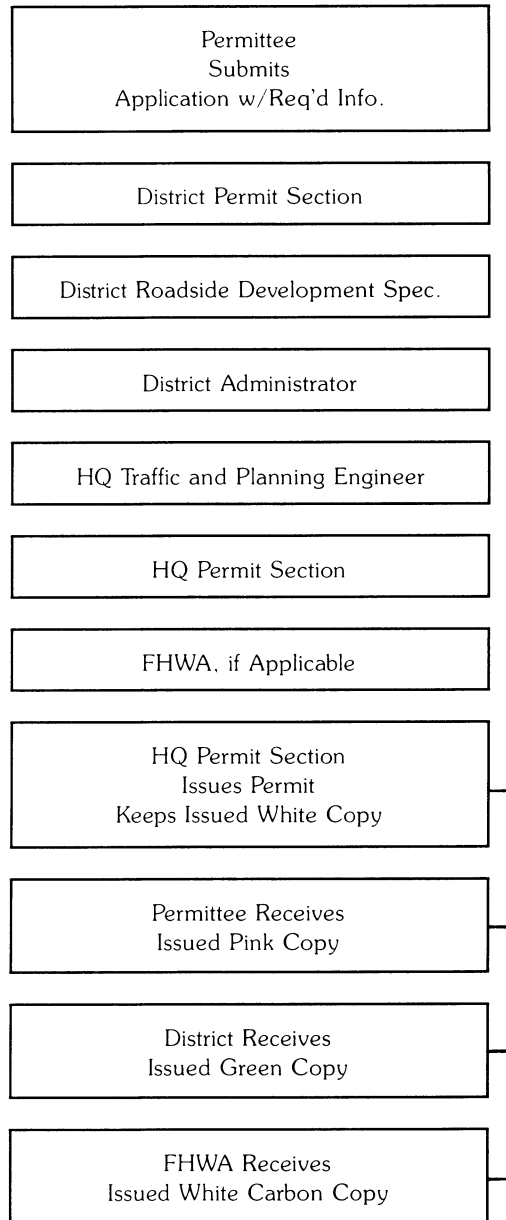
In the case of topping, the trunk must be cut at an angle to minimize the threat of disease and the upper lateral branches must be trimmed to maintain the overall shape of the tree.

c. Replacement of existing trees or vegetation with approved alternates, provided the function, purpose or aesthetics of the trees or vegetation will be maintained. Maintenance of the planting area will be the responsibility of the permittee.

3. PROCEDURE - The permits engineer will be responsible for the implementation and coordination of these procedures.

a. Any request for visibility improvement for an off-premise or on-premise advertising display will be made using the attached supplement and application for Project Permit Form Numbers DOTD 03-41-3035 or DOTD 03-41-0593, copies of which will be maintained in each District Office. The application for a permit shall include the number and type of each tree to be topped, trimmed, removed or replaced and a list of all replacement vegetation to be planted.

b. Routing of the permit application will be in accordance with the following flow chart:



(1) As part of his review, the traffic operations engineer will verify the location of the display and will forward the request to the Headquarters Permits Unit with information about the display's legal status.

Legal status will include any available and pertinent information that should be considered by the permit engineer. Legal information could include:

- (a) Is this display under active citation?
- (b) Is the display subject to imminent removal?
- (c) Is the sign illegally placed?

(d) Is the display nonconforming to state beautification criteria?

The traffic operations engineer will determine whether or not the display is currently under contract with the state to be removed or is required to be removed within one year.

(2) All applications for topping, removal, or replacement of trees or vegetation, whether recommended by the district or not, should be forwarded to headquarters with appropriate pictures of the site and the district's recommendation.

c. The cost of all work to be performed will be borne by the applicant and any topping, trimming, relocation or replacement must be performed by a bona fide, bonded tree care service.

d. The permit shall contain a warranty clause wherein the permittee agrees to replace any topped, trimmed, or replacement trees or vegetation not living or seriously damaged one year after work is completed.

e. Visibility improvement will not be undertaken in any of the following instances:

1. the display is illegally placed;
2. the display is currently under contract with the state to be removed or it will be removed within one year;
3. the display is on state property;
4. a right-of-way take is imminent within one year;
5. the trees or shrubs to be trimmed or removed are over 500' measured along the highway from the display;
6. the topping exceeds 10 percent of the height of the tree;

7. the tree, once topped, will be less than 20' in height.

f. Work will be performed only during regular department hours. The local District Maintenance Unit will be notified at least 24 hours prior to commencement of work. District Maintenance Unit personnel will be present during the work.

4. OTHER ISSUANCES AFFECTED - This directive supersedes EDSM No. IV.2.1.6 issued March 12, 1981. All directives, memorandums or instructions issued heretofore in conflict with this directive are hereby rescinded.

5. IMPLEMENTATION - This directive will become effective upon publication in the *Louisiana Register*.

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to: Eugene P. Waguespack, Chief Maintenance and Operations Engineer, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245.

Robert G. Graves
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: E.D.S.M. IV.2.1.6
Outdoor Advertising
Visibility Maintenance**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an estimated 5 percent additional number of permit applications filed in 1987-88 as a result of this ruling, or approximately 114 permits, as outdoor advertisers seek permission to perform tree trimming/replacement activities in the paths of their displays. This may create a backlog of

permit requests in 1987-88 and extend the period of time required for DOTD to process a permit request. This added workload will be absorbed by the present staff, therefore there will be no additional costs due to the proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Benefits shall accrue to display owners through improved visibility of advertising displays.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment anticipated.

Robert G. Graves
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§509. Atchafalaya Vermilion Bay Oyster Seed Ground

It is the intent of the Wildlife and Fisheries Commission to establish a public oyster seed ground in portions of Louisiana's Territorial Sea south of Atchafalaya Bay, pursuant to the authority given to the commission by Act 544 of the 1987 regular session of the Louisiana Legislature. This "Outside Area Atchafalaya - Vermilion Bay Oyster Seed Ground" is described as beginning at a point known as South Point. A map of the exact boundaries can be seen in the offices of the Department of Wildlife and Fisheries, Darnell Road, New Iberia, Texas Gulf Road, Bourg and 400 Royal St., New Orleans.

Interested persons may submit written comments relative to the proposed action until 4:30 p.m. on November 15, 1987 at the following address: Louisiana Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895, Attention: J. Burton Angelle.

J. Burton Angelle
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Outside Area Atchafalaya Vermilion
Bay Oyster Seed Ground**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no impact on state or local

government unit costs or savings. The Department of Wildlife and Fisheries will continue to patrol the outside waters area after this rule change is implemented, in the same manner that this area is presently being patrolled.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Conservation Fund receives \$0.03 for each barrel of oysters fished on public oyster seed grounds. Based upon estimated annual harvest of 100,000 barrels, the Conservation Fund would receive \$3,000 per year in additional revenues. Oyster production in the proposed seed ground is highly variable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule change will provide an additional 70,350 acres of public oyster seed grounds available to the public and increase the stability of the oyster supply for the Louisiana Oyster industry. If a production estimate of 100,000 barrels (200,000 sacks) is assumed, at \$10 per sack, then this new area would yield a product valued at \$2 million per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed public oyster seed grounds will not infringe upon any existent oyster lease. Improved availability of seed oysters will increase oyster production, which should have a long range positive effect upon competition and employment in the oyster industry.

Mary Mitchell
Chief Fiscal Officer

David W. Hood
Legislative Fiscal Analyst

identical numbers appearing on the six tags. The tags shall be an all-weather nylon fabric type with an adhesive back which precludes reuse. A tag shall be attached immediately to the deer and before it is moved by slitting the ear and attaching the tag through the ear or to an antler in such a manner that it cannot be removed without destroying the tag.

B. Validation of hunter harvest of deer will be by a mail-in form at the conclusion of the 1988-89 season. Should this method not be successful in providing the necessary management information, a validation station method will be implemented in 1989-90.

C. The deer season length and bag limits shall remain basically unchanged. The hunter-choice tag may be used at any time during the deer season; however it must be used on the first antlerless deer killed. Bucks-only tags may be used on antlerless deer killed on regularly scheduled either-sex days, subject to the preceding provision.

D. The Intensive Deer Management Unit Program (IDMUP) shall be continued with each deer harvested under the Program being tagged with both the IDMUP tags and the above described tag. The attachment of an (IDMUP) tag shall convert the hunter's bucks-only tag to a hunter-choice tag.

E. An antlerless deer killed on wildlife management areas on either-sex days shall be tagged with the hunter's hunter-choice tag. If a hunter has already used this tag, he shall use a bucks-only tag on an antlerless deer provided that a department validation tag is also attached.

F. Archers shall be allowed to continue to take six antlerless deer. Antlerless deer killed with a bow and arrow may be tagged with the hunter's bucks-only tags, subject to provision outlined in #C.

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the provision of the Administrative Procedure Act (R.S. 49:950 et. seq.) the Louisiana Wildlife and Fisheries Commission has adopted a proposal whereby a deer tagging system will be implemented for the 1988-89 hunting season. The Louisiana Wildlife and Fisheries Commission made this proposal at its regularly scheduled monthly meeting on October 1, 1987.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 5. Deer

§501. Deer Tagging

A. Hunters shall be required to purchase a Big Game License to which six deer tags, one hunter-choice and five bucks-only tags, are attached. Hunters under 16 and over 60 years of age shall be required to obtain a free Big Game Permit which will also have six tags, one hunter-choice and five bucks-only tags, attached. Hunters under 16 must show proof of completing a Hunter Safety Course before obtaining a Big Game Permit. The licenses and permits shall be serially numbered with

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Deer Tagging Program
RS 56:115**

1988-89 Louisiana Dept. of Wildlife & Fisheries 10.50 Big Game License									
Governor					Secretary				
Effective			000000		Expires				
Date Issued					Dr. Lic.				
Name					Phone no.				
Address									
State				City			Zip		
Race		Sex	Hair	Eyes	Wt.	Ht.	Age		
Issued by					Parish				
Not valid unless signed					Signature				
Basic Hunting License no.			000000						
Non-Transferable									
TURKEY			000000		GOBBLER ONLY				
TURKEY			000000		GOBBLER ONLY				
TURKEY			000000		GOBBLER ONLY				
000000		000000		000000		000000			
HUNTER'S CHOICE (Antlerless or Antlered)		BUCKS ONLY (Antlered deer)		BUCKS ONLY (Antlered deer)		BUCKS ONLY (Antlered deer)			
Must be validated		Must be validated		Must be validated		Must be validated			

Two additional bucks only tags will be attached.

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The total implementation cost to the state will be approximately \$108,000 per year beginning in 1988-89. This programs administrative requirements can be absorbed by the department's present administration. Local government (sheriff's) costs will go up because the rule proposes issuance of free tags to hunters under 16 and over 60 years of age. These additional local costs cannot be determined.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule change will have no impact on revenue collections of state or local governmental units. There will be no additional charge for the tags.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be an increased cost to non-governmental licensing agents to the extent that free tags must be issued to hunters under 16 and over 60 years of age. This additional cost burden cannot be determined.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule will have no effect on competition and employment.

Mary Mitchell
Chief Fiscal Officer

David W. Hood
Legislative Fiscal Analyst

Potpourri

POTPOURRI

Department of Natural Resources Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1 through 56:700.5, and regulations adopted for the fund, published in the *Louisiana Register* on August 20, 1980, notice is given that 54 claims amounting to \$78,152.76 were received during the month of October 1987. During the same month, 18 claims, amounting to \$26,107.07 were paid.

The following claims are the subjects of public hearings to be held at the locations indicated:

Friday, December 4, 1987, at 10 a.m., in the Jefferson Davis Parish, Police Jury Meeting Room, Courthouse, Jennings, LA.

CLAIM NO. 87-4038

Floyd Stanley, of Box 38, Hackberry, LA 70645, while trawling on the vessel, "MISS PEGGY GAL," in the Gulf of Mex-

Interested parties may submit their views in writing to Hugh A. Bateman, Chief, Game Division, Louisiana Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895.

J. Burton Angelle
Secretary

ico, at approximate LORAN-C readings of 26,930.0 and 46,966.3, Cameron Parish, encountered an unidentified submerged obstruction on December 2, 1986, causing damage and/or loss. Amount of Claim: \$750.

CLAIM NO. 87-4115

Richard E. Cretini, of 1017 Ninth Street, Lake Charles, LA 70601, while trawling on the vessel, "CAPTAIN HADACOL," in the Intercoastal Canal, Calcasieu Parish, encountered an unidentified submerged obstruction on May 8, 1987, causing damage and/or loss. Amount of Claim: \$5,000.

CLAIM NO. 87-4116

John A. Bergeron, of Route 2, Box 204C, Lake Charles, LA 70605, enroute home from a fishing trip on the vessel, "SYLVIA," at the intersection of Old Black Bayou and Old River, Calcasieu Parish, encountered a submerged piling on May 6, 1987, causing damage and/or loss. Amount of Claim: \$987.64

CLAIM NO. 87-88-69

Joe Pearson, of Box 818, Lake Arthur, LA 70549, while trawling on the vessel, "CAPT. CHRIS," in the Gulf of Mexico, near Grand Chenier, Cameron Parish, encountered a sand hill pumped up by dredge on July 22, 1987, causing damage and/or loss. Amount of Claim: \$1,392.14

CLAIM NO. 87-88-101

Harold Clemons, of Box 8, Delcambre, LA 70528, while enroute to Delcambre from a fishing trip on the vessel, "MR. BLANCHARD," in the Barge Mooring Area, Iberia Parish, encountered a submerged rope on August 4, 1987, causing damage and/or loss. Amount of Claim: \$3,901.70

CLAIM NO. 87-88-118

Henry Dinger, of Box 192, Cameron, LA 70631, while trawling on the vessel, "ANITA EVE" in the Gulf of Mexico, at approximate LORAN-C readings of 26,608.4 and 46,974.3, encountered an unidentified submerged obstruction on August 18, 1987, causing damage and/or loss. Amount of Claim: \$5,000.

CLAIM NO. 87-88-129

Roddy Aguillard, of Box 255 Cameron, LA 70631, while trawling on the vessel, "LADY OLIVIA," in the Gulf of Mexico, at approximate LORAN-C readings of 26,779.9 and 46,977.3, Cameron Parish, encountered an unidentified submerged obstruction on August 15, 1987, causing damage and/or loss. Amount of Claim: \$1,773.36

CLAIM NO. 87-88-138

Robert F. McKoin, Jr., of Box 327, Grand Chenier, LA 70643, while trawling on the vessel, "GAMBLER," in the Gulf of Mexico, at approximate LORAN-C readings of 26,821.2 and 46,976.3, Cameron Parish, encountered an unidentified submerged obstruction on August 24, 1987, causing damage and/or loss. Amount of Claim: \$2,019.17

CLAIM NO. 87-88-173

Jimmie Dupre, of Route 2, Box 430, Erath, LA 70533, while trawling on the vessel, "MISS ANNA," in the Gulf of Mexico, at approximate LORAN-C readings of 27,413.6 and 46,929.4, Iberia Parish, encountered an unidentified submerged obstruction on April 22, 1987, causing damage and/or loss. Amount of Claim: \$1,575.02

CLAIM NO. 87-88-176

K. R. LeBlanc, Sr., of Box 155, Delcambre, LA 70528, while trawling on the vessel, "DADDY'S BOY," in the Gulf of Mexico, one mile off beach Joseph Harbor, at approximate LORAN-C readings of 27,005.4 and 46,951.3, Vermilion Parish, encountered an unidentified submerged obstruction on September 6, 1987, causing damage and/or loss. Amount of Claim: \$1,884.66

CLAIM NO. 87-88-256

John N. Castille, of Route 7, Box 16E20 Opelousas, LA 70570, while trawling on the vessel, "AMERICAN WAY," in the Gulf of Mexico, 1/8 mile west of the Cameron Jetties, Cameron Parish, encountered an unidentified submerged obstruction on September 30, 1987, causing damage and/or loss. Amount of Claim: \$535.38

CLAIM NO. 87-88-134

A. R. Womack, Jr., of Box 638, Lake Arthur, LA 70549, while trawling on the vessel, "EVALINA C," in the Gulf of Mexico, at approximate LORAN-C readings of 26,908.3 and 46,966.3, Cameron Parish, encountered an unidentified submerged obstruction on August 12, 1987, causing damage and/or loss. Amount of Claim: \$663.60

CLAIM NO. 87-88-135

A. R. Womack, Jr., of Box 638, Lake Arthur, LA 70549, while trawling on the vessel, "EVALINA C," in the Gulf of Mexico, at approximate LORAN-C readings of 26,850.8 and 46,972.5, Cameron Parish, encountered an unidentified submerged obstruction on August 21, 1987, causing damage and/or loss. Amount of Claim: \$663.60

Thursday, December 10, 1987, at 10:30 a.m., in the Louisiana State University Cooperative Extension Service Office, 511 Roussel Street, Houma, LA.:

CLAIM NO. 87-4177

Percy Boudwin, Sr., of 3428 East Park Avenue, Houma, LA 70363, while trawling on the vessel, "SEA LADY," in the Gulf of Mexico, about 3/4 mile off beach at Grand Isle, St. Mary Parish, encountered an unidentified submerged obstruction on June 14, 1987, causing damage and/or loss. Amount of Claim: \$5,000.

CLAIM NO. 87-4188

Anthony P. Nettleton, Sr., of 2149 Hwy. 55, Montegut, LA 70377, while trawling on the vessel, "DAD TO THE BONE," in Upper Bayou Barre, Terrebonne Parish, encountered a submerged pipe on June 5, 1987, causing damage and/or loss. Amount of Claim: \$3,584.76

CLAIM NO. 87-88-11

David J. Martin of Box 221, Bourg, LA 70343, while trawling on the vessel, "LA 4466 AN," in Troiscent Piquets Bay, Terrebonne Parish, encountered a submerged piling on July 1, 1987, causing damage and/or loss. Amount of Claim: \$745.

CLAIM NO. 87-88-65

Gordon Authement, of Route 1, Box 105 Blaise Drive, Chauvin, LA 70344, while trawling on the vessel, "H & H," in Caillou Island, Terrebonne Parish, encountered a submerged pipe on July 6, 1987, causing damage and/or loss. Amount of Claim: \$796.88

CLAIM NO. 87-88-73

Ellis Schouest, III, of SRB-Box 414 Franklin, LA 70538, while trawling on the vessel, "STACY DAWN," West of Southwest Pass "T-Beaut," St. Mary Parish, encountered an unidentified submerged obstruction on August 14, 1987, causing damage and/or loss. Amount of Claim: \$816.98

CLAIM NO. 87-88-79

Richard J. Bergeron, Sr., of Box 355, Des Allemands, LA 70030, enroute home from fishing crabs on the vessel, "LA 590 ZT," in Red Fish Bayou, Terrebonne Parish, encountered an unidentified submerged obstruction on July 25, 1987, causing damage and/or loss. Amount of Claim: \$1,121.01

CLAIM NO. 87-88-91

Willard Authement, of Star Route, Box 279, Chauvin, LA 70344, while trawling on the vessel, "MUD BUG," in Oyster

Bay, 300 feet north of the mouth of Bayou Little Caillou, Terrebonne Parish, encountered a submerged truck tire on June 29, 1987, causing damage and/or loss. Amount of Claim: \$202.50
CLAIM NO. 87-88-92

Ray Thibodaux, of SRB Box 417, Franklin, LA 70538, while trawling on the vessel, "MISS DENISE," in West Cote Blanche Bay, St. Mary Parish, encountered an unidentified submerged obstruction on July 25, 1987, causing damage and/or loss. Amount of Claim: \$801.
CLAIM NO. 87-88-96

Wayne Boudwin, of 4354 Hwy. 56, Houma, LA 70363, while trawling on the vessel, "CAPT. WAYNE," in the Gulf of Mexico, St. Mary Parish, encountered an unidentified submerged obstruction on August 4, 1987, causing damage and/or loss. Amount of Claim: \$3,554.45
CLAIM NO. 87-88-105

Clifton Cologne, of Box 224, Des Allemands, LA 70030, while trawling on the vessel, "LA 0533 XX," in Bayou Perouge, Jefferson Parish, encountered a submerged pipe on August 9, 1987, causing damage and/or loss. Amount of Claim: \$1,775.
CLAIM NO. 87-88-108

Alden P. Foret, Jr., of Star Route Box 93-C, Chauvin, LA 70344 while trawling on the vessel, "BEN DORIS," in Cailou Bocca, at approximate LORAN-C readings of 27,945.5 and 46,843.3, Terrebonne Parish, encountered a submerged pipe on August 2, 1987, causing damage and/or loss. Amount of Claim: \$1,693.61
CLAIM NO. 87-88-95

Joseph H. Verdin, of 4813 Grand Caillou, Houma, LA 70363 while trawling on the vessel, "MR. PERRY," on June 21, 1987 at Grand Isle, and on July 30, 1987 between Grand Caillou and Taylor Bayou, Terrebonne and Jefferson Parishes, encountered an unidentified submerged obstruction on both of the above dates, causing damage and/or loss. Amount of Claim: \$2,178.84
CLAIM NO. 87-88-120

Lloyd J. Price, of 3516 East Park Avenue, Houma, LA 70363, while trawling on the vessel, "CAPT. LLOYD," in Lake Pelto, Terrebonne Parish, encountered an unidentified submerged obstruction on August 19, 1987, causing damage and/or loss. Amount of Claim: \$1,157.
CLAIM NO. 87-88-123

Melvin Vanacor, Jr., of General Delivery, Des Allemands, LA 70030, while trawling on the vessel, "LA 2452 BC," two miles east of Goose Bayou, Jefferson Parish, encountered an unidentified submerged obstruction on August 20, 1987, causing damage and/or loss. Amount of Claim: \$4,593.35
CLAIM NO. 87-88-131

Houston Trahan, of Star Route Box 513, Chauvin, LA 70344, while trawling on the vessel, "REBECCA LYNN," in Terrebonne Bay, Terrebonne Parish, encountered a submerged piling on August 17, 1987, causing damage and/or loss. Amount of Claim: \$3,000.
CLAIM NO. 87-88-159

Allen J. LeBlanc, of 6309 Grand Caillou Road, Dulac, LA 70353, while trawling on the vessel, "LA 5449 AS," in Bay Round, Terrebonne Parish, encountered an unidentified submerged obstruction on July 27, 1987, causing damage and/or loss. Amount of Claim: \$480.
CLAIM NO. 87-88-167

Lonnie P. Eschete, of Route 2, Box 322 Michael St., Chauvin, LA 70344, while trawling on the vessel, "LA 0359 CP," in Lake Pelto, Terrebonne Parish, encountered an unidenti-

fied submerged obstruction on August 22, 1987, causing damage and/or loss. Amount of Claim: \$573.75
CLAIM NO. 87-88-185

Deme Naquin, Sr., of 484 Island Road, Montegut, LA 70377, while trawling on the vessel, "ST. NIC," in Lake Barre, Terrebonne Parish, encountered a submerged pipe and piling on June 18, 1987, causing damage and/or loss. Amount of Claim: \$1,521.89
CLAIM NO. 87-88-212

Horace Sevin, Star Route Box 522 Chauvin, LA 70344, while trawling on the vessel, "SEA PRINCE," in the Gulf of Mexico, south of Whiskey Pass, at approximate LORAN-C readings 28,015.9 and 46,822.9, Terrebonne Parish, encountered an unidentified submerged obstruction on April 10, 1987, causing damage and/or loss. Amount of Claim: \$2,477.03
CLAIM NO. 87-88-227

David J. Martin, of Box 221, Bourg, LA 70343, while trawling on the vessel, "LA 4466 AN," in Oak Bayou, Terrebonne Parish, encountered an unidentified submerged obstruction on September 26, 1987, causing damage and/or loss. Amount of Claim: \$768.75
CLAIM NO. 87-88-151

John W. Armbruster, of 4916 Grand Caillou Road, Houma, LA 70363, while trawling on the vessel, "PAULA DEE," in the Gulf of Mexico, at approximate LORAN-C readings of 27,602.3 and 46,912.8, St. Mary Parish, encountered an unidentified submerged obstruction on August 28, 1987, causing damage and/or loss. Amount of Claim: \$979.87
CLAIM NO. 87-88-152

John W. Armbruster, of 4916 Grand Caillou Road, Houma, LA 70363, while trawling on the vessel, "PAULA DEE," in the Gulf of Mexico, at approximate LORAN-C readings of 27,648.3 and 46,908.7, St. Mary Parish, encountered an unidentified submerged obstruction on August 27, 1987, causing damage and/or loss. Amount of Claim: \$704.80
CLAIM NO. 87-88-222

Edward A. Picou, Jr., of Star Route Box 517E, Chauvin, LA 70344, while trawling on the vessel, "MILNA," in the Gulf of Mexico, Oyster Bayou, Terrebonne Parish, encountered an unidentified submerged obstruction on September 17, 1987, causing damage and/or loss. Amount of Claim: \$5,000.
CLAIM NO. 87-88-223

Edward A. Picou, Jr., of Star Route Box 517E, Chauvin, LA 70344, while trawling on the vessel, "MILNA," in Timbalier Bay, Terrebonne Parish, encountered a submerged pipe on July 2, 1987, causing damage and/or loss. Amount of Claim: \$2,262.44

Thursday, December 10, 1987, at 2:30 p.m. in the L.S.U. Cooperative Extension Service Office, Greater Lafourche Port Commission Building, Highway 308, Galliano, LA.:
CLAIM NO. 87-88-13

Timmy J. Guidry, of Box 1054, Galliano, LA 70354, while trawling on the vessel, "CAPT. TIMMY," in the Gulf at approximate LORAN-C readings of 25,077.0 and 11,040.9, encountered an unidentified submerged obstruction on July 2, 1987, causing damage and/or loss. Amount of Claim: \$5,000.
CLAIM NO. 87-88-17

Gary A. Borne, of Star Route, Box 70, Golden Meadow, LA 70357, while trawling on the vessel, "SCOOBY-DOO," in Little Lake, Lafourche Parish, encountered a submerged piling on June 15, 1987, causing damage and/or loss. Amount of Claim: \$561.59
CLAIM NO. 87-88-41

Robert Bruce, of 106 East 56 Street, Cut Off, LA 70345, while trawling on the vessel, "BOBBY JOE," in Vermilion Bay, at approximate LORAN-C readings of 27,503.5 and 46,975.7, Iberia Parish, encountered a sunken boat on May 26, 1987, causing damage and/or loss. Amount of Claim: \$800.
CLAIM NO. 87-88-52

Nolan Breaux, Jr., of Box 1055, Larose, LA 70373, while trawling on his vessel in Bayou Perrio, 1/2 mile south of Intercoastal water way, Lafourche Parish, encountered an unidentified submerged obstruction on August 27, 1987, causing damage and/or loss. Amount of Claim: \$685.33
CLAIM NO. 87-88-60

Alexander J. Billiott, of Box 69, Cut Off, LA 70345, while trawling on the vessel, "LADY DOLA," in Barataria Pass near Grand Isle, Jefferson Parish, encountered an unidentified submerged obstruction on June 3, 1987, causing damage and/or loss. Amount of Claim: \$717.18
CLAIM NO. 87-88-80

Raymond Serigny, of Star Route Box 29-A, Golden Meadow, LA 70357, while trawling on the vessel, "LADY LUCK," in the Gulf of Mexico about one mile south of Grand Bayou and east of Grand Isle, Jefferson Parish, encountered an unidentified submerged obstruction on July 24, 1987, causing damage and/or loss. Amount of Claim: \$1,792.50
CLAIM NO. 87-88-85

Calvin A. Cheramie, of Route 1, Box 382, Galliano, LA 70354, while trawling on the vessel, "MR. FOX," in Lake Borgne, St. Bernard Parish, encountered a submerged log on July 8, 1987, causing damage and/or loss. Amount of Claim: \$264.12
CLAIM NO. 87-88-86

Timmy J. Melancon, of Star Route, Box 175, Golden Meadow, LA 70357, while trawling on the vessel, "TEE TIM," in the Gulf of Mexico, at approximate LORAN-C readings of 27,326.6 and 46,943.5, Vermilion Parish, encountered a sunken vessel on July 10, 1987, causing damage and/or loss. Amount of Claim: \$1,686.12
CLAIM NO. 87-88-102

Whitney Dardar, Star Route, Box 80, Golden Meadow, LA 70357, while trawling on the vessel, "THREE LADIES," in the Gulf of Mexico approximately two miles south of Bayou Charbon, Terrebonne Parish, encountered an unidentified submerged obstruction on July 28, 1987, causing damage and/or loss. Amount of Claim: \$1,528.37
CLAIM NO. 87-88-130

Wayne Cheramie, of 1983 LA Highway 1, Grand Isle, LA 70358, while trawling on the vessel, "MASTER WAYNE II," in the Gulf of Mexico around Little Pass, encountered an unidentified submerged obstruction on August 23, 1987, causing damage and/or loss. Amount of Claim: \$1,594.10
CLAIM NO. 87-88-137

Ojess Cheramie, of 1978 LA Highway 1, Grand Isle, LA 70358 while trawling on the vessel, "CHOPPER ONE," in Caminada Bay, Lafourche Parish, encountered an unidentified submerged obstruction on August 19, 1987, causing damage and/or loss. Amount of Claim: \$657.85
CLAIM NO. 87-88-157

Harry Cheramie, Sr., of Box 239, Grand Isle, LA 70358, while trawling on the vessel, "ACE OF TRADE," in the Gulf of Mexico, east of Belle Pass, Lafourche Parish, encountered a high pressure gauge from Chevron U.S.A. on September 2, 1987, causing damage and/or loss. Amount of Claim: \$781.01
CLAIM NO. 87-88-160

Ray M. Rebstock, of 305 E. 74th. St., Cut Off, LA 70345, while trawling on the vessel, "BIG CAJUN," in the Gulf of Mexico, two miles east of Four Bayou, encountered a submerged pipe on August 14, 1987, causing damage and/or loss. Amount of Claim: \$1,294.20
CLAIM NO. 87-88-166

Ordoyne Griffin, Sr., of 121 Toups Lane, Golden Meadow, LA 70357, while trawling on the vessel, "MALLARD," in the Gulf of Mexico, two miles east of Belle Pass, Lafourche Parish, encountered an unidentified submerged obstruction on September 6, 1987, causing damage and/or loss. Amount of Claim: \$981.77
CLAIM NO. 87-88-170

Peter S. Hotoph, of Box 668, Grand Isle, LA 70358, while trawling on the vessel, "NIKKO," in Chandeleur Sound, Plaquemines Parish, encountered an unidentified submerged obstruction on August 31, 1987, causing damage and/or loss. Amount of Claim: \$1,794.76
CLAIM NO. 87-88-172

Kearn Chouest, of Route 1, Box 1M, Galliano, LA 70354, while trawling on the vessel, "L & K," in Eloi Bay, St. Bernard Parish, encountered a submerged pipeline on August 25, 1987, causing damage and/or loss. Amount of Claim: \$442.35
CLAIM NO. 87-88-175

Herbert Charpentier, of Route 2, Box 587, Cut Off, LA 70345, while trawling on the vessel, "SEA DURBIN," in Eloi Bay, St. Bernard Parish, encountered an unidentified submerged obstruction on September 1, 1987, causing damage and/or loss. Amount of Claim: \$621.54
CLAIM NO. 87-88-190

Mervin Ledet, Sr., of Route 1, Box 6902, W. 151st. Street, Galliano, LA 70354, while trawling on the vessel, "KEY LARGO," in East Cote Blanche Bay, St. Mary Parish, encountered an unidentified submerged obstruction on August 28, 1987, causing damage and/or loss. Amount of Claim: \$193.03
CLAIM NO. 87-88-196

Roland Melancon, Jr., of Route 1, Box 2340, Galliano, LA 70354, while trawling on the vessel, "LADY DOLCINA," in the Gulf of Mexico, Timbalier Bay, Lafourche Parish, encountered an unidentified submerged obstruction on September 13, 1987, causing damage and/or loss. Amount of Claim: \$1,591.62
CLAIM NO. 87-88-204

Felecion Guidry, of 7120 West Main, Galliano, LA 70354, while trawling on the vessel, "MR. G.," in Port Fourchon-Belle Pass, Lafourche Parish, encountered an unidentified submerged obstruction on September 23, 1987, causing damage and/or loss. Amount of Claim: \$572.85
CLAIM NO. 87-88-213

Elmo Guidry, of 113 East 69th. Street, Cut Off, LA 70345, while trawling on the vessel, "DNG," in the Gulf of Mexico, 1/2 mile east of Belle Pass, Lafourche Parish, encountered a submerged pipeline on September 15, 1987, causing damage and/or loss. Amount of Claim: \$902.
CLAIM NO. 87-88-219

Walton Blanchard, of Route 1, Box 153-D, Galliano, LA 70354, while trawling on the vessel, "OUR DREAM," in the Gulf of Mexico, at approximate LORAN-C readings of 27,413.59 and 46,299.6, Vermilion Parish, encountered an unidentified submerged obstruction on September 17, 1987, causing damage and/or loss. Amount of Claim: \$1,807.
CLAIM NO. 87-88-238

Daniel M. Bruce, of Route 1, Box 254, Galliano, LA 70354, while trawling on the vessel, "L&M," in the Gulf of Mexico, right off Bay Marshand, Lafourche Parish, encountered an unidentified submerged obstruction on October 4, 1987, causing damage and/or loss. Amount of Claim: \$1,533.02
CLAIM NO. 87-88-89

Jeff J. Toups, of 308 East 40th. Street, Cut Off, LA 70345, while trawling on the vessel, "TEE BAYOU L'OURS," off of Lonesome Bayou, at approximate LORAN-C readings of 29,105.4 and 46,831.8, Plaquemines Parish, encountered an unidentified submerged obstruction on July 30, 1987, causing damage and/or loss. Amount of Claim: \$899.98
CLAIM NO. 87-88-90

Jeff J. Toups, of 308 East 40th. Street, Cut Off, LA 70345, while trawling on the vessel, "TEE BAYOU L'OURS," one mile NW of Lonesome Bayou, at approximate LORAN-C readings of 29,082.8 and 46,840.4, Plaquemines Parish, encountered an unidentified submerged obstruction on July 31, 1987, causing damage and/or loss. Amount of Claim: \$1,165.98
CLAIM NO. 87-88-121

Eunice A. Johnfroe, of Box 271, Galliano, LA 70354, while trawling on the vessel, "PATTY MARIE," in the Gulf of Mexico, at approximate LORAN-C readings of 27,384.8 and 46,939.3, Vermilion Parish, encountered an unidentified submerged obstruction on August 12, 1987, causing damage and/or loss. Amount of Claim: \$1,151.26
CLAIM NO. 87-88-122

Eunice A. Johnfroe, of Box 271, Galliano, LA 70354, while trawling on the vessel, "PATTY MARIE," in the Gulf of Mexico, at approximate LORAN-C readings of 27,295.4 and 46,945.4, Vermilion Parish, encountered an unidentified submerged obstruction on August 15, 1987, causing damage and/or loss. Amount of Claim: \$3,278.70

Any person may submit evidence or make objections in person at the hearings. Written comments can be mailed to: Administrator, Fishermen's Gear Compensation Fund, Box 94396, Capitol Station, Baton Rouge, Louisiana 70804, and must be postmarked no later than seven days after the hearing(s).

B. Jim Porter
Secretary

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