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Executive Orders

EXECUTIVE ORDER EWE 85-25

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

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

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

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

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

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

AMOUNT OF ALLOCATIONS	NAME OF ISSUER	NAME OF PROJECT
\$ 1,400,000	La. Public Facilities Authority	Shannon Oaks Partnership Project
\$1,600,000	La. Public Facilities Authority	Village Row Partnership Project

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

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

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

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

SECTION 6: This Executive Order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunder set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this 10th day of May, 1985.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 85-26

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

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

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

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

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

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

AMOUNT OF ALLOCATIONS	NAME OF ISSUER	NAME OF PROJECT
\$ 2,500,000	La. Public Facilities Authority	Honey's Inn of Bossier City, Ltd Project

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

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

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

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

SECTION 6: This Executive Order shall be effective upon signature of the governor.

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

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 85-27

WHEREAS, Section 621 of the Tax Reform Act of 1984 (the "Tax Reform Act") restricts the total principal amount of private activity bonds the interest on which is exempt from federal

income taxation under Section 103 of the Internal Revenue Code of 1954, as amended (the "bonds"), which may be issued by any state of the United States during each calendar year; and

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

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

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

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

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

AMOUNT OF ALLOCATIONS	NAME OF ISSUER	NAME OF PROJECT
\$ 2,900,000	La. Public Facilities Authority	8400 Line Avenue Partners Project

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

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

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

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

SECTION 6: This Executive Order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunder set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this 17th Day of May, 1985.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 85-28

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

WHEREAS, the aggregate principal amount of bonds which

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

WHEREAS, Executive Order Number EWE 84-32 dated October 5, 1985, as amended, provides that the governor of the State of Louisiana is responsible for granting allocations from the ceiling for certain issues of bonds; and

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

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

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

AMOUNT OF ALLOCATIONS	NAME OF ISSUER	NAME OF PROJECT
\$ 1,100,000	La. Public Facilities Authority	The Richland State Bank Project

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

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

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

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

SECTION 6: This Executive Order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunder set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this 28th day of May, 1985.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 85-29

WHEREAS, like many institutions of higher education throughout the nation, Northwestern State University has witnessed frequent and abrupt fluctuations in enrollment, particularly over the last decade; and

WHEREAS, the fluctuations in enrollment have been especially noticeable on the Natchitoches campus; and

WHEREAS, the number of high school graduates in Louisiana is expected to decline annually for the next several years; and

WHEREAS, the State of Louisiana has made a substantial investment in both Northwestern's on-campus and off-campus fa-

ilities, including most recently an outstanding fine arts complex; and

WHEREAS, Northwestern State University has a long and distinguished history of helping Louisiana to meet its needs with respect to teachers, registered nurses, and various other professionals; and

WHEREAS, the Northwestern State University School of Nursing, the LSU Medical School, and the LSU Hospital are located in Shreveport, and a two-year branch campus of LSU is located in central Louisiana; and

WHEREAS, Northwestern State University has a long history of providing senior college educational opportunities to the citizens of northwest and central Louisiana; and

WHEREAS, it is possible that a realignment of institutional governance could deliver more efficient and effective education and health care to the citizens of Louisiana; and

WHEREAS, the Board of Regents, in its recent *Master Plan for Higher Education in Louisiana*, proposes that the state address the question of whether Northwestern State University would better serve the state's interest as a member of the LSU System; and

WHEREAS, the governance of the aforementioned proximate educational enterprises might be better addressed by one management board;

NOW THEREFORE I, EDWIN EDWARDS, Governor of the State of Louisiana, do hereby authorize and request the Board of Regents to conduct a feasibility study with respect to transferring the governance of Northwestern State University to the Louisiana State University System. Upon completion of the feasibility study, and no later than December 20, 1985, the Board of Regents shall transmit its findings to the governor, the clerk of the house, the secretary of the senate, the Board of Trustees for State Colleges and Universities, and the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College. Should the Regents conclude that the transfer is feasible, the Board of Supervisors is authorized and requested to conduct an intensive study to determine Northwestern State University's potential role in the LSU System and the institution's potential contribution to the statewide system of higher education as a member of the LSU System. The Board of Supervisors shall transmit its findings to the Board of Regents and to the other offices named herein no later than April 1, 1986.

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 28th day of May, 1985.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 85-30

WHEREAS, changing world market conditions and other economic factors have adversely altered the traditional base upon which the State of Louisiana has formed its financial structure and its fiscal policies and programs; and

WHEREAS, other recent world events and governmental action, such as federal deregulation of previously regulated industries, also may affect the economic situation of the state; and

WHEREAS, these new or changing factors and conditions require this state to evaluate its present economic structure in or-

der to more efficiently and more equitably redistribute the tax burden which must be borne by the industries and citizens of this state; and

WHEREAS, under Article VII, Part II of the Constitution of Louisiana, the Legislature of Louisiana is directed to implement by legislative action those constitutional principles regarding the assessment, imposition, and collection of and exemptions and other matters relating to ad valorem taxation; and

WHEREAS, the expertise and input of persons experienced and knowledgeable in this area can be highly beneficial to the evaluation process;

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

SECTION 1: The Governor's Study Commission on Ad Valorem Taxation is created in the office of the governor.

SECTION 2: The commission shall be composed of the following members:

a. The chairman of the House Committee on Ways and Means; or his designee;

b. The chairman of the Senate Committee on Revenue and Fiscal Affairs, or his designee;

c. The chairman of the Louisiana Tax Commission;

d. The president of the Louisiana Tax Assessors Association.

e. One representative of each of the following associations, to be designated by the association he represents and to serve at the pleasure of his appointing authority;

(1) Louisiana Municipal Association;

(2) Louisiana Police Jury Association;

(3) Louisiana School Boards Association.

f. The governor shall appoint the following members of the commission, each of whom shall serve at the pleasure of the governor:

(1) Two tax assessors;

(2) One representative of each of the following industries: the railroad, communication, utility, chemical, pipeline, forestry and agriculture, and oil and gas industries.

SECTION 3: The commission shall study the constitutional and statutory provisions of law regarding ad valorem taxation in light of the prevailing and anticipated economic environment and shall formulate recommendations for the revision of said laws. The commission further shall submit a written report of its recommendations to the governor.

SECTION 4: The commission is authorized to seek and to utilize such counsel, personnel, services, facilities, and supplies as may be obtained from any public or private source to carry out its duties pursuant to this order.

SECTION 5: No member of the commission shall receive a per diem or other compensation for the performance of his duties hereunder, nor shall a member receive reimbursement for any expenses incurred in connection therewith.

SECTION 6: This order shall remain in effect until modified, amended or rescinded by the governor or until terminated by operation of law.

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 29th day of May, 1985.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration

In accordance with the emergency provisions of the Administrative Procedure Act, L.R.S. 49:953B, and under the authority of L.R.S. 39:231, the commissioner of administration hereby declares that implementation of the Federal Tax Reform Act of 1984 and subsequent regulations and interpretations issued by the Internal Revenue Service have created a situation which potentially affects several thousand state employees and the internal operations of every department of state government.

Pursuant to Rev. Rul. 84-127, I.R.B. 1984-34, 8, Federal Tax Regulations § 1.162-17(4), and 26 USCA 162, the federal government has enacted a requirement that an employer who reimburses an employee for business use of his/her personally-owned vehicle in excess of a "standard mileage rate," currently 20.5 cents per mile, must report the total amount of such reimbursement to the Internal Revenue Service as additional income to the employee. Because the State Travel Regulations as promulgated in August 1982 establish a mileage reimbursement rate in excess of the IRS standard, an additional W-2 Form would be required for every state employee receiving reimbursement for mileage during the calendar year. The numerous payroll changes and manual procedures necessitated by this half-cent difference in reimbursement rates are cost-prohibitive, given the large number of state personnel who could be affected by these federal regulations. Thus, an Emergency Rule is necessary to reduce the current mileage reimbursement rate to the level of the IRS standard, to comply with federal law.

Therefore, effective July 1, 1985, Policy and Procedure Memorandum Number 49, Section VI.A.1. shall be amended to read as follows:

1. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while in the conduct of official state business. There will be no reimbursement for mileage incurred commuting to/from one's residence to his official domicile, unless previously mentioned exception has been granted. Mileage shall be reimbursable on the basis of 20.5 cents per mile. Mileage shall be computed as provided for in Section V.A. Requests for mileage reimbursement which include dollar amounts involving fractions of whole cents should be rounded downward to the nearest whole cent. When the use of a privately-owned vehicle has been approved in accordance with Sections V.B.4 or V.B.5. for out-of-state travel, the traveler will be reimbursed on the basis of 20.5 cents per mile not to exceed the cost of travel by coach/economy class air rates. Reimbursement shall be on the basis of the most direct route. The traveler shall be required to pay all operating expenses of the vehicle such as, but not limited to, fuel, repairs, replacement of parts and insurance.

The balance of Policy and Procedure Memorandum Number 49 remains unaffected by this Emergency Rule.

Stephanie L. Alexander
Commissioner of Administration

DECLARATION OF EMERGENCY

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 exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to amend the section of the Louisiana State Health Plan on Long Term Care. The amendment changes the adjustment for inaccessibility due to poor quality of care to allow 60 days for the facility to obtain reenrollment, recertification and relicensure prior to the revocation of its Section 1122 approval.

The amendment prevents the necessity of forced removal of Medicaid patients from nursing homes which have been disenrolled, decertified or delicensed, if the facility regains enrollment, certification and licensure within 60 days. In this situation, the possibility of 10 to 15 percent mortality from "transfer trauma," and the possibility that the nursing home patient would have to be moved out of the parish of residence can be avoided.

This rule amends the last sentence of the first paragraph on page 9-65 of the 1985-90 State Health Plan. It will read "... be revoked unless the facility obtains reenrollment, recertification and relicensure within 60 days of the loss of such approvals." The amendment is effective April 20, 1985.

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

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Office of Motor Vehicles

The Department of Public Safety and Corrections, Office of Motor Vehicles has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B to adopt the following Emergency Rule:

RULE

VEHICLE EMISSION INSPECTION

(a) All 1980 and later year model passenger cars and light-duty trucks currently registered and operated in Louisiana must be inspected, as part of, and at the time of, the required annual vehicle inspection, under Parameter Vehicle Emission Inspection and Maintenance Program and the rules of the department applicable to the particular year model.

(b) Certified inspectors in Louisiana must perform the parameter inspection and maintenance inspection on all 1980 and later year model passenger cars and light-duty trucks presented for inspection which are currently registered in Louisiana.

(c) Certified inspectors in Louisiana must perform the parameter inspection and maintenance inspection on all 1980 and later year model passenger cars and light-duty trucks presented for inspection which are currently registered and operated in Louisiana, provided that the certified inspectors have completed the training for the Parameter Inspection and Maintenance Program and hold a current inspector's certificate for such training.

(d) Vehicles having been inspected under the Parameter Inspection and Maintenance Program and found to have met the requirements will be passed by the certified inspector.

(e) All certified inspectors in Louisiana must complete the training for the Parameter Inspection and Maintenance Program and receive certification from the Louisiana Department of Public Safety and Corrections for such training.

(f) Only those certified inspectors who have completed the training for the Parameter Inspection and Maintenance Program and who have received certification for such training may perform the parameter inspection and maintenance inspections.

(g) Certified inspectors in the state who have been certi-

fied to perform the parameter inspection and maintenance inspections shall accurately complete forms provided by the department.

(h) Specific inspection requirements for passenger cars and light-duty trucks in the Parameter Inspection and Maintenance Program are as follows:

1980-1983 year models.

(A) Inspection parameters are evaporative canister, air injection system, choke system, and PCV valves and hoses. In addition, vehicles originally equipped with a catalytic converter at the time of manufacture shall be checked for lead detection test, catalytic converter, and fuel inlet restrictor.

(B) Vehicles with an altered or removed fuel inlet restrictor or a removed catalytic converter will be allowed a period of time not to exceed 60 days in which to replace the noncomplying equipment. A vehicle failing the lead detection test will be allowed a period of time not to exceed 60 days in which to replace the contaminated tailpipe and catalytic converter. Proof of replacement shall be provided by the vehicle owner at the time the vehicle is reinspected and shall be in the form of a dated repair receipt or sales invoice.

(C) A vehicle which fails the inspection because of an altered or removed fuel inlet restrictor, a removed catalytic converter, or lead in the tailpipe, but which passes all other inspection requirements, will be issued a rejection certificate which will be valid for 60 days.

1984 and later year models.

(A) Inspection parameters are misfire, evaporative canister, air injection system, oxygen sensor and valves, choke system, PCV valves and hoses, emission-related recall, and emission-related maintenance. In addition, vehicles originally equipped with a catalytic converter at the time of manufacture shall be checked for lead detection test, catalytic converter, and fuel inlet restrictor.

(B) An altered or removed fuel inlet restrictor or a removed catalytic converter must be replaced before an inspection certificate may be issued. A vehicle failing the lead detection test must have the contaminated tailpipe and catalytic converter replaced before an inspection certificate will be issued. If a vehicle is rejected, a rejection certificate valid for 60 days shall be issued which lists items rejected and other required information.

Inspection certificates issued prior to the effective date of these rules shall be valid and shall remain in effect until the expiration date thereof.

This rule is effective May 20, 1985.

The adoption of this emergency rule is necessary to allow the Department of Environmental Quality, Office of Air Quality and Nuclear Energy to include the rule in the State Implementation Plan (SIP) which is to be submitted to the Environmental Protection Agency. The submission of the SIP is required by EPA by letter dated February 24, 1984 and 49 FR 18827. The requirement that the SIP contain a program similar to the one outlined in this rule appeared in 48 FR 50686.

EPA has notified the state that should the SIP not include these rules it intends to initiate sanctions required by the Clean Air Act. The sanctions required by Section 176(a) would restrict funding to the Department of Environmental Quality and eliminate highway funds for the Baton Rouge area. A ban on new construction of industrial facilities would also be initiated under Section 173(4) of the Clean Air Act.

C. Paul Phelps
Secretary

Rules

RULE

Department of Agriculture Office of Animal Health Services Livestock Sanitary Board

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), R.S. 3:2093, and the Notice of Intent published in the April 20, 1985 issue of the *Louisiana Register*, the Department of Agriculture, Livestock Sanitary Board, has adopted new rules and regulations for the enforcement of its requirements under Title 3 of the Revised Statutes of 1950. Copies of these rules and regulations may be obtained from Dr. William Fairchild, State Veterinarian, Livestock Sanitary Board, Department of Agriculture, Box 1951, Baton Rouge, LA 70821.

Bob Odom
Commissioner

RULE

Department of Commerce Racing Commission

AMEND RULE LAC 35:6353
(Previously LAC 11-6:25.28)

§6353. Entry after Excused

A. The entry of any horse which has been excused by the stewards from starting on account of physical disability or sickness shall not be accepted until the expiration of three calendar days after the day the horse was excused.

B. The state veterinarian shall maintain a veterinarian's list of those horses determined to be unfit to compete in a race due to physical distress, unsoundness or infirmity. When a horse is placed on the veterinarian's list, the trainer of such horse shall be notified within 72 hours. A horse placed on the veterinarian's list shall be removed from the list only after having demonstrated to the satisfaction of the state veterinarian that the horse is then raceably sound and in fit physical condition to exert its best effort in a race. A horse may be required to perform satisfactorily in a workout or qualifying race to demonstrate its physical fitness, and if so a blood and/or urine post-work test sample may be taken from the horse and the provisions of this rule may apply to such official workout in the same manner as to a scheduled race, except that the results of such blood and/or urine test shall not be used for any purpose other than to determine the fitness of the horse to race.

Albert M. Stall
Chairman

RULE

Department of Commerce Racing Commission

ADOPT RULE LAC 35:505
(Previously LAC 11-6:48.3)

§505. Responsibility of Accreditation

A. Each owner of a horse bred in Louisiana that intends to have his/her horse registered as an accredited Louisiana bred is responsible for having the seal of the Louisiana Thoroughbred Breeders' Association or Louisiana Quarter Horse Breeders' Association affixed to the foal registration certificate prior to placement in the possession of any racing association in the State of

Louisiana. If it is determined by the Louisiana Thoroughbred Breeders' Association or Louisiana Quarter Horse Breeders' Association that a horse is not an accredited Louisiana bred, then it shall be clearly indicated as such on the foal registration certificate by the words written "NOT ACCREDITED."

B. If anyone accepts a foal registration certificate on behalf of any racing association that does not carry the abovementioned determination, or any person that presents a foal registration certificate to a racing association that does not carry the abovementioned determination, shall be disciplined by the Commission.

Albert M. Stall
Chairman

RULE

Department of Commerce Racing Commission

ADOPT RULE LAC 35:11101-11117 "TRIFECTA"
(Previously LAC 11-6:58)

Chapter 111. Trifecta

§11101. Object

The trifecta (or other approved name) is a form of pari-mutuel wagering. Each bettor selects, in order, the first, second and third placed horses in the designated trifecta race. The trifecta pool shall be held entirely separate from all other pools, and is no part of a daily double, exacta or other wagering pool.

§11103. Price of Tickets

Trifecta tickets shall be sold in not less than \$3 denominations and only from machines capable of issuing three numbers.

§11105. Approval by Commission

Races in which trifecta pools shall be conducted shall be approved by the commission and shall be clearly designated in the program.

§11107. Design of Tickets

The design of trifecta tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

§11109. Scratched Horse

If a horse is scratched or declared a nonstarter, no further trifecta tickets may be issued designating such horse and all trifecta tickets previously issued designating such horse shall be refunded and the money deducted from the gross pool.

§11111. Failure to Select Winning Combination.

Rules concerning failure to select a winning combination, short finishes include:

A. If there is a failure to select, in order, the first three horses, payoff shall be made on trifecta tickets selecting the first two horses, in order with all others; failure to select the first two horses, payoff to trifecta tickets selecting the winner and the third place horse with any and all other horses; failure to select any of the foregoing orders of finish, payoff shall be made to trifecta tickets selecting the winner to win with all other horses; failure to select the winner to win, payment shall be made to holders of tickets on the second and third place finishers with any and all others.

B. If less than three horses finish, payoff shall be made on tickets selecting the actual finishing horses in order, ignoring the balance of the selection.

§11113. Coupled Entries; Fields

Coupled entries and fields are prohibited in trifecta races.

§11115. Field Less Than Ten

Where a field in a trifecta race in thoroughbred or quarter-horse racing is less than ten at wagering time, such race may be run as an exotic wagering race or a trifecta race at the discretion of the stewards, but only if there is unanimous agreement of the stewards. A late scratch after wagering starts will not affect the trifecta.

§11117. Displaying Trifecta Rule

This rule shall be prominently displayed throughout the betting area of each track conducting the trifecta and printed copies of this rule shall be distributed by the track to patrons upon request.

Albert M. Stall
Chairman

RULE

Department of Commerce Racing Commission

ADOPT RULE LAC 35:11301-11319 "QUINELLA"
(Previously LAC 11-6:59)

Chapter 113. Quinella

§11301. Separate Pool

The quinella is not a "parlay" and has no connection with or relation to the win, place or show betting and will be calculated on an entirely separate pool.

§11303. Selecting Horses

When purchasing a quinella ticket, two horses are selected which must finish 1 - 2 or 2 - 1. For example, if numbers 3 and 6 are selected they must come in 3, first and 6, second or 6, first and 3, second.

§11305. No Ticket Sold with Winning Combination

If no ticket is sold on the winning combination of a quinella pool the new pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

§11307. Dead Heat for First or Second Place

In the event that a race on which there is quinella wagering shall result in a dead heat for first place, the combination shall be the winner of the quinella pool. In the event of a dead heat between the two horses for second place, the quinella pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two horses finishing second participating in the payoff.

§11309. Dead Heat for Second Place

In the event of a dead heat for second place, if no ticket is sold on one of the two winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the winning combinations.

§11311. Full Refund of Pool

If no ticket is sold that would require distribution of a quinella pool to a winner as above defined, the association shall make a complete and full refund of the quinella pool.

§11313. Pari-Mutuel Department Emergencies

Should any emergency arise in connection with the operation of the pari-mutuel department which requires an immediate decision and is not covered by these rules, then the manager of the pari-mutuel department shall make that decision.

§11315. Excused Horse

If a horse in a race on which there is quinella wagering is excused by the stewards or locked in the gate, all moneys wagered on combinations which include this horse shall be deducted from the quinella pool and refunded to the purchasers of tickets on the horse.

§11317. If Last Race Cancelled or "No Race"

If, for any reason, the last race (the only race on which quinella wagering is permitted) is cancelled and declared "no race," a full and complete refund shall be made of the quinella.

§11319. Displaying Quinella Rule

This rule shall be prominently displayed throughout the betting area of each track conducting the quinella and printed cop-

ies of this rule shall be distributed by the track to patrons upon request.

Albert M. Stall
Chairman

RULE

Board of Elementary and Secondary Education

Editor's Note: This Rule is being republished to change the word "statewide" (as published in the Louisiana Register, Volume 11, Number 5, page 520) to "systemwide" in the third paragraph.

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

Rule 3.01.51.m—High School Credit for Elementary Students

The board adopted an amendment to Bulletin 741, policy 2.102.01 regarding high school credit for elementary students by adding the following in procedural blocks:

The school system may grant credit on either a letter grade or a pass or fail (P/F) basis, provided there is consistency system-wide. The course title, year taken, P/F (pass or fail) or the letter grade and the unit of credit shall be entered on the Certificate of High School Credits (transcripts). H.S.C. (high school credit) must be indicated in the remarks column.

Credit shall be granted on a pass or fail (P/F) basis only. The course title, year taken, P/F (pass or fail), and unit of credit earned shall be entered on the Certificate of High School Credits (transcript). C.E. (credit examination) must be indicated in the remarks column.

Credit or Credit Examinations may be given in the following subjects: Computer Literacy, Computer Science I and II, English I-IV, Advanced Mathematics, Algebra I and II, Calculus, Geometry, Trigonometry, and Typewriting I. Additionally, credit may be given in all courses listed in the Program of Studies in Foreign Languages, Science, and Social Studies. Exceptions may be made by the Bureau of Secondary Education, State Department of Education upon the request of the local superintendent.

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

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

Rule 3.01.51.q

Rewording the Standards 1.055.17 and 2.055.17 of Bulletin 741 to read: "The minimum age for kindergarten shall be five years by December 31."

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and

Secondary Education, pursuant to Notice of Intent published on February 20, 1985 and under the authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy the rule listed below:

Rule 4.01.50

Standards for Approval of Non-Public Schools, including amendments, effective for the 1985-86 school year. (Complete text of Standards may be seen at the Office of the Louisiana Register, State Department of Education, and Office of the Board of Elementary and Secondary Education.)

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

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

Rule 4.03.47

ENROLLMENT AND FEES FOR NON-RESIDENTS

1. Louisiana residents will be given preference in enrollment in the vocational technical schools operated by the State of Louisiana.

2. Persons (parents of minors) who have not been a resident of Louisiana for the previous 12 months will be charged a non-refundable registration fee of \$100 plus tuition upon enrollment.

3. In determining residency, the enrollee must document his current residence by the presentation of any one of the following:

- Louisiana driver's license
- Louisiana vehicle registration
- Louisiana voters registration
- Louisiana income tax return showing tax paid
- Other similar documentation acceptable to the school director, and also certification of prior residency on the Application for Enrollment.

4. Military personnel and their dependents stationed in Louisiana under active duty orders are deemed to be Louisiana residents for enrollment and fee purposes.

5. Part-time tuition of \$50 per month shall be charged all non-residents. Part-time shall include instructional programs of fewer than six hours of coursework per day comprising fewer than 30 hours per week of classroom study. Part-time courses of instruction shall also include all extension programs which are offered in the evening, or on weekends, or totaling less than 150 hours and designed to upgrade skills or knowledge.

6. The tuition for instructional training of less than one month will be pro-rated based upon 20 days a month.

7. The tuition for all instructional programs not part-time shall be \$100 per month.

8. Non-residents enrolled prior to January 1, 1985 shall continue to pay \$30 per month tuition until completion of present enrollment or otherwise dropped.

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published on

March 20, 1985 and under the authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy, the rule listed below: Rule 3.01.70.u(10)a

The Board extended the Plans for Professional Development for Educational Assessment Teachers to the beginning of the 1990-91 school year to allow time for completion of interim plans for certification.

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published on March 20, 1985 and under the authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy, the rule listed below: Rule 3.01.70.v(27)b

The board grandfathered in as special school principal any person who is currently serving as a special school principal in Louisiana schools and who will have three or more years experience as a special school principal by the end of the 1984-85 school year.

James V. Soileau
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published on March 20, 1985 and under the authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy, the rule listed below: Rule 3.02.04.g

The board revised Board Policy 3.02.04.g to read "Each board special school superintendent is designated as appointing authority for the board special schools."

James V. Soileau
Executive Director

RULE

Office of the Governor Office of Elderly Affairs

In accordance with L.R.S. 49:950 et seq., and pursuant to Subsections 307 (a) (5) and 305 (b) (1) of the Older Americans Act Amendments of 1984, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) has amended the GOEA policy manual to add a new Section (900), entitled *Hearing Procedures*, effective June 20, 1985. The new section shall read as follows:

§900 HEARING PROCEDURES

§901 General Hearing Provisions

A. Purpose

The Governor's Office of Elderly Affairs is required to provide the opportunity for a hearing, on request, to area agencies submitting plans under Title III of the Older Americans Act, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan (Section 307 (a)(5)); and to any

unit of general purpose local government with a population of 100,000 or more which applies for designation as a planning and service area (Section 305(b)(1)). This Section specifies the timing and procedures for the hearings.

B. Definitions

1. *Act* - is the Older Americans Act (42 United States Code Section 3001 et seq.).

2. *Area agency* - is the agency designated by the Governor's Office of Elderly Affairs in a planning and service area to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

3. *Area plan* - is the document submitted by an area agency to the Governor's Office of Elderly Affairs in order to receive contracts from the Governor's Office of Elderly Affairs.

4. *Advisory Board* - is the nine member board appointed by the governor to advise the work of the Governor's Office of Elderly Affairs.

5. *Chairman* - is the presiding officer of the board.

6. *Commissioner* - is the commissioner on aging of the Administration on Aging, Office of Human Development Services, U.S. Department of Health and Human Services.

7. *Governor's Office of Elderly Affairs* - is the single state agency designated to develop and administer the state plan and be the focal point on aging in the State of Louisiana.

8. *Director* - is the director of the Governor's Office of Elderly Affairs.

9. *Contract* - is an award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

10. *Hearing Examiner* - is an impartial person designated to preside at the hearing and render a proposed final decision.

11. *Interested person* - is any person who has a justifiable and clearly identifiable interest in the decision being appealed.

12. *Party* - is any petitioner and the area agency or the Governor's Office of Elderly Affairs which proposed or decided the action being appealed.

13. *Petitioner* - is any person who has a right to a hearing under these rules and has filed a written request for a hearing.

14. *Person* - is an individual, partnership, corporation, association, governmental agency or subdivision, or public or private organization of any character.

15. *Planning and service area* - is a geographic area of the state that is designated by the state agency for the purpose of planning, development, delivery, and overall administration of services under an area plan.

16. *Service provider* - is an entity that is awarded a sub-contract from an area agency to provide services under the area plan.

17. *State Agency* - is the single state agency designated to develop and administer the state plan and to be the focal point on aging in the state.

C. General Procedures for Hearing

1. *Decisions Unresolved on Effective Date of These Rules*—These rules shall be applicable to all cases involving actions in which the petitioner has filed a request for hearing within 30 days of the receipt of the notice of such action, and a hearing has not yet been held or informal disposition or arrangements made as specified in Subsection (4) of this rule.

2. *Computation of Time*—In computing any record of time prescribed by these rules, or by any applicable statute, the period shall begin on the day after the event or act cited in the rule or statute and conclude on the last day of the computed period, unless the last day be a Saturday, Sunday, or a legal holiday, in which case the period concludes on the next day which is neither a Saturday, Sunday, nor a legal holiday.

3. *Representation of Petitioner*—Any party may be as-

sisted by an attorney at law authorized to practice law before the Supreme Court of the State of Louisiana. Any party may appear personally or be represented by an employee or officer, or other person authorized by the party to represent the party.

4. Informal Disposition—Informal disposition or arrangements may be made of any matters under these rules by written agreement between petitioner and the area agency or the Governor's Office of Elderly Affairs proposing or deciding the action that resolves the issue(s) that led to the hearing.

D. Incorporation of Administrative Procedure Act

There is hereby incorporated as a part of these rules, to the extent same be applicable and pertinent, the provisions of L.R.S. 49:950 et seq., the Louisiana Administrative Procedure Act, as amended.

§902 Hearing Procedures for Area Agencies

A. Purpose

The Governor's Office of Elderly Affairs is required to provide an opportunity for a hearing to area agencies on aging when particular types of action have been taken or are proposed.

B. Right to a Hearing

An area agency has a right to a hearing under these rules when the Governor's Office of Elderly Affairs proposes to:

1. disapprove an area plan or plan amendment; or
2. withdraw an area agency's designation as provided in 45 CFR Part 1321.

C. Notice of Proposed Action

1. The Governor's Office of Elderly Affairs shall issue a written notice to the area agency which shall include:

- a. a statement of the proposed action;
- b. a short and plain statement of the reasons for the proposed action and the evidence on which the proposed action is based; and
- c. a reference to the particular sections of statutes, regulations, and rules involved.

2. The notice shall be sent by registered or certified mail, return receipt requested.

D. Request for Hearing

1. The request for hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the proposed action.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the proposed action is appealed and all grounds upon which petitioner refutes the basis of the proposed action. The request must include:

- a. the dates of all relevant actions;
- b. the names of individuals or organizations involved in the proposed action;
- c. a specific statement of any section of the act or regulations believed to have been violated; and
- d. a certified copy of the minutes or resolution in which petitioner's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of the quorum of the governing body of the agency or organization.

E. Notice of Hearing

1. Upon receipt of a request for hearing the director shall, within 10 days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner and interested persons which shall include:

- a. a statement of time, date, and location of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular sections of statutes, regulations, and rules involved; and

d. a short and plain statement of the reasons for the proposed action that is being appealed and the evidence on which the proposed action is based.

3. Petitioner and other parties shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

F. Hearing Examiner

The director or his designated representative shall be the hearing examiner and preside at the hearing subject to the provisions of L.R.S. 49:960. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the Governor's Office of Elderly Affairs or petitioner.

G. Rules of Evidence

1. In hearings under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the Governor's Office of Elderly Affairs' specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of the Governor's Office of Elderly Affairs and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

H. Ex Parte Consultations

Communications between the hearing examiner and any party or interested person or their representatives shall be governed by L.R.S. 49:960.

I. Depositions and Subpoenas

The taking and use of depositions and the issuance of subpoenas shall be governed by L.R.S. 49:956(5)-(8).

J. Hearing

1. Petitioner shall open and present its evidence to estab-

lish its position on the matters involved. Interested persons shall follow and present their evidence; then the Governor's Office of Elderly Affairs shall present its evidence. Petitioner may thereafter present rebuttal evidence only, such evidence to be confined to issues raised in petitioner's opening presentation and Governor's Office of Elderly Affairs following presentation or that of others. Petitioner shall be given the opportunity to offer final argument, but with no additional presentation of evidence.

2. The hearing shall be completed within 120 days of the date the request for hearing was received.

K. Transcript

The proceedings of the hearing shall be transcribed on request of any party or person. The cost of transcription will be borne by the person requesting the transcript, unless otherwise provided by law. The Governor's Office of Elderly Affairs may require a deposit in the form of a certified check or cashier's check in an amount reasonably determined by the Governor's Office of Elderly Affairs to be adequate to cover all costs of transcription. In the event that transcription is not requested, the Governor's Office of Elderly Affairs, at its option, may produce a summary record of the proceedings of the hearing; provided that if such a summary record is produced by Governor's Office of Elderly Affairs, it shall provide the area agency with notice of the fact that such summary record was prepared and with the opportunity to copy or inspect same.

L. Final Decision

1. All final decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. The area agency shall comply with the final decision. A copy of the decision shall be sent immediately to the parties by registered or certified mail, return receipt requested.

2. Procedures for rehearing and appeal shall be governed by L.R.S. 49:959 and 965.

M. Record

The record in a hearing under these rules includes:

1. all pleadings, motions, and intermediate rulings;
2. evidence received or considered, or a resume thereof if not transcribed, except matters so obvious that a statement of them would serve no useful purpose;
3. a statement of matters officially noticed;
4. offers of proof, objections and rulings on them;
5. proposed findings and exceptions; and
6. any decision, opinion, or report by the hearing examiner presiding at the hearing.

§903 Hearing Procedures for Applicants for Planning and Service Area Designation

A. Purpose

The Governor's Office of Elderly Affairs is required to provide an opportunity for a hearing to any qualified applicant for designation as a planning and service area whose application is denied by the Governor's Office of Elderly Affairs.

B. Right to a Hearing

The Governor's Office of Elderly Affairs shall provide an opportunity for a hearing, and issue a written decision to any unit of general purpose local government which has a population of 100,000 or more; region within the state recognized for purposes of areawide planning which includes one or more such units of general purpose local government; metropolitan area; or Indian reservation whose application for designation as a planning and service area is denied.

C. Request for Hearing

1. The request for a hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the adverse decision.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the Governor's Office of

Elderly Affairs decision is appealed and all grounds upon which petitioner refutes the basis of the adverse decision. The request must include:

- a. the dates of all relevant actions;
- b. the names of individuals or organizations involved in the action;
- c. a specific statement of any section of the act or regulations believed to have been violated; and
- d. a certified copy of the minutes or resolution in which the applicant's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of a quorum of the governing body of the agency or organization.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner, which shall include:

- a. a statement of time, date, location, and nature of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular section of statutes, regulations, and rules involved; and
- d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based.

3. If the Governor's Office of Elderly Affairs is unable to state in detail the evidence and reasons for the decision at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished not less than three days prior to the date set for the hearing.

4. Petitioner shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

E. Hearing Examiner

The director or his designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of L.R.S. 49:960. The hearing examiner shall conduct the hearing in an orderly fashion and in accordance with the procedures outlined herein. It is the responsibility of the hearing examiner to fully consider information relevant to the complaint and to draft a fair decision based on such information.

F. Rules of Evidence

The rules of evidence for hearings held under §903 shall be as provided in §902(G).

G. Ex Parte Consultations

Communications between the hearing examiner and any party or interested person or their representatives shall be governed by L.R.S. 49:960, the Louisiana Administrative Procedure Act.

H. Depositions and Subpoenas

The taking and use of depositions and the issuance of subpoenas shall be governed by L.R.S. 49:956 (5)-(8) of the Louisiana Administrative Procedure Act.

I. Hearing

The procedure to be followed for hearings held under §903 shall be as provided in §902(J).

J. Transcript

The rules governing transcripts for hearings held under §903 shall be as provided in §902(K).

K. Final Decision

All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hear-

ing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested.

L. Rehearing

Procedures for rehearings shall be governed by L.R.S. 49:959.

M. Record

The record in a hearing under these rules shall consist of the materials listed in §902(M).

N. Appeal to Commissioner

Any qualified applicant for designation as a planning and service area whose application has been denied, and who has been provided a written decision by the Governor's Office of Elderly Affairs, may appeal the denial to the commissioner in writing within 30 days following receipt of the state agency's decision. Such appeal shall be governed by the procedures outlined in the federal regulations issued by the commissioner.

§904. Hearing Procedures for Service Providers and Applicants

A. Purpose

The Governor's Office of Elderly Affairs is required to provide an opportunity for a hearing to service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed.

B. Right to a Hearing

Any service provider or applicant to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M, has a right to a hearing by the Governor's Office of Elderly Affairs on such action after all hearing procedures of the area agency have been exhausted.

C. Request for Hearing

1. A petitioner must request the hearing from the Governor's Office of Elderly Affairs within 30 days after it receives the area agency's final action letter.

2. The request for the hearing must be in writing and must state with specificity all grounds upon which petitioner refutes the basis of the action. The notice must include:

- a. a copy of the area agency's action letter;
- b. the dates of all relevant actions;
- c. the names of individuals and organizations involved in the action appealed;
- d. a citation of any provision of the Act or accompanying regulations believed to have been violated by the area agency in taking the action appealed; and
- e. a certified copy of the resolution by which, or of the minutes of the meeting at which, the petitioner's governing body authorized the appeal and designation of one or more persons to represent it during the appeal, both by majority vote of a quorum of the governing body.

D. Submission of Hearing

1. The area agency, upon written request from the Governor's Office of Elderly Affairs, shall furnish copies of the following documents to the Governor's Office of Elderly Affairs:

- a. the minutes of the meeting of the area agency's governing body at which the subject action was considered and taken;
- b. the minutes of the meeting of the area agency's advisory council at which the subject action was considered and recommended;
- c. area agency memoranda, staff reports, and evaluations relevant to the action appealed;
- d. the criteria used in awarding the contract involved in the hearing; and
- e. the petitioner's application for the contract involved in the hearing.

2. Unless the director of the Governor's Office of Elderly

Affairs requests it or schedules an evidentiary hearing under §904 (E), no additional evidence may be admitted on the hearing.

E. Evidentiary Hearing

1. If the director determines that a hearing involves a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the director may schedule a hearing to take testimony by notifying all parties of the date, place, and time of the hearing by registered or certified mail, return receipt requested.

2. The director may appoint an impartial hearing examiner to preside at the hearing or may serve as the hearing examiner himself. The hearing examiner has the powers described in §902 (F).

3. The rules of evidence described in §902 (G) apply to an evidentiary hearing under this Section.

4. The hearing examiner shall make a record of the evidentiary hearing in accordance with §902 (M).

5. The rules pertaining to evidence, ex parte consultations, depositions, hearings, and transcript shall be as provided in §902 (G), (H), (I), (J) and (K) respectively.

F. Final Decision

1. The director shall decide all hearings under this rule but may direct a Governor's Office of Elderly Affairs employee to make an initial review and recommend a decision.

2. The director shall decide the hearing solely on the basis of the record. The director shall not substitute his judgment for that of the area agency as to the weight of the evidence on matters committed to the area agency's discretion. The director shall affirm the action heard unless it is unlawful, arbitrary, or not reasonably supported by substantial evidence in the record.

3. The director shall render a final decision on the hearing in writing within 120 days after receipt of the notice of appeal. The director shall send a copy of the final decision to each party by registered or certified mail, return receipt requested, within three days after it is rendered.

G. Rehearing

Procedures for rehearing and appeal shall be governed by L.R.S. 49:959 and 965.

H. Record

The record for the hearing under this rule shall consist of the material listed in §902 (M).

Sandra C. Adams
Director

RULE

Office of the Governor Office of Elderly Affairs

In accordance with L.R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the proposed revision of Subsection 712 of the Governor's Office of Elderly Affairs policy manual which was published in the April 20, 1985 issue of the *Louisiana Register* has been adopted. Effective June 20, 1985, Subsection 712 shall read as follows:

712 SERVICE REQUIREMENTS

A. General Rule for Services Funded under Title III of the Older Americans Act

The Governor's Office of Elderly Affairs and all area agencies in Louisiana use procurement contracts or subcontracts with service providers to provide all services under the state and area plans unless the Governor's Office of Elderly Affairs, after exploring alternatives, decides that direct provision of a service by the area agency using its own employees is necessary to assure an adequate supply of the service; or where such services are directly related to such area agency on aging's administrative functions (such

as information and referral, outreach, advocacy, ombudsman, case management); or where such services of comparable quality can be provided more economically by the area agency on aging.

B. Standard Procedure for Area Agencies

In selecting subcontractees, the area agency governing body must:

1. advertise for bids for procurement contracts, as defined in 45 CRF Part 74.3 and solicit proposals for awards of financial assistance under contract;

2. evaluate bids or proposals received; and

3. award procurement contract(s) or financial assistance under contract to the best applicant(s).

C. Conditions for Direct Delivery of Services by an Area Agency

The Governor's Office of Elderly Affairs may grant an exception to the general rule and authorize direct service delivery by an area agency on aging if, after solicitation under the guidelines promulgated by the Governor's Office of Elderly Affairs, the area agency:

1. demonstrates that it is necessary to directly deliver services to ensure an adequate supply of the service; or

2. demonstrates that it can provide services of comparable quality more economically than other providers.

D. Test Standards

The test for adequate supply will be met by the area agency on aging when the state agency determines that the area agency on aging can and will provide the services substantially more effectively and efficiently than any other provider.

1. "Substantially More Effective" Test Standards

The substantially more effective test will be met by the area agency when, in the state agency's judgment, the following standards are met in a manner superior to other applicants offering to provide the service:

Standard 1: A person qualified by training and experience is designated to be responsible for the conduct of this activity, including supervision of para-professional and volunteer staff.

Standard 2: There are adequate numbers of supervised staff, trained and skilled in dealing with assessing the needs of older persons and assisting such persons to obtain needed services.

Standard 3: The service is accessible to older persons in the area.

Standard 4: There is a system established for follow-up on referrals.

Standard 5: There is an up-to-date file of community resources which will contribute to the well being of older persons.

Standard 6: Procedures are established for publicizing the service.

Standard 7: Linkages are planned with other services available under Title III of the Older Americans Act.

Standard 8: There is a sound management system capable of furnishing timely and accurate fiscal and program report data.

Standard 9: There is a sufficient schedule of service delivery days and appropriate hours of daily operation. (minimum: 250 service delivery days per contract year)

Standard 10: Outreach is available to identify older persons with the greatest social or economic need with particular attention to low-income minority individuals.

Standard 11: There are service delivery criteria for each service.

2. "Substantially More Efficient" Test Standards

The "substantially more efficient" test will be met by the area agency when the state agency can determine that the area agency utilizing Title III funds can provide each service at a substantially lower unit cost. "Substantially" is defined as a unit of cost which is at least 20 percent lower than the best applicant's unit cost. Unit cost is defined as the total expenditure of Title III funds needed

for the service divided by the number of units of service to be delivered.

Sandra C. Adams

Director

RULE

**Department of Health and Human Resources
Board of Examiners of Psychologists**

The Board of Examiners of Psychologists hereby repeals the following rules:

1) In telephone directories in the yellow pages under the listing of "Psychologists", no businesses will be listed except as they are subordinate to the name of a licensed psychologist who may indicate his business association.

2) Any public presentation of a business name as psychology or any derivative of the term such as psychologist or psychological is in violation of the law unless services to clients are rendered by a licensed psychologist or under the supervision of a licensed psychologist.

3) Candidates for licensure may apply as soon as they receive their Ph.D. degrees. During the two-year supervised period intervening before the receipt of the license, the board will act as consultant to the applicant. The board will serve to advise the applicant regarding any questions he might have as to the adequacy of his supervised experience in meeting the requirements for licensure.

4) All applicants for licensure and re-licensure must provide a statement describing the extent and nature of their supervised experience. A statement must be provided by the supervisor of the nature, character and extent of the supervision he is providing.

5) Psychologists licensed by the board will submit along with their application for renewal a summary report listing the names, the degrees, job titles, level of training, nature of work, and setting of work of those persons doing psychological work for whom they assume supervisory responsibilities. The board reserves the authority to interpret the adequacy of supervision which is being assumed by any licensed psychologist and to advise the psychologist of the board's assessment of the reasonableness and propriety of the supervisory arrangements with those persons for whom he is responsible.

6) With respect to the implementation of the law authorizing the establishment of special education centers and the designation of "other competent authorities" for evaluation and recommendations for placement in the school system of handicapped or exceptional children, the board affirms that there shall be no other definition of the psychologist in the special education center than that provided in the licensing law, namely, that such persons should be a licensed psychologist or working under the direct supervision of a licensed psychologist.

7) Any psychologist licensed by the board that does not respond promptly to the certified letter reminding the licensee that his license has expired will be dropped from the directory and will not be entitled to practice psychology in Louisiana until the license is renewed according to the provisions of the licensing law.

8) The cutting score on the written examination for a clear pass is at the twenty-fifth percentile or greater on national norms and that scores less than the twenty-fifth percentile will be considered by the board in relation to all other available information.

9) Applications for reciprocity can be considered only from psychologists who received their licenses from other states while residents of those states and were actively engaged in the conduct of psychology during that period of residence.

Sandra L. Robinson, M.D., M.P.H.

Secretary and State Health Officer

RULE

Department of Health and Human Resources Office of Family Security

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

RULE

Effective July 1, 1985, the following Standards for Payment: Adult Day Health Care Centers will be adopted:

LOUISIANA STATE MEDICAID STANDARDS STANDARDS FOR PAYMENT: ADULT DAY HEALTH CARE SERVICES

FORWARD

These Standards for Payment specify the requirements of the Adult Day Health Care Program. The program is funded as a waived service through Title 19 of the Social Security Act and is administered by the Department of Health and Human Resources, Office of Family Security, in conjunction with other state and local agencies.

These standards provide a center with information necessary to fulfill its vendor contract with the State of Louisiana and are the basis for federal and state reviews and surveys.

PROGRAM DESCRIPTION

An Adult Day Health Care (ADHC) program provides direct care for five or more hours in a 24 hour week day to individuals who are physically and/or mentally impaired. The target group is those individuals who need direct professional medical supervision or personal care supervision. It shall be a requirement for program eligibility that such individuals would require intermediate care or skilled nursing services were they not enrolled in an Adult Day Health Care center.

This program expands the array of services available to functionally-impaired individuals and helps bridge the gap between independence and institutionalization, allowing them to remain in their own homes and communities.

Adult Day Health Care programs work toward the following goals:

1. to promote the individual's maximum level of independence;
2. to maintain the individual's present level of functioning as long as possible, preventing or delaying further deterioration;
3. to restore and rehabilitate the individual to the highest possible level of functioning;
4. to provide support and education for families and other caregivers;
5. to foster socialization and peer interaction;
6. to serve as an integral part of the community services network and the long-term care continuum of services.

The long-range goal for all Adult Day Health Care participants shall be the delay or prevention of 24 hour care.

I. DEFINITIONS

A. *Adult Day Health Care Center* - Act 705 of the 1984 Louisiana Legislature defines this as "any place owned or operated for profit or not for profit by a person, agency, corporation, institution or any other group wherein are received for a portion of the 24-hour day 10 or more functionally-impaired adults who are not related to the owner or operator of the center."

B. *Adult Day Health Care* is a group program designed to meet the individual needs of functionally impaired adults which is structured and comprehensive and which provides a variety of health, social and related support services in a protective setting. "Adult Day Care" and "Adult Day Health Care" are synonymous where they appear in this document.

C. *Applicant* refers to an individual whose written appli-

cation for Medicaid has been submitted to the agency but whose financial or medical eligibility has not yet been determined.

D. *Attending Physician* refers to a physician, currently licensed by the Louisiana State Board of Medical Examiners, who is designated by the recipient or responsible party as responsible for the direction of the recipient's overall medical care.

E. *Functionally-impaired adults* are those persons who are physically, mentally or socially impaired to the degree that they are in need of medical or personal supervision.

F. *DHHR* - Department of Health and Human Resources, the state agency responsible for Title 19 (Medicaid) in Louisiana.

G. *DHHS* - The Department of Health and Human Services, the federal agency responsible for administering the Medicaid program.

H. *Enrollment* refers to the act of registering a licensed and certified center provider into the computerized system for payment of eligible services under the Medical Assistance Program. Enrollment includes the execution of the provider agreement and assignment of the provider number used for payment.

I. *FFP* - Federal Financial Participation.

J. *HFCA* - Health Care Financing Administration, the organization within DHHS responsible for administering the Medicaid program.

K. *ICF* - Intermediate Care Facility.

L. *LTC* - Long Term Care.

M. *Medicaid* refers to the medical assistance provided under the state plan approved under Title 19 of the Social Security Act.

N. *Medicaid Management Information System* refers to the computerized system which lists all providers eligible for participation in the Medical Assistance Program. This system is an organized method of payment for claims for all Title 19 services. It includes all Title 19 providers and all recipients.

O. *Medical Assistance Program* - the division within OFS specifically responsible for administering Title 19 (Medicaid) in Louisiana.

P. *OFS* - Office of Family Security, the agency within DHHR responsible for administering Title 19 (Medicaid) in Louisiana.

Q. *Participant* - refers to Title 19 applicant or recipient.

R. *Recipient* - refers to an individual who has been found eligible for Title 19 benefits or vendor payments.

S. *Responsible party* is the individual or group designated by the participant to handle finances or to be called in case of an emergency.

T. *SNF* - Skilled Nursing Care.

II. LICENSURE

In accordance with Public Act 705 of the 1984 Louisiana Legislature and federal regulations governing reimbursement for Title 19 services, enrolled Title 19 Adult Day Health Care centers shall be licensed by DHHR. An application for this may be obtained by contacting the Division of Licensing and Certification.

Such licensure shall be one of two standards to participate as a Title 19 provider. The second standard for participation is the execution of a provider agreement wherein a provider agrees to comply with *Standards for Payment: Adult Day Health Care Centers*.

III. PROVIDER AGREEMENT

A. Each Adult Day Health Care center shall enter into a provider agreement with DHHR to provide services through Title 19. An application for enrollment may be obtained by contacting the Office of Family Security, Long Term Care (LTC) Provider Enrollment Section.

B. If OFS has documentation showing good cause (other

than lack of funding), it may refuse to execute an agreement with a provider or may cancel an agreement with a certified center.

C. The effective date of the provider agreement shall be no earlier than the effective date the center becomes licensed.

D. The provider agreement shall be limited to one year from the effective date of the previous provider agreement.

E. The provider agrees:

1. To provide Adult Day Health Care services to aged and disabled adults who are admitted in accordance with the provider's admission policies.

2. To be licensed by the Division of Licensing and Certification as meeting Louisiana licensure standards for adult day health care centers.

3. Not to request or accept payment from DHHR, OFS, unless the participant for whom payment is requested is receiving services as specified in the *Standards for Payment: Adult Day Health Care Centers*.

4. That when a Title 19 recipient applies for admission to the center, the center shall apply for Adult Day Health Care Center vendor payments on behalf of that individual.

5. To notify the Division of Licensing and Certification and the Office of Family Security (Long Term Care Unit) in writing two weeks in advance of changes which would affect this agreement. No such changes shall be effected until written approval is given by OFS. Information in the OFS Provider Enrollment Form(s) PE-50 and ownership data shall be kept current with the understanding that the Provider Enrollment Form(s) and ownership data become a part of this contract and that each succeeding change in the Provider Enrollment Form constitutes an amendment to this contract and that failure to keep the information current constitutes a breach of the contract making it subject to immediate cancellation.

6. To allow each participant free choice of Medicaid service providers.

7. To have appropriate staff chart all medications and treatments administered to participants at the center.

8. To maintain adequate records which itemize all charges made to a participant or third party and to make these records available when requested by DHHS, DHHR, OFS, or any other state or federal agency responsible in any way for the administration of Title 19 or state funding for this service.

9. To accept, as payment in full, the amounts paid in accordance with established fees for services billed.

10. To have a center policy which all employees sign and which specifies that the center does not require or expect or accept tips for services by center employees.

11. To immediately notify the participant's attending physician and responsible relatives of any emergency involving the participant.

12. To promptly (no later than 24 hours) notify the OFS regional and parish offices in writing when a participant dies or is discharged from the center.

13. To have nursing staff certify to the receipt of prescribed medication by legible signature and agree to comply with all Louisiana laws, rules and regulations regarding medication control and disbursement.

14. To immediately notify the OFS parish office when the participant requests to see his/her OFS worker.

15. To maintain and keep any records necessary to disclose the extent of services the center furnishes to Medicaid participants and to have such records available for inspection for three years following the end of each three-year waiver period.

16. Upon request, to furnish to DHHR, DHHS, the comptroller general, or the Medicaid Fraud Control Unit, or their agents, any information maintained in Item 15 above and any information

regarding payments claimed by or made to the center for furnishing services to Medicaid recipients.

17. To comply with disclosure of ownership and control information and disclosure of information on owners and other persons convicted of criminal offenses against the Medicaid program.

18. To operate the center in accordance with the Civil Rights Act of 1964 and its amendments. This means that individuals are accepted and cared for and that all services and facilities (waiting rooms, toilets, dining room, and recreation rooms) are available to persons without regard to race, color, age, sex, or national origin. Also public facilities are available to visitors without regard to race, color, age, sex, or national origin.

19. To submit a quarterly report on personnel to the Division of Licensing and Certification, and to notify appropriate personnel in that division when there is a change in the number of personnel in any classification or any other change that may affect the licensing status of the center.

20. To comply with the requirements of the *Standards for Payment: Adult Day Health Care* and state health and safety laws.

21. To submit a properly completed cost report within 90 days of the provider's fiscal year closing date. If the cost report is not submitted as required, a penalty of five percent of the total monthly payment for each month of non-compliance may be levied. The agency may grant one 30-day extension of the 90-day limit upon request of the provider after having shown just cause. This penalty may be increased by five percent for each succeeding month of non-compliance.

22. That if the provider has authorized a representative to enter into this agreement the provider shall sign, and provide DHHR, OFS, a copy of an affidavit delegating the said person as agent and authorized representative.

23. That in the event DHHR, OFS determines certain costs which have been reimbursed to the provider pursuant to this or previous agreements are not allowable, DHHR shall have the right to recoup and/or set off and/or withhold said amount from amounts due the provider under this agreement for costs that are allowed.

F. DHHR agrees:

To make payment to the provider on behalf of eligible participants if the provider is enrolled as a Title 19 provider of adult day health care services. The provider will be paid an individual, prospectively-determined rate based on reasonable, allowable costs. This rate shall not exceed 80 percent of the current ICF II rate.

G. Both parties mutually agree:

1. That this contract shall be for one year and may be renewed and extended by DHHR, OFS, provided compliance is maintained by the provider with licensing standards for adult day health care centers and *Standards for Payment Adult Day Health Care Centers* and any and all other rules and regulations governing adult day health care centers.

2. That DHHR, OFS, will renew or extend this contract in a written notice to the provider. Such notice will state the terms and any further conditions for enrollment under which the contract is to be renewed and extended and each such notice shall be incorporated into and become a part of this contract.

3. That this agreement shall not be transferable or assignable.

4. That this agreement shall be performed in a manner consistent with the applicable provisions of Title 19 of the Social Security Act and the provisions of the *Standards for Payment: Adult Day Health Care Centers* and licensing standards for adult day health care centers. Any future modifications or amendments to said Act or said standards shall likewise be binding on the parties hereto.

5. That any breach or violation of any provision of this

agreement shall make this entire contract subject to immediate cancellation.

IV. INTERDISCIPLINARY (ID) TEAM

A. The ID Team for each center shall be composed of at least the following individuals who may be consultants or center staff:

1. a social worker (MSW);
2. a registered nurse (RN) licensed to practice in Louisiana;
3. the participant;
4. at least one direct-care staff person from the center.

B. Responsibilities of ID Team

1. The RN and MSW members of the ID Team shall, at admission and at least yearly, assess each participant as specified in Section V.

2. The MSW shall, at admission, assess each participant's home situation to determine which services are required to maintain the integrity of that setting to enable continued placement of the participant. OFS Form ADHC-1 shall be used for this assessment. This requirement is waived for three months after the implementation of these standards. Annually, thereafter, the MSW shall evaluate the Social Services Designee's (SSD) on-site assessment of the participant's home situation.

3. The ID Team shall develop and update the care plan as specified in Sections VI and VII.

4. The ID Team shall, at least quarterly, review and analyze incident reports as specified in Section XVI.

5. The RN consultant responsibilities also shall, at least, include:

(a) a medication review for each participant at least monthly to determine the appropriateness of the medication regimen. Such a review shall also be done whenever there is a change in the medication regimen;

(b) a monthly review of each participant's medication administration sheet to determine if medications are properly administered in the center;

(c) supervision of the center's plan for self-administration of medication by participants;

(d) health education for staff;

(e) insuring that diagnoses are compiled into a central location in the participant's record and updated when there is a change.

C. The ID Team shall make appropriate referrals to other disciplines:

1. The services of physical or speech therapists are available through the Title 19 program and appropriate referrals shall be made when the functional capacity of the participant may be enhanced through provision of such services.

2. The ID Team shall make referrals as indicated to other disciplines and for any other service which would enhance the functional capacity of a participant.

V. ID TEAM ASSESSMENTS

A. Assessments shall be completed prior to staffing.

B. The primary source of information shall be the participant. Other information may be obtained with the participant's written permission, from family, social/medical agencies and other interested parties, unless the participant's rights have devolved as in Section X.E. The MSW shall document efforts to involve the primary caretakers in the assessment process.

C. Assessments shall identify the participant's specific strengths, problems and needs particularly in the home, but also in the ADHC setting.

D. Assessments shall be recorded and each participant shall be reassessed at least annually by the MSW and the RN.

E. The Social Service Designee of the center shall update

the social work assessment on OFS Form ADHC-1 at least quarterly, but whenever there is a significant change in the home setting which may precipitate 24 hour care. Each update shall involve contact with the participant's primary caretakers. At least annually, the SSD shall update the assessment as a result of a visit to the participant's home and contact with the primary caretakers in that setting.

F. The physician assessment shall be done annually. The OFS Form 90-L shall be used for this assessment.

VI. STAFFINGS

Staffings shall be conducted in a group meeting including the participant, at least one center staff member, and the ID team.

A. After initial assessment by the ID Team, each participant shall be individually staffed to develop a viable plan of care for the participant.

B. The participant is the primary source of information during staffing. In the event the requirements of Section X. E. have been met, the primary caretaker of the participant or responsible party in the home serves in this capacity.

C. A staffing for each participant shall be conducted at least quarterly, and whenever the recipient situation obsoletes more than 25 percent of the problems, goals or approaches in the care plan. It is not necessary to staff the participant when there is a simple change in the care plan, such as a minor change in medication or a minor change in the approach for a specific goal. In such cases, the ID Team member and center staff responsible for the goal/approach shall revise the plan and initial and date the change.

VII. PLAN OF CARE

A. All services shall be provided according to the individual, written plan of care which is reviewed and updated as specified in Section VI.

1. Be a result of an interdisciplinary staffing in which the participant and direct care staff participate (See Section VI);

2. be written in terminology which all center personnel can understand;

3. list the identified problems and needs of the participant for which intervention is indicated, as identified in assessments, progress notes and medical reports;

4. propose a reasonable, measurable short-term goal for each problem/need;

5. contain the necessary elements of the center's Self Administration of Medication Plan, if applicable;

6. use the strengths of the participant in developing approaches to problems;

7. specify the approaches to be used for each problem and that each approach is appropriate to effect positive change for that problem;

8. identify the staff member responsible for carrying out each approach;

9. project the resolution date or review date for each problem;

10. specify the frequency of each approach/service;

11. contain a sufficient explanation of why the participant would require 24 hour care were he/she not receiving ADHC services;

12. include the number of days and time of scheduled attendance each week;

13. include discharge as a goal;

14. be kept in the participant's record used by direct care staff.

B. At least 75 of the services contained in the care plan shall be from among those listed in Section IX. A. and in no event shall more than 25 percent be from Section IX.B.

VIII. PROGRESS NOTES

Progress notes are ongoing assessments of the participant

which enable staff to update the plan of care in a timely, effective manner. Each individual responsible for providing direct services shall record progress notes at least monthly. All progress notes shall:

1. provide documentation that staff are carrying out the approaches in the care plan for which each is responsible;
2. record progress made and discuss whether or not the approaches in the care plan are working;
3. document delivery of any service identified on the care plan;
4. record any changes in the participant's medical condition, behavior or home situation which may indicate a need for a care plan change;
5. document that incident reports have been completed when appropriate;
6. be legibly signed and fully dated.

IX. SERVICES TO BE PROVIDED

The ultimate goal of all services provided is greater independence and community involvement to enable prevention or delay of 24 hour institutional care.

All nursing and social services shall be provided in accordance with acceptable professional practice standards for each discipline.

A. As a minimum, each center shall make available the following required services:

1. usage of reality orientation by all staff, as well as daily orientation classes;
2. individualized training in the activities of daily living (toileting, grooming, etc.);
3. interdisciplinary team staffing;
4. health and nutrition counselling;
5. professional social services as specified in Section IV.B.2.;

IV.B.2.;

6. an individualized exercise program;
7. an individualized, goal-directed recreation program;
8. health education classes;
9. daily individualized health services to include at least nursing services that consist of:

(a) monthly assessment of each participant's medication regimen to evaluate contraindications, the need for appropriate laboratory monitoring and referrals to the attending physician for such tests and the efficacy of the drugs prescribed;

(b) monitoring of vital signs appropriate to the diagnosis and medication regimen of each participant but no less frequently than monthly;

(c) administration of medications and treatments in accordance with physician orders and acceptable nursing practice standards;

(d) a self administration of medication plan for the center which is individualized for each participant for whom it is indicated;

(e) serving as a coordinator and advocate between the participant and medical resources, including the treating physician.

10. individualized leisure skill development and education;

11. one nutritionally balanced hot meal each day and two snacks. This service shall be provided in accordance with the nutritional needs of the participant. Liquids shall be available and easily accessible.

12. intellectual and educational development opportunities (bookmobile, talking library, etc.);

13. transportation to and from the center at the beginning and end of the program day.

B. Only the following additional services and activities shall be reimbursed by OFS:

1. field trips (intellectual and emotional stimulation);
2. volunteer group visits (emotional stimulation);
3. meal preparation (functional capacity);
4. taping of oral histories (intellectual stimulation);
5. participant interaction with volunteers other than those serving as staff in the center (emotional stimulation);
6. bill paying and letter writing sessions (functional capacity stimulation);
7. films at the center (intellectual stimulation);
8. sing-a-longs (social interaction and stimulation);
9. recording of nutritional intake (functional capacity);
10. educational and recreational films (intellectual and emotional stimulation and functional capacity);
11. educational lectures (functional capacity);
12. assistance with obtaining, utilizing and maintaining food stamps, grants and other economic stabilization activities;
13. transportation to and from social/medical services.

X. PARTICIPANT RIGHTS

A. The staff of each center shall be trained to protect the rights of the participants.

B. Before or upon admission, or upon adoption of participant rights policies by the center, each participant shall be provided a copy of and explained the center's participant rights policy and any amendments.

C. Each participant shall acknowledge receipt of this document in writing and the acknowledgement shall be filed in the participant's record. If the participant signs with a mark or is mentally retarded, two witnesses shall be required. The mark shall be bracketed and identified as indicated below:

HER (X) MARK

MARY JONES

WITNESS

WITNESS

D. Participant rights shall include at least the following items:

1. Each participant shall be informed of his/her responsibilities to the center and of all rules governing participant conduct and behavior. The regulations of the center shall be fully explained.

2. If the center changes its participant rights policies, each participant shall acknowledge in writing receipt of the change and the acknowledgement shall be filed in the participant's record.

3. Each participant shall be informed in writing of all services available in the center. The charges for these services shall be specified when they are not covered in the center's basic Title 19 rate per day. Receipt of this information and any changes in it shall be acknowledged by the participant in writing and the acknowledgement shall be filed in the participant's record.

4. Each participant shall be provided the opportunity to participate in each interdisciplinary staffing meeting and any other meeting involving the care of the participant.

5. Each participant shall be afforded the opportunity to refuse any service provided in the center.

6. Each participant shall give informed, written consent before participating in experimental research or any studies conducted at the center.

7. Each participant shall be encouraged and assisted to exercise his/her rights as a participant at the center and as a citizen.

8. Each participant shall be allowed to submit complaints or recommendations about the policies and services of the center to staff or to outside representatives. Participants shall be allowed to do this free from restraint, interference, coercion, discrimination or reprisal.

9. Each participant shall be free from mental and physical abuse.

10. Each participant shall be free from physical restraint.

(a) Physical restraint shall be used only when ordered by the attending physician.

(b) The physician's order for restraint shall be filed in the participant's record, specify the reason for using restraint and include a specific time frame for using restraint.

(c) Participants who are mechanically restrained shall be monitored at least every 30 minutes to insure that circulation is not impaired and that positioning is comfortable.

(d) Participants being mechanically restrained shall be released and be provided the opportunity for exercise at least every two hours; center staff shall document this activity each time the participant is released.

(e) Physical restraint may be used without a physician's order in an emergency only under the following conditions:

(i) use of restraint is necessary to protect the participant from injuring himself/herself or others;

(ii) the use of restraint is authorized by the individual who is identified in the written policies and procedures as having the authority to do so;

(iii) use of restraint is reported at once to the attending physician by the staff person referred to in (ii) above.

11. Each participant shall be treated with consideration, respect and full recognition of his or her dignity and individuality.

12. Each participant shall be afforded privacy during the provision of personal needs services.

13. No participant shall be required to perform services for the center. This shall be allowed by the center only when a specific service is identified in the plan of care as an appropriate approach to a need or problem of the participant.

14. Each participant shall be allowed to communicate, associate, and meet privately with individuals of his/her choice, unless this infringes on the rights of another participant.

E. Devolvement of Participant Rights

Under the following conditions, the center shall insure that participant rights devolve to the responsible party, next of kin or sponsoring agency. If the participant rights have devolved to the responsible party, next of kin or sponsoring agency, that party shall receive the explanation of and sign the participant rights and any other documents described in these standards.

1. The participant has been interdicted in a court of law. In such cases, the center shall insure that the participant's rights devolve to the curator/curatrix of record and that the interdication is documented on the inside front cover of the participant's record. The center shall have an official document verifying the participant has indeed been interdicted.

2. The participant's attending physician signs a statement at least quarterly that the participant is unable to exercise his/her Title 19 Participant Rights because of a specific medical diagnosis. In such cases, the center shall insure that participant rights devolve to the responsible party of record (Form 90L).

XI. ELIGIBILITY CRITERIA FOR ADULT DAY HEALTH CARE CERTIFICATION

A. The individual must meet the level of care criteria for SNF, ICF I or ICF II care found in Appendix I.

B. It must be determined by OFS at admission and during UR that the individual's home setting would not suffice as a placement unless ADHC services were being provided.

C. It must be determined by OFS at admission and during UR that health and other services will be provided according to an approved written plan of care.

D. The individual must meet categorically-related eligibility requirements as specified in OFS Chapter 19 policy.

E. No recipient of medically needy benefits shall be simultaneously eligible for adult day health care services, since these

individuals are not eligible for long term care services. Recipients of inpatient hospital, ICF I, ICF II or ICF/H, or SNF services shall not be simultaneously eligible for ADHC services.

F. An individual who has not attended a center for 14 consecutive calendar days or more shall not be eligible for ADHC services. An exception to this is the individual who is absent from the center because of hospitalization or an illness which is documented in the center's records.

G. After an individual has been absent 14 consecutive calendar days, the center shall, within 24 hours notify both the parish and regional OFS offices by OFS Form 148.

H. For patient liability information see Section XVIII and OFS Chapter 19 policy.

XII. OFS ADMISSION ASSESSMENT

A. Assessment of applications for medical certification for Adult Day Health Care shall be conducted by the OFS Admission Review Unit. Current data is defined as completed within 30 days prior to the receipt by the Admission Review Unit. The psychiatric and psychological evaluations shall be considered current if they are signed and dated within 90 days of receipt by the Admission Review Unit. If the full psychological evaluation is over 90 days old, but no more than three years old, it may be updated by the same psychologist who completed the original evaluation. Admission assessment data for each participant shall include:

1. A plan of care which contains the information specified in Section VII.

2. A current medical/social evaluation (Form 90L and Form ADHC-1) properly completed, signed and dated. The doctor's signature must be legible and his/her phone number must be given.

3. Form 148 (Notice of Admission or Change);

4. When the only disability is psychiatric, a psychiatric evaluation which contains:

(a) mental status;

(b) severity of handicap;

(c) diagnosis;

(d) prognosis;

(e) intellectual capacity;

(f) functional capacity.

5. When the only impairment is mental deficiency, a psychological evaluation which shall identify the functional capacity and the intellectual quotient of the applicant as a result of the evaluation.

Rubber stamps are not acceptable as evaluator signatures on any of these forms.

B. The Admission Review Unit may request additional information if, for any reason, the data originally submitted were insufficient to determine medical or ADHC eligibility.

This request shall have a 15 day timely notice of closure should the requested information not be sent promptly.

C. DHHR shall not guarantee medical certification for a participant admitted to a center before certification is obtained through admission assessment of written material. A care plan shall also not be approved by OFS prior to review of written material.

D. The effective date of medical and financial certification shall be no earlier than the date the participant was staffed and the care plan developed.

E. OFS Review and Medical Certification Criteria

1. A registered nurse and a social worker shall review each application for medical certification within seven working days after receipt of the necessary evaluation materials.

2. The purpose of this review shall be:

(a) To insure that physician certification of the need for ICF or SNF services is properly documented;

(b) To insure that physician-written orders and the Medical/Social Evaluation form are properly completed, signed, and that

the information contained therein substantiates the applicant's need for ICF or SNF level of care according to the criteria in Appendix I;

(c) To insure that the plan of care:

- (i) contains an adequate explanation of why the applicant would need ICF or SNF care if not attending an ADHC center;
- (ii) has goals and approaches on the plan which are directed toward the long range goal of prevention of 24 hour care;
- (iii) contains health services.

3. In addition to the level of care criteria, special emphasis shall be placed by the Admission Review Unit on assessing the functional level of the applicant within the context of environmental factors. For instance, an applicant who needs constant supervision may require ICF II level of care because the one individual available in the home to provide this supervision can no longer bear the strain of this responsibility seven days a week. Another applicant with similar needs may not require ICF II care because there are many relatives willing to share this responsibility.

4. If the Admission Review Unit finds the applicant meets the criteria to be eligible for certification for ADHC:

a. Form 142 shall be issued certifying for either ICF I, II or SNF care. The Admission Review Unit will enter the certification date on the lower left hand corner of the form. Copies of the form shall be sent to:

- (i) the center director;
- (ii) the applicant;
- (iii) the OFS parish office.

b. The care plan shall be approved. The effective date of medical certification is the date the applicant was staffed.

c. Form 51NH shall be completed upon receipt of verification of financial eligibility by the parish office and sent to the center. A review date of 12 months from the date of certification shall be assigned.

The effective date of certification shall be no earlier than the date the applicant was staffed and the care plan developed provided the applicant was financially eligible on that date.

d. The State Office Admission Review Unit is responsible for requesting incapacity decisions from Medical/Social Review Team (MSRT). Incapacity decisions are not needed for those recipients who are over age 65 and who are SSI (Supplemental Security Income) and/or SSA (Social Security Administration) Disability eligible. The center shall submit Form 90-L, Form ADHC-1, the plan of care and psychiatric and/or psychological evaluations when necessary to the parish office.

5. If the Assessment Review Unit finds that the applicant does not meet the criteria for ICF or SNF care, Form 142 shall be issued denying certification. Review and approval of the care plan is not necessary since the applicant does not meet level of care criteria. Copies are disposed of as in Number 4 above.

6. If the Assessment Review Unit finds that the applicant meets the criteria for ICF or SNF but the care plan does not meet the criteria described in Section VII or Section XII. 2(c) above:

- a. the OFS section of the care plan shall be completed checking the appropriate block;
- b. Form 142 shall be issued denying medical certification (block I. B.).

7. If either the social worker or nurse is unable to make a determination for eligibility, the case is referred for supervisory review. The results of supervisory review shall be final.

8. The application shall be denied if all necessary data have not been submitted at the end of 35 days from the date the application was received.

9. If application for medical certification is denied, the applicant is notified of his/her right to appeal the decision by the parish office at the time the financial application is denied.

10. provisional or emergency approval shall not be granted for medical certification for adult day health care services.

XIII. UTILIZATION REVIEW (UR)

The OFS regional offices shall conduct UR of each participant's need for continued ICF or SNF care at least annually.

A. For newly enrolled centers, the UR date shall be 12 months from the effective date of certification as a Title 19 provider.

B. For centers which have been previously reviewed, the UR date shall be 12 months from the date of the previous exit conference.

C. If at all possible, UR shall be conducted in conjunction with inspection of care.

D. The interval between UR exit conference dates shall not exceed 12 months.

E. Composition of UR Team

1. The UR Team shall be composed of at least one social worker and one registered nurse, both of whom conduct the on-site review.

2. The UR Team shall not include any individual who has a financial interest in or who is employed by any long term care provider.

3. The team leader may be either the RN or the social worker.

F. Center Responsibilities

See Section XIV for the center's responsibilities during any review.

G. UR Team Responsibilities

1. If the UR is conducted in conjunction with an Inspection of Care, refer to Section XIV for team responsibilities.

2. If the UR is conducted independently of the Inspection of Care, the UR Team has the following responsibilities:

(a) If the team elects to notify the center of the review, this shall be done no more than 24 hours prior to the inspection. It is recommended that the center not be notified.

(b) The team shall insure that it has a current list of all Title 19 eligibles and applicants receiving services from the center. This shall include participants for whom vendor payments to the center is not being made but who are eligible for Medicaid.

(c) The team shall hold an entrance conference with the center director or designee which shall cover the following points:

- (1) the purpose of the review;
- (2) the specific materials needed for review;
- (3) the expected duration of the review and whether the review may be interrupted by the team;
- (4) notification that an exit conference will be held at the conclusion of the review.

(d) the team shall assess each participant's continued need for ICF or SNF services. Materials to be reviewed for this purpose shall include:

(1) A current (completed within 12 months) physician certification of the need for the specific level of care for which the participant is certified;

(2) A current (completed within one year and reviewed and updated at least quarterly) plan of care which includes the information specified in Section VII;

(3) Current (completed at least quarterly) social work assessments and updates;

(4) Other material needed to determine the need for continued stay at the certified level of care;

(5) The discharge plan.

(e) The team shall determine if each Title 19 applicant or recipient continues to meet the criteria specified in Section IX.

(f) The team shall review time and attendance records to insure that no participant was absent for a period of 14 or more

calendar days without the center fulfilling its responsibilities to notify OFS parish and regional offices as specified in Section XIX. If the team finds that a participant was absent for a period of 14 or more calendar days, and the center did not fulfill its responsibilities to notify OFS parish and regional offices, the center shall be cited.

(g) If the team finds that the participant continues to meet those criteria, Form 51NH shall be issued assigning a review date 12 months from the date of the exit conference. The team shall sign and approve the current care plan.

(h) If the team finds that a participant no longer meets the criteria in Section XI, Form 142 shall be completed denying continued medical certification. Item II.A. on Form 142 should be checked and completed as follows: "Medicaid payment will continue for above type services through the period of advance notice." Advance notice of closure and participant appeal rights shall be sent by the parish office when the vendor payment is closed. The center shall implement discharge of the participant during the effective period of the advance notice.

(i) When a participant's record lacks sufficient or current data on which to base a determination, the center shall be cited in the Utilization Review Report.

(j) Prior to the exit conference, the team shall compile a list of participants who no longer require ADHC services and a list of those participants for whom a determination could not be made.

(k) An exit conference shall be held to provide a verbal report of the team's findings. The conference shall include at least:

(1) a description of the deficiencies identified during the review;

(2) the names of those individuals found to no longer require ADHC services;

(3) the names of those individuals for whom a determination could not be made;

(4) that the information necessary to make a determination shall be forwarded to the regional office within 25 days of the exit conference date the medical certification of the participant shall be terminated.

(1) If the requested material for utilization review is not received by the regional office within that time frame, under no circumstances is an ADHC recipient to remain certified for Title 19 for more than 30 days when the need for continued stay cannot be determined. Form 142 shall be issued terminating medical certification. Item II. A. on Form 142 should be checked and completed as follows: "Medicaid payment will continue for above type services through the period of advance notice."

(m) A review report shall be prepared whether or not deficiencies were identified during the utilization review. This report shall contain all of the information required by established DHHR procedure and shall be submitted to the center within the time frame specified in that procedure.

XIV. INSPECTION OF CARE

At least annually, each center with at least one Medicaid recipient or applicant participating shall be inspected. If at all possible, this inspection shall be conducted in conjunction with UR. If the team elects to notify the center of the review, this shall be done no more than 24 hours prior to the inspection. It is recommended that the center not be notified. DHHR reserves the right to inspect any center at any time without prior notification.

A. Purpose of Inspection

Inspections of Care shall be conducted to determine if Medicaid recipients or applicants in Title 19 enrolled Adult Day Health Care centers are, in fact, receiving health, social, recreational, nursing and personal care services that are optimal in quality, adequate in quantity and sufficient in scope, and are being provided in a timely manner under circumstances most favorable

to the promotion of physical, social, emotional and functional well being of each Medicaid recipient.

B. Composition of Inspection Team

The team shall be composed as specified in Section XIII.

C. Frequency of Inspections

1. Each center shall be inspected at least annually; however, the frequency of inspections shall be based on the quality of care and services provided by a center as determined by state reviews and surveys and complaints investigated.

2. The quality of care determination by OFS is based on the degree to which a center complies with *Standards for Payment: Adult Day Health Care Centers*, the fiscal integrity with which the center is administered and Division of Licensing and Certification reports.

D. Follow Up Reviews

1. When an Inspection of Care results in a determination that serious deficiencies exist in a center, a follow-up review shall be conducted between 15 and 45 days after the inspection to determine if adequate corrective action has been taken.

2. Inspection team responsibilities during a follow-up review are as outlined in Section XIV except that:

(i) At least a 10 percent sample of Title 19 recipients and applicants shall be reviewed;

(ii) Only the areas in which the center was found deficient shall be reviewed.

3. Follow-up reviews are closely related to the imposition of sanctions (See Section XVIII).

E. Center Responsibilities

The center shall cooperate in the review by:

1. promptly providing all necessary documents needed for review;

2. providing adequate space and privacy for the team to review records uninterrupted;

3. assisting with the identification and/or location of individual participants;

4. insuring that at least six months of current information is included in the active participant records, except that physician certification or recertification documents and interdisciplinary team assessments shall remain on file for the period of their currency;

5. arranging for pertinent personnel to attend the exit conference.

F. Inspection Team Responsibilities

1. Prior to the inspection, the team shall review:

(a) All Division of Licensing and Certification, Inspection of Care and UR reports from the previous calendar year;

(b) All complaints about the center investigated during the previous calendar year.

2. The team shall compile a current list of all Title 19 recipients and applicants, including those for whom vendor payment to the center is not being made.

3. The team shall hold an entrance conference. See Section XIII, G.2. (c) for details.

4. The social worker and RN shall each review the center record for each Title 19 participant. The team shall review at least the following items to assess the quality of care provided and to determine the need for continued stay:

(a) medical, social, nursing and any other assessments which identify the needs of the participants;

(b) the plan of care;

(c) interdisciplinary progress notes;

(d) physician orders;

(e) The team shall review time and attendance records to insure that no participant was absent for a period of 14 or more calendar days without the center fulfilling its responsibilities to notify OFS parish and regional offices as specified in Section XIX. If

the Team finds that a participant was absent for a period of 14 or more calendar days and the center did not fulfill its responsibilities to notify OFS parish and regional offices, the center will be cited.

(f) Any other center records which provide documentation of compliance with Louisiana State Medicaid Standards. For example, administrative records may contain contracts and correspondence with the participant and/or responsible party.

5. Documentation reviewed by the inspection team shall provide evidence that:

(a) Interdisciplinary team assessments are complete and have been completed within the previous calendar year, except for social assessments which also shall have been updated at least quarterly;

(b) The plan of care meets the requirements of Section VII;

(c) The plan of care is being implemented and all services ordered on the plan of care are being rendered and properly recorded in interdisciplinary progress notes;

(d) The attending physician has written orders and has certified or recertified the need for either ICF I, II or SNF care within the previous calendar year;

(e) Interdisciplinary progress notes meet the requirements of Section VIII;

(f) Interdisciplinary progress notes describe the condition of the participant as observed by the inspection team;

(g) The participant has made progress toward goals in the plan of care; (Otherwise, the plan of care is not viable.)

(h) At least 75 percent of the participant's scheduled services are among those services specified in Section IX. A. and no more than 25 percent shall be from Section IX. B.;

(i) Each participant has a current, adequate discharge plan, (See Section XV);

(j) The ID Team has discharged its responsibilities as outlined in Section IV B.;

(k) The team shall determine if the center is in compliance with all requirements of *Standards for Payment: Adult Day Health Care Centers*.

6. The social worker and RN shall interview each participant.

The purpose of this interview shall be:

(a) to document that the participant's condition is consistent with the description in the record;

(b) to determine whether the participant is receiving services to support maximum physical, mental and psychosocial functioning;

(c) to gather additional data, if needed, to make a level of care determination;

(d) to provide the participant the opportunity to make recommendations or complaints about the quality of care provided in the center.

7. One of the members of the team shall review incident reports compiled by the center during the previous calendar year.

The purpose of this review is to determine that the requirements of Section XVI have been met.

8. The team shall determine that each Title 19 recipient or applicant continues to meet the criteria specified in Section XI.

9. If the team finds that the participant continues to meet those criteria, Form 51NH shall be issued assigning a review date, not to exceed 12 months from the date of the exit conference, for the current review.

10. If the team finds that a participant no longer meets the criteria specified in Section XI., Form 142 shall be issued no longer approving medical certification. Item II. A. on Form 142 should be checked and completed as follows: "Medicaid payment will continue for above type services through the period of advance notice." Advance notice of closure shall be sent by the parish office

when the vendor payment is closed. The center shall implement discharge of the participant during the effective period of the advance notice.

11. When a participant's record lacks sufficient or current data on which to base a determination, the center shall be cited in the Inspection of Care report.

12. The center shall be notified at the exit conference of the material necessary to make a medical ADHC eligibility determination and that if the requested materials are not received within 25 days, the participant shall be decertified. Under no circumstances is an ADHC participant to remain certified for ICF or SNF for more than 30 days when medical eligibility has not been re-determined. Advance notice of closure shall be sent when the case is closed by the parish office.

13. Prior to the exit conference, the team shall identify the areas in which the center was found deficient. This shall be based on:

(a) a numerical compilation and analysis of the team's findings with regard to individual participants;

(b) inspection of Care and UR reports from the previous calendar year and the evidence of corrective action taken by the center with regard to those reports;

(c) analysis of the center's incident reports and the complaints investigated in the center during the previous calendar year.

14. The team shall be prepared to provide at the exit conference the names of participants from whom immediate corrective action is indicated.

15. An exit conference shall be held to provide a verbal report of the team's findings. This conference shall include at least the information required in Section XIII. G. (j). In addition, the team may also make professional recommendations to the center directed toward enhancing the quality of care provided. Such recommendations shall be clearly differentiated from deficiencies cited. A center shall not be cited for a professional recommendation. However, a violation of professional practice standards constitutes a deficiency.

16. A review report of the team's findings shall be prepared whether or not any deficiencies were found or recommendations made.

17. Review reports shall contain all the information required by established DHHR procedure and shall be submitted to the center within the time frames specified in that procedure. Copies shall be sent to the parties specified in the procedure.

XV. DISCHARGE PLANNING AND IMPLEMENTATION

A. The purpose of discharge planning is to provide continuity of services for participants who may be temporarily absent from or permanently discharged from the center. Discharge planning also serves to document the need for continued stay at the certified level of care.

B. The center shall maintain:

1. A current register of resources to support a lower level of care. This shall include but not be limited to:

(a) medical resources which address the needs of the community-based elderly/disabled population;

(b) social resources which address the needs of this population;

(c) financial resources which address the needs of this population;

(d) any other supportive resource directed toward the community-based elderly/disabled population.

2. A current register of resources to support continued placement at the current level of care. This shall include but not be limited to medical/social/financial resources to support care at the ADHC level of care.

3. A current register of resources to support a more restric-

tive level of long term care. This shall include but is not limited to a current listing of:

- (a) Title 19 certified nursing homes within the community;
- (b) Title 18 extended care facilities within the community;
- (c) any program which may further delay institutionalization.

4. A current register of medical/social acute care facilities which would meet the needs of participants who, because of acute medical problems, are temporarily unable to continue or achieve maximum potential in an ADHC center.

5. As part of an adequate discharge planning program, each center shall, to insure continuity of services, prepare a discharge summary whenever a resource in 1, 2, 3 or 4 above is required. This summary shall at least include:

- (a) medical diagnosis;
- (b) medication regimen (current physician orders);
- (c) treatment regimen (current physician orders);
- (d) functional needs (inabilities);
- (e) any special equipment (dentures, ambulatory aids glasses, etc.);

(f) social needs;

(g) financial resources;

(h) any other information which will enable the receiving agency/center to provide continued necessary care without interruption.

C. The discharge policy of the center shall include the provision that any Title 19 participant who does not attend as scheduled for 14 consecutive calendar days (hospitalization and documented illness excepted), shall be discharged.

D. Voluntary Transfer

When a participant transfers between ADHC Centers, the centers have the following responsibilities:

1. Transferring center:

- (a) update plan of care;
- (b) complete Form 148 and forward to the OFS regional and parish offices to notify of transfer;
- (c) send updated care plan and current physician orders to receiving center.

2. Receiving center:

(a) complete Form 148 and forward to OFS regional and parish offices to notify that participant has been accepted for placement;

(b) assess and staff participant and develop a new care plan within 14 days of actual attendance.

E. Involuntary Transfer or Discharge

1. Conditions of Transfer or Discharge

Involuntary transfer or discharge of a Medical Assistance participant may occur only under the following conditions:

- (a) for medical reasons;
- (b) for the participant's welfare or that of other participants; or
- (c) for non-payment of the center fee.

2. Center Responsibilities

Center responsibilities in insuring an orderly transfer/discharge shall include the following tasks:

(a) Plan of Care

The center shall complete a final update of the participant's individual plan of care with the transfer/discharge in mind.

(b) Notice of transfer/Discharge

(i) The center shall complete the final update of the participant's individual plan of care and the transfer/discharge plan before submitting a written notice of transfer/discharge to the following individuals:

- * the participant;
- * the participant's responsible party;

- * the OFS regional office;
- * the OFS parish office.

(ii) The written notice of transfer/discharge shall contain the following information:

- * the proposed date of the transfer/discharge and reason(s) for same;
- * a discharge conference, date, time, and place;
- * the personnel available to assist in locating an appropriate placement;
- * the participant's right for personal and/or third party representation at all stages of the transfer/discharge process;
- * the participant's right to register a complaint with the Office of Family Security, Regional Office, Long Term Care Unit, within three days after the transfer/discharge conference.

(iii) The written notice of transfer/discharge shall be submitted as soon as possible but at least three actual days of attendance prior to the transfer/discharge conference.

(c) Transfer/Discharge Conference

(i) The center director, the ID Team or a member of the ID Team shall meet with the participant and responsible party to discuss the transfer/discharge. The discussion shall be conducted within the following time frames to insure an orderly transfer process:

- * as soon as possible in advance of the transfer/discharge; but
- * at least 10 actual attendance days in advance.

(ii) The participant's presence at the conference may be waived with a written statement from the attending physician detailing the medical contraindications to the participant's participation in such a meeting.

(iii) The participant and the responsible party shall be notified at least 72 hours in advance of the conference and shall be invited to attend and participate.

(iv) Among those items discussed at this conference shall be those enumerated in 2. (a) and (b) above.

F. Mass Transfer of Participants

The following provisions shall apply to any mass transfer. Mass transfer is defined as the intended relocation of more than 10 participants within a 30 day period.

1. Provider Enrollment Cancellation

When DHHR determines that a center no longer meets State Title 19 requirements, the center's provider enrollment agreement is cancelled.

2. Notice of Provider Enrollment Cancellation

On the date the center is notified that its provider agreement has been cancelled, DHHR shall immediately begin notifying the participants, their responsible parties, and other appropriate agencies or individuals of this action and of the service available to insure an orderly transfer and continuity of care.

3. Center Closing or Withdrawing From Title 19 Program

In situations where a center either voluntarily or involuntarily discontinues its operations or participation in the Medical Assistance Program, participants, their responsible parties and other appropriate agencies or individuals shall be notified as far in advance of the effective date as possible to insure them an orderly transfer and continuity of care.

(a) If the center is closing its operations, plans shall be made for transfer.

(b) If the center is voluntarily or involuntarily withdrawing from Title 19 participation, the participant has the option of remaining in the center on a private pay basis.

4. Payment Limitation

Payments may continue for Title 19 eligible recipients up

to 30 days following the effective date the center's provider agreement is cancelled.

(a) The payment limitation also applies to Title 19 participants admitted prior to the cancellation of the agreement.

(b) Payment is permitted only if the center totally cooperates in the orderly transfer of participants to other Title 19 centers or other placement arrangements of their choice.

(c) **Note:** The center shall not admit new Title 19 recipients after receiving the notice that its agreement has been cancelled. There shall be no payment approved for such an admission.

5. Coordination of Mass Transfer Activities

(a) This process requires concentrated and prompt coordination among the following groups:

(i) the Office of Family Security, regional office, Long Term Care Unit;

(ii) the parish Office of Family Security;

(iii) the center; and

(iv) other offices as designated by DHHR.

(b) This coordinated effort shall have the following objectives:

(i) protection of participants;

(ii) assistance to participants in finding the most appropriate placements when requested by them and/or their responsible parties; and

(iii) timely termination of vendor payment upon the participant's discharge from the center.

(iv) **Note:** The center still retains its usual responsibility during the transfer/discharge process to notify the parish Office of Family Security promptly of all changes in the recipient's status.

6. Transfer Team

DHHR shall designate certain staff members as a transfer team when a mass transfer of participants is necessary. Their responsibilities shall include supervising transfer activities in the event cancellation of a provider agreement is proposed or in the event the center voluntarily terminates Title 19 participation. The following steps and procedures shall be taken by or under the supervision of this team:

(a) Step 1: Identification and Coordination

When a provider agreement is extended for up to 30 days beyond its original expiration date, the transfer team shall immediately perform the following tasks:

(i) Identify appropriate receiving centers or facilities for the affected participants; and

(ii) Coordinate efforts with the OFS regional office. The regional office has the responsibility to evaluate each participant's condition to make a determination about his/her appropriate level of care.

(b) Step 2: Supervision and Assistance

The transfer team shall take the following actions:

(i) supervise the center after cancellation of the agreement and during the transfer of its Title 19 participants;

(ii) determine the last date for which vendor payment for a participant's care can be made;

(iii) assist in making the most appropriate arrangements for the participants, providing the team members' names as contact persons if such help is needed.

(c) Step 3: Effecting the Transfer

In order to insure an orderly transfer/discharge, the transfer team shall also be responsible for performing the following tasks:

(i) they shall meet with appropriate center administrative staff and other personnel as soon as possible after termination of a provider agreement to discuss the transfer planning process;

(ii) they shall continue to meet periodically with the center personnel throughout the transfer planning process;

(iii) they shall identify any potential problems;

(iv) they shall monitor the center's compliance with transfer procedures;

(v) they shall resolve disputes in the participant's best interest;

(vi) they shall encourage the center to take an active role in the transfer planning.

(vii) they shall notify their superiors immediately of any lack of cooperation on the part of the center since this affects whether or not vendor payment will continue.

7. Provisions for Participant Services during Transfer/Discharge

(a) DHHR Responsibilities

DHHR has the following responsibilities:

(i) To provide social services necessary in the transfer/discharge plan or otherwise necessary to insure an orderly transfer/discharge in accordance with the Title 20 State Plan; and

(ii) To obtain other services available under Title 19.

(b) Participant Status Listing

At the conclusion of the 30 day period referred to in 6. (a) and (b) above, the transfer team shall submit a report to the OFS state and parish offices, identifying the placement of each Title 19 participant who has been transferred to another Title 19 provider. If any participant has elected to end ADHC participation, this shall also be reported.

G. Emergency Situations

1. The center is responsible for immediately notifying OFS Regional Office when a bona fide emergency exists, such as fire, contagious disease, or a severe threat to the participant's safety and well-being.

2. Each participant shall be immediately transferred or discharged from a center when a bona fide emergency exists, such as fire, contagious disease, or a severe threat to participant's safety and well-being.

3. Emergency transfers shall be closely reviewed and monitored by OFS.

4. **Note:** Appropriate sanctions shall be imposed on centers which use emergency transfer provisions when no bona fide emergency exists.

5. Participant Rights

Nothing in the transfer/discharge plan shall interfere with existing participant rights.

6. Intelligent Waiver of Participant Rights

(a) A participant may knowingly and intelligently waive any of the provisions of these regulations, provided the waiver is in writing.

(b) The OFS, State Office, shall review all such waivers. The review shall insure that participants freely and intelligently waived their rights only after they and their responsible parties were fully informed of their rights under these transfer/discharge procedures.

(c) **Note:** Appropriate sanctions shall be imposed on centers which obtain waivers by coercion or without providing full information about participant rights.

XVI. INCIDENT REPORTS

A. Incident reports shall be completed for each participant who is:

1. involved in an accident or is injured at the center. This shall include a participant's involvement in any occurrence which has the potential for affecting the welfare of any participant.

2. on elopement status or whose whereabouts is unknown for any length of time.

B. Incident reports shall be compiled into a central record. The fact that the participant was involved in an accident or incident and that an incident report was completed shall be entered

into the progress notes of the participant's record by the individual completing the incident report.

C. Incident reports shall include, as a minimum, the following information:

1. the name of the participant;
2. the date and time of the incident;
3. the names of witnesses to the incident;
4. a detailed description of the incident;
5. a description of the action taken by the center with regard to the incident.

D. The LPN, with RN or MD consultation, and the center director shall document review of each incident report within 24 hours.

E. At the end of each quarter, the center's Interdisciplinary Team shall review and analyze the incident reports to:

1. insure that they contain the information specified above;
2. identify staff training needs;
3. identify patterns which may indicate a need for changes in the center's policies or procedures;

4. assist in the identification of those participants who may require changes in their plans of care or who may not be appropriately placed in the ADHC center.

XVII. COMPLAINT PROCEDURE

The DHHR complaint procedure shall be posted conspicuously in public areas of the center.

Participants shall be encouraged by the center staff to make recommendations and to register complaints with the officials of the center.

XVIII. VENDOR PAYMENT

A. Vendor payment shall only be made by DHHR in accordance with the terms of each provider agreement (See Section III).

B. Vendor payment shall not be made retroactively prior to the date each participant is staffed and a current, adequate care plan developed.

C. Vendor payment for service days for a participant shall be limited to 23 days per month.

D. Vendor payment for services provided is dependent upon the quality of services provided and each center's compliance with the *Standards for Payment: Adult Day Health Care Centers* (See Section XXII, Compliance).

E. Vendor payment shall be limited to those days the participant receives services on-site for five or more hours as documented by center attendance records. Exceptions to attendance for the full day or major fraction thereof shall be for medical appointments, onset of illness after arrival at the adult day health care center, and unexpected emergencies such as a death in the family or acts of God.

F. DHHR may withhold vendor payments in whole or in part in the following situations:

1. Change in Center Status

A minimum of 10 percent of the final vendor payment due a center may be withheld pending completion of an audit. The following are situations which shall warrant 10 percent withholding:

1. a change of ownership;
2. a center voluntarily ceases to participate in Title 19;
3. a center is decertified for Title 19;
4. a center's license is revoked or not renewed;
5. a center's provider enrollment agreement is cancelled.

2. Incorrect or Inappropriate Charges to Participants

When DHHR determines that a center has violated a provider agreement by incorrectly or inappropriately charging a participant or responsible party, a sum not to exceed the inappropriate charges shall be withheld until the provider:

- a. makes restitution to the participant or responsible party;

b. submits evidence of restitution to OFS and the fiscal intermediary.

3. Delinquent Cost Report

(a) When a center fails to submit a properly completed cost report within 90 days of its accounting period or fiscal year end, a penalty of five percent of each total monthly payment shall be withheld until the properly completed cost report is submitted.

(b) DHHR may grant one extension not to exceed 30 days, of the 90 day limit if evidence of just cause has been provided and established in writing.

(c) The five percent penalty may be increased by five percent each month if the provider does not demonstrate good faith in producing a properly completed cost report.

G. Deferral or Disallowance of FFP

Should HCFA defer or disallow FFP to the state for one or more adult day health care center's deficiencies, lack of compliance with waiver provisions, fraud or other reasons identified by HCFA, the state shall defer or disallow the sums involved by withholding and/or recoupment from the adult day health care centers involved. Should HCFA restore in whole or in part to DHHR, OFS the amounts deferred or disallowed, DHHR, OFS shall restore the appropriate amount to the provider.

H. Termination of the Waiver

Should HCFA terminate the waiver under which the Adult Day Health Care Program is operated, DHHR shall notify each participating provider and, after receipt of such notice, no further reimbursement will be made. If the state chooses to totally fund adult day health care services, reimbursement for services may be made as provided by the state.

XIX. PARTICIPANT RECORDS

A. General Requirements

(1) Written Policies and Procedures

All centers shall have written policies and procedures governing access to, duplication of, and dissemination of information from the participant's personal and medical records.

(2) Availability of Participant Records

The center shall make all necessary participant records available to appropriate state and federal personnel at all reasonable times. Participant records shall include, but shall not be limited to, the following information:

(a) all medical records;

(b) records of all treatments, drugs, and services for which vendor payments have been made, or which are to be made, under the Medical Assistance Program. This includes the authority for and the date of administration of such treatment, drugs or services;

(c) sufficient documentation to enable DHHR to verify that each charge is due and proper prior to payment;

(d) the following physician information:

(i) certification for each participant admission; and

(ii) recertification that the participant requires ICF or SNF services.

(e) All records which DHHR finds necessary to determine a center's compliance with any federal or state law, rule, or regulation promulgated by DHHS or by DHHR.

B. Records

(1) General Requirements

(a) Protection of Records—The center shall protect records against loss, damage, destruction, and unauthorized use.

(b) Confidentiality of Information—The center shall safeguard the confidentiality of participant information. The center shall release confidential information only under the following conditions:

(i) by court order; or

(ii) by the participant's written authorization, unless con-

traidicated as documented in the participant's record by the attending physician.

(c) Retention of Records—The center shall retain records for whichever of the following time frames is longer:

(i) until records are audited and all audit questions are answered;

(ii) three years from the end of the waiver period.

(2) Components of Participant Records—The participant's medical record shall consist of the active participant record and the center's storage files or folders.

(a) Active Participant Records

The active medical charts shall contain the following information:

(i) at least six months of current pertinent information relating to the participant's active ongoing care; and

(ii) the necessary admission records.

(iii) if the center is aware that a participant has been interdicted, a statement to this effect shall be noted on the inside front cover of the participant's active participant record.

NOTE: As this active record becomes bulky, the outdated information shall be removed and filed in the center's storage files or folders.

(3) Availability of Participant Records to Center Staff—The center shall insure that participant records are available to staff directly involved with the participant's care.

(4) Contents of Participant Medical Records—An organized active record system shall be maintained for each participant. All entries made by center staff in participant records shall be legibly signed and fully dated. Each record shall include the following information:

(a) Identifying Information

- * Full name of the participant;
- * Home address, including street address, city, parish, and state;
- * Social Security number;
- * Medicaid number;
- * Medicare claim number, if applicable;
- * marital status;
- * date of birth;
- * sex;
- * religious preference;
- * ethnic group;
- * usual occupation (the kind of work the participant engaged in most of working life, even if retired);
- * legal status;
- * birthplace;
- * father's name;
- * mother's maiden name;
- * dates of service in the United States armed forces, if applicable;
- * personal physician and alternate;
- * participant's choices of other service providers;
- * name and address of next of kin or other responsible party;
- * admitting diagnoses;
- * any other useful identifying information.

(b) Medical Information

The center shall insure that the participant record contains the following information:

(i) the physician's signed and dated orders, including medication, treatment, diet, and restorative and special medical procedures required for the safety and well-being of the participant. Physician orders shall remain current for a period of one year;

(ii) a comprehensive, interdisciplinary plan of care as required in Section VII;

(iii) progress notes as required in Section VIII;

(iv) discharge plan and discharge (referral) summaries as required in Section XV;

(v) current Interdisciplinary Assessments as required in Section V.

(5) Any errors made by the staff in a participant's record shall be corrected using the legal method which is to draw a line through the erroneous information, write "error" by it and initial the correction.

C. Attendance Records

The center shall maintain for no less than three years after the end of the waiver period records of the dates of each participant's attendance and the number of hours attended each day. Such records shall be kept in a central location.

All other records shall be maintained in accordance with the terms of the provider agreement (See Section III).

XX. APPEALS PROCEDURE

A. Scope

DHHR reserves the right to impose sanctions against any center, to reject any center's request for Title 19 participation, or to terminate any center's participation status under the conditions specified in Section XXII. B.

B. Informal Reconsideration

When a center receives a written adverse action along with a copy of the findings upon which the decision was based, the center may notify the assistant secretary, OFS, within 15 days of receiving the notification and request an informal reconsideration.

(1) The center may provide the assistant secretary with a letter and supporting documents, if applicable, to refute DHHR's findings which result in the adverse action, or may present such documentation at a meeting with the assistant secretary or his/her designee.

(2) DHHR shall review all documents submitted by the center and advise the center in writing prior to the effective date of the following actions:

- (a) that the original decision has been upheld; or
- (b) that the original decision has been reversed.

Note: The informal reconsideration decision is binding and the adverse action is not delayed by the center's request for an evidentiary hearing.

(3) If the center receives written notification that the adverse action is being upheld, then the center may request an evidentiary hearing.

C. Evidentiary Hearing

(1) General Requirements—Any center which receives an adverse action from DHHR may request an evidentiary hearing. Such a request shall be made to the secretary, DHHR, within 30 days of receiving notification from DHHR affirming the original adverse action based on the informal reconsideration.

(a) The evidentiary hearing shall be conducted by DHHR's Appeals Section which shall notify all interested parties of the time and place of the hearing.

(b) Any party may appear and be heard at the proceeding through representation by an attorney-at-law or through a designated representative under the following conditions:

(i) All persons appearing in proceedings before the Appeals Section shall conform to the standards of conduct practiced by attorneys before the courts of the state.

(ii) If a person does not conform to those standards, the hearing officer may decline to permit the person to appear in the proceeding.

(c) Persons appearing in a representative capacity on behalf of the center shall file a written notice of appearance giving the following information:

- (i) their names;
- (ii) their addresses;
- (iii) their telephone numbers;
- (iv) the party they represent; and
- (v) a written authorization to appear on behalf of the center.

(d) The Appeals Section shall notify the center in writing of the names and telephone numbers of DHHR's representatives.

(e) All papers filed in any proceeding shall meet the following criteria:

- (i) they shall be typewritten;
- (ii) they shall be signed by the party, authorized representative, or attorney;
- (iii) they shall contain the address and telephone number of the party, authorized representative, or attorney; and
- (iv) at least an original and two copies of all papers shall be submitted to the Appeals Section.

(2) Preliminary Conference—Upon receiving a request for an evidentiary hearing, the Appeals Section must schedule a preliminary conference within 30 calendar days of receiving such a request or prior to the proposed termination date.

(a) Purposes of Preliminary Conferences

The purposes of the preliminary conferences shall include, but are not limited to, the following:

- (i) clarification, formulation, and simplification of issues;
- (ii) resolution of matters in controversy;
- (iii) exchange of documents and information;
- (iv) review of audit findings;
- (v) reconsideration of any suspension or withholding of payments;
- (vi) stipulations of fact so as to avoid unnecessary introduction of evidence at the formal hearing;
- (vii) the identification of witnesses; and
- (viii) such other matters as may aid disposition of the issues.

(b) Preliminary Conference Notification

When the Appeals Section schedules a preliminary conference, it shall notify the center in writing. The notice shall direct any parties and their attorneys to appear at a specific date, time, and place.

(c) Conference Results

(i) When the preliminary conference resolves all or some matters in controversy, the Appeals Section shall submit a written summary of the following:

- (x) the findings agreed to at the conference;
- (xx) the results of the conference; and
- (xxx) a statement of further action required by the center or DHHR.

(ii) When the preliminary conference does not resolve all matters in controversy, an evidentiary hearing shall be scheduled on those matters still in controversy. The hearing shall be scheduled within 30 calendar days following the completion of the preliminary conference.

(3) Evidentiary Hearing—When an evidentiary hearing is scheduled, the Appeals Section shall notify the center and/or attorney in writing of the date, time, and place of the hearing. The notice shall be mailed not less than 10 calendar days before the scheduled hearing date. The Appeals Section shall also include a summary of the results of the preliminary conference.

The Appeals Section shall adhere to the following in regard to the evidentiary hearing:

(a) The hearing shall be conducted by a hearing officer authorized to conduct such hearings.

(b) Testimony shall be taken only on oath, affirmation, or penalty of perjury.

(c) Each party shall have the right to do the following:

- (i) call and examine parties and witnesses;
- (ii) introduce exhibits;
- (iii) question opposing witnesses and parties on any matter relevant to the issue even though the matter was not covered in the direct examination;

(iv) impeach any witnesses regardless of which party first called them to testify; and

(v) rebut the evidence against witnesses.

(d) Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs. This evidence shall be admitted regardless of the existence of any common law or statutory rule which might make the admission of such evidence improper over objection in civil or criminal actions.

(e) The hearing officer may question any party or witness and may admit any relevant and material evidence.

(f) The hearing officer shall control the admission of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to taking evidence, the hearing officer shall explain the issues and the order in which evidence shall be received.

(g) The burden of producing documentary evidence is on the party against whom the adverse action is being taken.

(h) Parties shall arrange for the presence of their witnesses at the hearing.

(i) A subpoena to compel the attendance of a witness may be issued by the hearing officer upon written request by a party showing the need for the witness' presence.

(ii) A subpoena may be issued by the hearing officer on his/her own motion.

(iii) An application for subpoena duces tecum for a witness to produce documents, papers, books, accounts, letters, photographs, objects, memoranda, other correspondence, records, or tangible items not privileged shall be made by affidavit to the hearing officer, giving the name and address of the person or entity upon whom the subpoena is to be served.

(x) It shall describe the items which are desired to be produced and show the materiality of the evidence to the issue involved in the proceeding.

(xx) It shall also include a statement, that to the best of a person's knowledge, the witness has such items in his/her possession or under his/her control.

(4) Amendments to Evidence

(a) At any time prior to the completion of the hearing, amendments may be allowed on just and reasonable terms for the following reasons:

(i) to add any party who should have been a part of the hearing process;

(ii) to dismiss any party's evidence from the proceedings;

(iii) to change the allegations or defenses; or

(iv) to add new causes of action or defenses.

(b) Where the agency seeks to add a party or give a cause of action or change in allegation, notice shall be given to the appropriate parties. Where a party other than DHHR seeks to add a party or change defenses, notice shall be given in accordance with C. (3) (h) above. The hearing officer shall continue the hearing for such time as deemed appropriate, and notice of the new date shall be given in accordance with C. (3) above.

(i) The hearing officer may continue a hearing to another time or place or order a further hearing under the following conditions:

(x) on his/her own motion; or

(xx) at the request of any party upon showing good cause.

(ii) When the hearing officer determines that additional

evidence is necessary for the proper determination of the case, he/she may at his/her discretion do the following:

(x) continue the hearing to a later date and order the party to produce additional evidence; or

(xx) close the hearing and hold the record open in order to permit the introduction of additional documentary evidence. Any evidence so submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

(iii) Written notice of the time and place of a continued or further hearing shall be given.

EXCEPTION: When a continuance or further hearing is ordered during a hearing, oral notice of time and place of the hearing may be given to each party present.

(5) Record of Proceedings—A complete record of the proceedings shall be made.

(i) The testimony shall be transcribed and copies of other documentary evidence shall be reproduced when directed by the hearing officer.

(ii) The record shall also be transcribed and reproduced at the request of a party, provided the party pays for the cost of reproducing the transcript.

(6) Failure to Appear—If a center representative fails to appear at a hearing, a decision may be issued by the Appeals Section dismissing the hearing.

(a) A copy of the decision shall be mailed to each party together with a statement of the center's right to reopen the hearing.

(b) Any dismissal may be rescinded if the center makes a written application to the hearing officer within 10 calendar days after the mailing of the decision, showing good cause for failure to appear at the hearing.

(7) Timely Processing—The hearing shall be completed and a written decision rendered by the secretary, DHHR, setting forth the reasons for the decision and the evidence upon which the decision is based within 30 calendar days of the conclusion of the hearing.

The decision of the secretary shall be final subject only to judicial review by the courts. Copies of the decision shall be mailed to the center at its last known address and to any representatives.

XXI. AUDITS

A. All providers who elect to participate in the Title 19 Program shall be subject to audit. A sufficient representative sample of providers will be fully audited to insure the fiscal integrity of the program and compliance of providers with program regulations governing reimbursement. Limited scope and exception audits shall be conducted as required.

B. In addition to routine audits related to fiscal accountability, audits may also be conducted at the time of change of ownership, voluntary or involuntary closure of a center, or investigation of complaints against a center.

C. Each center shall submit a cost report to Office of Family Security within 90 days of the end of its accounting period or fiscal year end.

Instructions for cost reporting and the form to be used are located in Appendix III of this document.

XXII. COMPLIANCE WITH STANDARDS FOR PAYMENT

A. A center may be found to be out of compliance with *Standards for Payment: Adult Day Health Care Centers* as a result of the following activities:

1. field or desk audits;
2. Utilization Reviews;
3. Inspection of Care;
4. complaint investigations;
5. licensing surveys;
6. federal reviews or assessments;

7. Attorney-General's Medicaid Fraud Control Unit investigations;

8. Surveillance and Utilization Reviews (SURS).

B. DHHR reserves the right to impose interim sanctions, to reject any center's request for Title 19 participation, or to terminate any center's participation when there is documentation that the center:

1. fails to abide by the rules and regulations promulgated for the ADHC Program by the Division of Licensing and Certification, OFS, or any other state or federal agency;

2. is not in compliance with Title 6 of the Civil Rights Act;

3. engages in practices not in the best interests of any medical assistance recipient;

4. Fails to achieve and maintain substantial compliance with *Standards for Payment: Adult Day Health Care Centers*. It shall be the decision of the secretary of DHHR to refuse or terminate enrollment for this reason;

5. Has previously been sanctioned.

C. Interim Sanctions

1. DHHR may impose sanctions if a center is found to be not in compliance with *Standards for Payment: Adult Day Health Care Centers* or licensing regulations for adult day health care centers.

2. These sanctions are directly related to:

(a) the severity of the conditions found in the center which adversely affect or potentially affect the safety, rights, health and well-being of the participants;

(b) the degree of fiscal integrity with which the center is administered;

(c) Compliance with *Standards for Payment: Adult Day Health Care Centers*.

3. Sanctions for Health, Safety and Personal Rights Violations:

(a) restricted Title 19 certification for new admissions;

(b) fiscal sanctions;

(c) withholding of vendor payment;

(d) provisional licensure:

The center's license may be placed in provisional status for a period not to exceed 90 days. If there is not documentation of immediate improvement in the conditions which affect the life, safety or welfare of the participants, the license shall be revoked.

4. Sanctions for Administrative Violations:

(a) fiscal sanctions;

(b) withholding of vendor payment;

(c) provisional licensure:

The center's license may be placed in provisional status for a period not to exceed 90 days. If there is not documentation of immediate improvement in the conditions which affect the life, safety or welfare of the participants, the license shall be revoked.

D. Appeals Procedure

See Section XX which describes the appeal's procedure a center may use when adverse action has been taken against it by DHHR.

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

Emergency rulemaking has been invoked to implement this policy effective March 8, 1985. The Emergency Rule was necessary to restore Title XIX Federal Financial Participation (FFP) for the program. The program was previously funded through a waiver of Title XIX funds. This waiver expired January 7, 1985, and further FFP was denied until certain corrective action measures were in effect, one of which was the publication of intent to implement

the Standards of Payment which would insure the safety and welfare of the program participants.

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

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, hereby implements the following Rule in the Medical Assistance Program.

RULE

Effective June 20, 1985, the Office of Family Security will discontinue Title XIX funding for Habilitation Services. Emergency rulemaking has been invoked to implement this policy effective February 20, 1985. The Emergency Rule was published in the March 20, 1985, *Louisiana Register* (Volume 11, Number 3). This action was necessary because of the Health Care Financing Administration's (HCFA) decision not to renew the state's waiver document. This waiver document was provided for under Section 1915 (c) of the Social Security Act.

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

RULE

Department of Health and Human Resources Office of Family Security

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

RULE

Effective for hospital fiscal year beginning on or after July 1, 1985, and subject to review and amendment by the Joint Committee on Health and Welfare at the end of the first quarter of Fiscal Year 85/86, target rates for cost per discharge limitations for hospital in-patient services shall be frozen for one year cost reporting period. The target rates for subsequent fiscal years shall not be applied. Authorized pass-through costs shall remain allowable under current program policy.

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

RULE

Department of Health and Human Resources Office of Family Security

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

RULE

Effective for services beginning October 29, 1984, the Title XIX State Plan and Chapter XIX Medical Assistance Manual are amended to show that optometrists who perform eye care services that are within the scope of optometric practice will receive Med-

icaid reimbursement to the same extent, and according to the same standards, as physicians who perform these same eye care services.

An Emergency Rule effecting this change was originally adopted effective for services beginning October 29, 1984, and was published in the *Louisiana Register* on November 20, 1984, (Volume 10, Number 11, page 864). The first Emergency Rule was necessary to comply with the judgment of the U.S. Court of Appeals, Fifth Circuit, in the case of Sandefur vs. Cherry, docket No. 82-3564, which was rendered on October 29, 1984.

A second Emergency Rule was necessary to comply with further orders of the court issued February 1, 1985, in the case of Sandefur vs. Cherry, docket No. 82-3564 and was published in the *Louisiana Register* on March 20, 1985, (Volume 11, Number 3, page 210).

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

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

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, is adding 14 drugs to the Louisiana Maximum Allowable Cost Regulations of the Pharmacy Program, effective July 1, 1985.

RULE

Louisiana Maximum Allowable Cost (LMAC) for reimbursement under Title XIX is amended to include the following multiple-source drugs:

1. Albuterol	17mg	Inhalent
2. Chlorpropamide	100mg	Tablet
3. Chlorpropamide	250mg	Tablet
4. Doxycycline	100mg	Tablet
5. Ergoloid mesylates	1mg	Tablet
6. Ibuprofen	600mg	Tablet
7. Indomethacin	25mg	Capsule
8. Indomethacin	50mg	Capsule
9. Methyldopa	250mg	Tablet
10. Methyldopa	500mg	Tablet
11. Quinidine gluconate	324mg SR	Tablet
12. Tolazamide	100mg	Tablet
13. Tolazamide	250mg	Tablet
14. Tolazamide	500mg	Tablet

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

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, is adopting a freeze of reimbursement rates for Skilled Nursing Facilities and Intermediate Care Facilities I and II at the rate effective July 1, 1984, for a one-year period beginning July 1, 1985. As agreed by the agency, providers, and the Joint Committee on Health and Welfare, this freeze is subject to review at the end of the first quarter of Fiscal Year 85/86. If the agency's

projected costs are lower than anticipated and funds are available, the freeze in rates will be reduced or eliminated.

RULE

Effective July 1, 1985, and subject to review and amendment by the Joint Committee on Health and Welfare at the end of the first quarter of Fiscal Year 85/86, the Inflation Adjustment Factor for the various base rate components of the SNF, ICF/I and ICF/II reimbursement methodology shall be set at zero. The effect of this action will be to freeze rates for providers of those services for one year unless otherwise amended.

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

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, hereby implements the following Rule.

RULE

Effective July 1, 1985, the Title XIX State Plan, Section 2, page 29 and Attachment 3.2-A are being amended to indicate that the Office of Family Security makes the entire range of benefits under Part B of Title XVIII available to certain eligible individuals under a buy-in agreement. The agency will not make the same services available to recipients not covered by Medicare.

A buy-in agreement with the secretary of the Department of Health and Human Services will be the method used to provide these medical benefits. This agreement covers recipients who receive a money payment under the State Plan under Titles I or XVI of the Social Security Act. This also includes persons receiving benefits under Titles II, IV-A, X and XIV of the act or under the Railroad Retirement 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

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, hereby implements the following Rule.

RULE

Effective June 20, 1985, the Title XIX State Plan, Attachment 4.19-D, page 28a will be amended to include the following paragraph under Subpart D. **PHYSICIAN CERTIFICATION AND RECERTIFICATION:**

Certification is the process by which a physician who has knowledge of the case attests to an individual's need for a specific type or level of institutional care. This certification must be provided by the physician on or not more than 30 days prior to an individual's admission to an institution. If an individual makes an application for assistance while in an institution, the certification must be signed at that time or, if the certification was made earlier, not more than 30 days prior to authorization of Medicaid payment. When the preceding time limitation for certification is exceeded, a new certification must be obtained.

This applies not only to initial certifications, but also includes a transfer from an acute care hospital to a long term care facility even if the patient had previously been a resident in the fa-

cility to which he or she is being transferred, when the transfer is from one level of care to another level within the same facility, or when the patient is transferred from one long term care facility to another facility.

Implementation of this Rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this Rule and current policy will remain in effect. Emergency rulemaking has been invoked to implement this policy effective February 25, 1985. The Emergency Rule was published in the March 20, 1985, *Louisiana Register*, (Volume 11, Number 3). This action was necessary to avoid federal sanctions.

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 (OPPHS) is adopting the following regulations to be used in the operation of the State Genetic Diseases Program in accordance with the Administrative Procedure Act R.S. 46:950-970. These regulations are for Neonatal screening which is mandated through R.S. 40:1299.1, 1299.2, 1299.3 and for the eligibility and the third-party collection policies for the Regional Genetics Clinics and for collection of third party payments for the distribution of special formulas for patients with an inborn error of metabolism. The Genetic Diseases Program Advisory Committee is also established by these rules pursuant to federal recommendations.

I. Neonatal Screening

A. Eligibility

Any child born in or residing in the State of Louisiana shall be eligible for neonatal screening.

B. Purpose, Scope, Methodology

R.S. 40:1299 requires physicians to test Louisiana neonates for several conditions known to be deleterious to affected infants when not treated. OPPHS maintains a laboratory for screening tests for the hyperphenylalaninemia manifest in phenylketonuria (PKU), for thyroxine (T4) and thyroid stimulating hormone (TSH) for congenital hypothyroidism, and hemoglobin electrophoresis for sickle cell disease. Definitive diagnostic tests are provided if the screening test is positive.

The Genetics Program for OPPHS includes the neonatal screening program and will follow suspect casts identified through the screening process to make certain that definitive diagnostic testing is done. Upon report of a case by a physician to OPPHS as required by R.S. 40:1299 the services of the state program can be extended to the family. This includes physicians and/or nutritional management in the case of inborn errors of metabolism, including laboratory monitoring of blood levels of harmful metabolic products. Referral services for medical treatment and medical care are also provided, if needed.

Physicians performing tests as required by R.S. 40:1299.1 and having said tests done in the OPPHS Laboratory shall adhere to the following methodology:

1. Collection of the Specimen—Blood specimens shall be submitted on the Lab 10 Form. These forms and instructions in their use are supplied to physicians and hospitals by the local parish health unit, dated with the current year's date. Out-dated forms shall not be used.

2. Reporting of positive tests—Pursuant to R.S. 40:1299.1 physicians shall inform OPPHS of positive results by sending a report to OPPHS in writing to the Genetics Program, Room 612, Box 60630, New Orleans, LA. 70160 or by calling the office at tele-

phone number (504) 568-5075. Cases may also be reported to the local parish health unit in each case parish in the same manner.

II. Regional Genetics Clinics

A. Eligibility

All Louisiana residents are eligible to attend a regional genetics clinic for genetic evaluation and counseling. These services are directed to the index patient and his/her family. The index patient is the person who brings the family to the attention of the geneticist.

B. Purpose and Scope

Regional genetics clinics have been established to provide genetics services to all areas of the state in settings accessible to the population.

Services provided at the genetics clinics include: genetic evaluation of the index patient and/or family and counseling regarding the impact of the disease on the individual and the family, the prognosis, the risk of recurrence, and the management of the disorder. Counseling services shall be provided in all state planning regions.

Anyone desiring to attend a genetics clinic may make an appointment by contacting his/her parish health unit. Residents of Orleans and Plaquemines Parish may call the central office at (504) 568-5075.

III. Insurance Collection

Insurance carriers shall be charged by the program for special formulas required for children with PKU and Maple Syrup Urine Disease (MSUD) which are dispensed by OPPHS and for clinic visits at Regional Genetics Clinics.

A. Cost for special formula is determined by actual charges made to OPPHS by the formula manufacturers plus a 25 percent fee for dispensing, shipping and delivery for OPPHS. These prices for the distribution of the three types of formulas as of January 1, 1985 are listed below:

Type of Formula	Quantity	Cost
Phenyl-Free	1 Cast (6 cans)	\$280.13
Lofenalac	1 Case (6 cans)	\$208.35
MSUD	1 Case (6 cans)	\$221.78

B. The cost for a clinic visit depends on the type of service rendered by the attending medical geneticist. The medical geneticist shall base his cost on the type of service level in accordance with the definitions found in the *Physician's Current Procedural Terminology Fourth Edition 1985* published by the American Medical Association and copyrighted 1984.

The prices associated with these levels of service are derived from average prices identified through a nationwide survey conducted by the Genetic Services Committee of the American Society of Human Genetics and found in their report of 1983, *Report on Costs and Payment for Genetic Services*. The FY'86 DHHR economic indicator index for medical care (7.4 percent) is included in the respective prices which appear below:

First Clinic Visit For Genetic Evaluation and Counseling:

Limited	\$49
Intermediate	\$69
Comprehensive	\$102
Complex	\$128

Clinic Visit After Initial For Genetic Evaluation and Counseling:

Limited	\$27
Intermediate	\$38
Extended	\$62
Comprehensive	\$69
Complex	\$113

Genetic Counseling Only By a Medical Geneticist, Initial Or After Initial:

Standard	\$61
Long	\$90

A clinic visit is defined as a medical genetic evaluation and counseling session conducted by the medical geneticist with the index patient and his/her family members.

A charge for one service rendered to the index patient would be made to the third party payor. In cases where extended families are provided genetic counseling and two index patients are identified by the geneticist, one service charge will be made for each index patient.

IV. Genetic Diseases Program Advisory Committee:

A. The Genetic Diseases Program Advisory Committee is hereby created pursuant to federal recommendations and it shall be composed of members who are knowledgeable of medical genetic disorders. On the recommendations of the genetics program staff and with the approval of the maternal and child health medical director, members shall be appointed by the assistant secretary of OPPHS. There shall be representation from all medical schools within the state.

The disciplines of genetics, pediatrics, obstetrics, and hematology shall be represented. Representation from OPPHS shall include but not be limited to nutrition, laboratory, social work, handicapped children's services, maternal and child health and the physicians connected with these programs. There shall be two consumer representatives.

B. The committee shall meet as often as necessary to conduct its business in a timely fashion, but meetings shall be held at least once a year.

C. The meeting site shall be determined by the committee.

D. The committee shall:

1. Assist OPPHS in developing standards for the implementation of R.S. 40:1299 et seq. and in developing any new legislation affecting genetic services.

2. Consult with and assist OPPHS in setting policy and the scope of services.

3. Participate with OPPHS in developing and maintaining educational programs among health professionals and the lay public on the services offered by the Genetic Diseases Program and on genetic disorders.

4. Consult with OPPHS regarding the promulgation of rules and regulations necessary in the conduct of the Genetic Diseases Program.

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 adopted the Title XX Annual Social Services Program (ASSP) Plan for the administration of Social Services Block Grant federal funding for fiscal year 1985-86. These federal funds will be administered in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and federal regulations as published in the *Federal Register*, Volume 45, No. 190, Thursday, October 1, 1981 pp. 48582-48598.

The DHHR Office of Human Development is responsible for the administration of the Social Services Block Grant program.

Copies of the Title XX (ASSP) Plan are available without charge upon request to: Governor's TIE Line, Box 44004, Capitol Station, Baton Rouge, LA 70804 - Telephone 1-800-272-9868 (8 a.m. - Noon - 1 p.m. - 5 p.m.)

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 Department of Health and Human Resources has adopted changes to the "Rate Setting for Residential Care System Manual." This change is in accordance with L.R.S. 15:1081-1086 and 42 CFR 447.252 through 42 CFR 447.274. This revision is necessary to provide the department with the flexibility to set rates at a lower level, should it become necessary.

PROPOSED AMENDMENTS TO THE RATE SETTING FOR RESIDENTIAL CARE MANUAL

1. On page 3.3-6, change the third sentence of paragraph one of D.1. to "The inflation screen will be set after determining the change in the consumer price index for all items, urban wage earners from December to December of the year prior to rate determination." Insert as the next sentence "The inflation screen will be set no lower than 0 percent." In the last sentence of the same paragraph, after the words "higher percentage", insert "or lower percentage." In the second paragraph of D.1, second sentence, after the words "higher percentage", insert "or lower percentage."

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

RULE

Department of Natural Resources Office of Conservation

AMENDMENT TO STATEWIDE ORDER NO. 29-B

Amendment concerning the administrative approval of injectivity tests and pilot projects in order to determine the feasibility of proposed enhanced recovery projects.

* * * *

Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 C (1) (2) (3) (6) (8) (10) (14) (16) and I; and after a public hearing held under Docket No. UIC 85-12 in Baton Rouge, LA on May 6, 1985, and following publication of notice as required by the Louisiana Administrative Procedure Act, Title 49, Sections 950 through 968 of the Louisiana Revised Statutes of 1950, as amended, the following rules and regulations are promulgated by the commissioner of conservation as being reasonably necessary to provide for the administrative approval of injectivity tests and pilot projects to be conducted in order to determine the feasibility of proposed enhanced recovery projects.

SECTION XV POLLUTION CONTROL

PARAGRAPH 4 APPLICATION REQUIREMENTS FOR ENHANCED RECOVERY PROJECTS

D. Injectivity Test and Projects.

1) INJECTIVITY TEST - The Commissioner may administratively approve for a period of one week an injectivity test in order to determine the injection rate, injectivity index, and/or pressure analysis of a well for enhanced recovery.

- a. Requests for injectivity tests must include the following:
 - i. Well name and number
 - ii. Serial number
 - iii. Form WH-1 of the well
 - iv. Schematic diagram of the well
 - v. Sand, reservoir, and field
 - vi. Brief discussion of the proposed test

b. The commissioner must be provided with the results of the injectivity test after completion.

2) PILOT PROJECTS - The commissioner may administratively approve pilot projects for enhanced recovery for a period of six months from the date of initiation of injection.

a. Requests for pilot projects must include Form UIC-II(EOR) for each well to be used for injection within the project and such additional information the commissioner deems necessary to justify the approval of the pilot project.

b. Wells used for injection within the pilot project are exempt from the provisions of Paragraph 5, Section XV of this Order.

c. Within ten days of initiation of injection the operator must notify the commissioner in writing the date injection actually commenced.

d. To continue operation beyond the six-month pilot project approval, the operator must obtain approval of an enhanced recovery project (prior to the expiration date of the administratively approved six-month pilot project) pursuant to the rules of procedure for conducting hearings before the commissioner of conservation, R.S. 30:5C, R.S. 30:6, and Paragraphs 3A, 3B, 4A, 4B, and 4C, Section XV of this order.

e. In the event the pilot project is unsuccessful, the operator must submit a letter to the commissioner requesting termination of such project.

Effective Date and Compliance

A. This amendment shall be effective on and after July 1, 1985.

B. Failure to comply with the requirements of this amendment in a timely manner will subject an operator to the suspension or revocation of his permit(s) and/or the imposition of penalties pursuant to L.R.S. 30:18.

Herbert W. Thompson
Commissioner

RULE

Department of Natural Resources Office of Conservation

EDITOR'S NOTE: The date of this rule as promulgated in the May 20, 1985 issue contained an error in the effective date. Consequently, we are republishing this rule in its entirety to confirm the effective date of this amendment as "ON AND AFTER JUNE 1, 1985."

AMENDMENT TO STATEWIDE ORDER NO. 29-N-1 UNDERGROUND INJECTION CONTROL PROGRAM REGULATIONS FOR CLASS I, III, IV, AND V WELLS

Pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:1 D, and 4 C (1); and after a public hearing held under Docket No. UIC 85-8 in Baton Rouge, LA on April 1, 1985, and following publication of notice as required by the Louisiana Administrative Procedure Act, Title 49, Sections 950 through 970 of the Louisiana Revised Statutes of 1950, as amended, the following rules and regulations are promulgated by the Commissioner of Conservation as being reasonably necessary to govern the siting, construction and operation of Class I or IV injection wells used for the injection of industrial waste or waste products into the subsurface, Class III wells which inject for extraction of minerals or energy, or any other use of an injection well described herein (Class V), excluding Class II injection wells which are regulated by Statewide Order No. 29-B. Statewide Order No. 29-N-1

Table of Contents

Part 70 Permit Modification, Revocation and Reissuance, Termination, and Transfer

20.07 Prohibition of Class IV Wells

The following activities are prohibited:

A. The construction, operation, or maintenance of any Class IV well is prohibited except for wells used to inject contaminated groundwater that has been treated and is being reinjected into the same formation from which it was drawn as part of a clean-up plan approved by appropriate State and Federal agencies.

B. This prohibition does not apply to the following:

1. Wells used to inject hazardous waste into aquifers or portions thereof which have been exempted pursuant to Section 20.08, provided the exempted aquifer into which waste is injected underlies the lowermost formation containing a USDW; and

2. Wells used to inject hazardous waste where no USDW exists within one quarter mile of the well bore in any underground formation, provided that a determination is made that such injection is into a formation sufficiently isolated to ensure that injected fluids do not migrate from the injection zone.

40.05 Duty to reapply. If the permittee wishes to continue an activity regulated by a permit after the expiration date of a permit, the permittee must apply for and obtain a new permit.

40.10 Compliance. Except for Class III wells, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with the Act and these regulations.

50.05 D. The Commissioner may give permission to commence injection for an interim period of 30 days following the inspection required in Section 40.12 (B) (2). Final permission to inject will be given only upon receipt and approval of the completion report required in paragraph (A) of this section.

PART 70 Permit Modification, Revocation and Reissuance, Termination, and Transfer or Renewal

70.05 A. The Commissioner may terminate a permit during its term for the following causes:

70.05 A.2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time, or

Effective Date and Compliance

- A. This Amendment shall be effective on and after June 1, 1985.
- B. Failure to comply with the requirements of this Amendment in a timely manner will subject an operator to the suspension or revocation of his permit(s) and/or the imposition of penalties pursuant to L.R.S. 30:18.

Herbert W. Thompson
Commissioner

RULE

**Department of Public Safety and Corrections
Corrections Services**

DEPARTMENT REGULATION NUMBER 30-19A

Adult Services

Visitation: Adult Inmates

1. PURPOSE: The purpose of this regulation is to establish the secretary's policy regarding inmate visiting at all adult institutions of the Department of Public Safety and Corrections.
2. RESPONSIBILITY: It is the responsibility of the assis-

tant secretary for Adult Services and all wardens of adult institutions to implement this regulation and convey its contents to all inmates, affected employees, and persons applying to visit, or persons approved to visit.

3. LEGAL AUTHORITY: L.R.S. 15:833(A).

4. GENERAL: Inmates are to be permitted visitation under reasonable conditions with approved friends, relatives and other persons. Uniform visiting procedures are to be established and adhered to at all institutions under conditions and in a manner which is in keeping with the most recent court decisions on inmate visiting.

An inmate may refuse to see a visitor, but the inmate should sign a statement to that effect or a note placed in his file that he refuses to do so. A person may be removed from the approved visiting list at his own request or at the request of the inmate.

The guidelines set forth herein as to the treatment of visitors are to be strictly followed. The restrictions on visiting set forth herein are the most severe which may apply to any institution. However, the warden may limit the number of visitors which may be approved to visit each inmate, the number of visits, and the duration of the visit in accordance with the provisions of this regulation. Each warden is to promulgate the rules governing visiting at the institution(s) under his control, and such rules shall be in accordance with this regulation.

5. PROCEDURE

A. Each inmate must apply to the warden or his designee to have a particular person placed on the inmate's approved visiting list. The inmate must supply a correct name, address, birth date and identify the relationship of the person to that inmate. A list shall be kept of those persons approved to visit, and a record may be kept of persons who do visit an inmate.

B. The inmate may not be prohibited, nor limited by number from receiving visits from the following persons except as provided in paragraphs C and D below.

1. identifiable parent(s), or if not raised by parents, the person(s) who raised the inmate,
2. identifiable grandparent(s), if parent(s) not living,
3. identifiable spouse,
4. identifiable children,
5. identifiable sibling(s), if none of the above are on the visiting list,
6. identifiable religious or spiritual counselor,
7. identifiable attorney(s), their employee(s) and authorized by the attorney to act on his behalf, and law students engaged in approved clinical programs.

C. Restrictions on visiting may only be imposed in accordance with the following:

1. Any person may be refused approval to visit an inmate until their identity or relationship to the inmate can be established.
2. Any person may be refused approval to visit an inmate if the visitor refuses to submit to a search and may be refused permission until the visitor will submit to a search.
3. Any person may be refused approval to visit an inmate and removed from the approved visiting list if the visitor does not comply with the rules of the institution during a visit.
4. Any person may be permanently refused approval to visit an inmate if the conduct of the visitor amounts to a violation of state law, such as assault, battery, disturbing the peace, introduction or attempted introduction of contraband, etc.
5. Any person who is an ex-felon and who has not been finally discharged from an institution or from probation or parole for more than two years without an intervening criminal record or who has pending criminal charges, may be refused approval to visit the inmate, unless the person is an identifiable parent(s), spouse,

sibling(s), grandparent(s), or child of the inmate, in which case the two-year restriction does not apply.

6. Any person who is incarcerated or on probation or parole at the time of the requested visit may be prohibited from visiting with an inmate.

7. Any person, except an identifiable religious counselor or attorney, may be refused approval to visit with an inmate if the inmate has had his visiting privileges restricted as a penalty for a rule infraction involving visiting, or if the inmate is in isolation.

8. No person may be refused approval to visit an inmate solely upon the basis that the person did not know the inmate prior to his incarceration, unless the person applying to visit is also incarcerated.

9. Any person, except those enumerated in Paragraph B above may be refused approval to visit because the inmate has the number of persons permitted by the institution already on his visiting list, or in the case of visits from non-related members of the opposite sex, the inmate is married or lists as a spouse, or has as an approved visitor, a girl friend or boyfriend who is a person other than the applicant.

10. Any person may be denied permission to visit during the time of a disturbance at the institution, if the secretary has declared that all visiting is suspended during the emergency.

11. All minors (under age of 18) must be accompanied by an adult who is either an identifiable family member of the minor, or his legal guardian; or is on the inmate's approved visiting list. Exceptions: (a) minor spouses, (b) emancipated minors (judgment of emancipation required as proof), (c) minors visiting as part of approved institutional programs, such as, but not limited to, church groups, parenting groups, etc.

D. Number, Duration and Conditions of Visits

1. Each inmate should be afforded at least two visits per month, preferably on weekends. Each visiting period should be of two hours duration.

2. The warden of each institution shall promulgate rules governing the number of visitors that may visit an inmate individually at one session, as well as the number of persons which may visit one inmate in a group, and shall submit same to the secretary for his approval. Family visiting, and orderly contact visits are to be permitted to the extent possible.

3. Attorneys, their employees, and law students in approved clinical programs may visit their clients at any time during normal working hours (8 a.m. to 5 p.m., Monday through Friday). Special visits may be arranged in accordance with Section 7 of this regulation. Except in emergency cases, visits by attorneys, their employees and law students in approved clinical programs must be scheduled 24 hours in advance.

4. The areas where visiting occurs shall be clean and well lighted. All visitors are to be informed orally or in writing of the rules and regulations governing visiting.

5. Privacy shall be afforded to the degree security permits when an inmate visits with legal advisors, but in no case will conversations during such visits be monitored.

6. Any visit may be terminated while in progress if the inmate or visitor violates the rules governing visiting.

6. TREATMENT OF VISITORS

A. There shall be no discrimination in visiting. All visitors and inmates will be provided equal opportunities in visiting, in accordance with the inmate's security class and housing assignment.

B. Visitors shall be treated with courtesy at all times and should not be subjected to unnecessary delay, inconvenience or embarrassment in accomplishing a visit.

C. Any search of a visitor's person shall be done by someone of the same sex, without force, and in a manner that will not cause embarrassment to the visitor.

7. SPECIAL VISITS

A. The warden of each institution may approve on a case-by-case basis, or generally in unusual circumstances, special visits in the following cases:

1) approved visitors are unable to visit on regular visiting days; or

2) longer visits, more visitors or more visiting periods than institutional regulations allow.

B. If the person applying to visit is otherwise restricted from visiting, the warden may approve a special visit, except when the person applying to visit the inmate is also incarcerated, prior approval from the assistant secretary of Adult Services is required.

8. CANCELLATION: This regulation supersedes department regulation number 30-19A, dated January 20, 1979. This regulation will not operate to remove any person who is currently on an inmate's approved visiting list.

C. Paul Phelps
Secretary

RULE

Department of Public Safety and Corrections Corrections Services

DEPARTMENT REGULATION NUMBER 50-4 PRISON ENTERPRISES

Sales of Commodities on the Open Market

1. PURPOSE: The purpose of this regulation is to implement a department policy relative to the sales of commodities on the open market.

2. RESPONSIBILITY: It is the responsibility of the deputy assistant secretary, Prison Enterprises to see that this regulation is implemented.

3. DEFINITIONS

A) *Yellow Sheet* - A market price sheet printed Monday through Friday by the National Provisioner. The National Provisioner maintains a staff which daily samples the live hog and meat markets. The *yellow sheet* is an accepted method used by packers for meat pricing.

B) *Broker* - An agent who negotiates contracts of purchase or sale.

C) *Marketing Association* - An agricultural association whose main function is the marketing of agricultural commodities for producers.

D) *Livestock Auction Market* - A public sale of livestock where animals are sold individually to the highest bidder. Livestock auctions charge a commission for their services.

4. SALE OF BEEF CATTLE

A) Prison Enterprises will market calves and cull livestock through an approved Louisiana Livestock auction market; or

B) Sales to other state agencies (universities, etc.) and non-profit organizations when the sale will further the purposes of the agency/organization and Prison Enterprises; the price will be established at the fair market value of the class and weight of livestock to be established by the deputy assistant secretary of Prison Enterprises using the weekly livestock market report as published by the Louisiana Department of Agriculture as a guide.

5. SALE OF SWINE

A) For the sale of surplus or cull swine, Prison Enterprises will request from the Louisiana State University Cooperative Extension Service (Swine and Agricultural Economics Specialists) a list of pork packing houses. Telephone quotes will be received using *yellow sheet* pricing as a base for the class and weight. Transportation and other costs of selling will be considered in determining most beneficial point of sale; or

B) Swine may also be sold in less than truckload quantities through an approved livestock auction market; or

C) Swine may also be sold to other state agencies or non-profit organizations (4-H or vocational agricultural programs) when the sale will further the purposes of the agency/organization and Prison Enterprises; the price will be established by the deputy assistant secretary for Prison Enterprises at a fair market value of the class and weight of swine based on *yellow sheet* prices.

6. SALE OF HORSES

A) Horses will be sold through approved Louisiana livestock auction markets; or

B) Horses will be sold to other state agencies for a negotiated price determined by the deputy assistant secretary for Prison Enterprises and a representative of the receiving agency.

7. SALE OF AGRICULTURAL COMMODITIES SUCH AS GRAINS

A) Prison Enterprises will contract with a reputable broker or marketing association on a year-to-year basis determined by the deputy assistant secretary for Prison Enterprises for the sale of agricultural commodities. The selection of a broker or marketing association to be based on:

- 1) price of marketing services;
- 2) market location;
- 3) prices of commodities based on viable commodity exchange;
- 4) financial soundness;
- 5) business reputation (performance & reliability); or

B) Agricultural commodities (feed grains) may also be sold to private individuals or companies when this sale will benefit Prison Enterprises at a fair market value basing the prices on approved commodity markets.

C) Cotton will be sold by a bid process. A list of licensed and bonded cotton brokers will be solicited from the Department of Agriculture. A recap of the bales of cotton to be sold will be mailed with a copy of the bid. Bid quotes will be called in on a specified day and time span with written quotes being postmarked and mailed by that day.

8. SALE OF OTHER AGRICULTURAL PRODUCTS (i.e. Pecans, Vegetables, etc.)

A) Those agricultural commodities that cannot be sold through a broker will be marketed by Prison Enterprises by soliciting bids from individuals or entities reputable for the sale of such commodities.

9. Prison Enterprises may enter into contracts with private entities for the barter of such commodities as raw materials and agricultural produce for such commodities as finished goods or products when said barter will further the purposes of the department as set forth in R.S. 15:1153.

10. EFFECTIVE DATE: The effective date of this regulation is June 20, 1985.

C. Paul Phelps
Secretary

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program has amended its rules to provide coverage for children in the process of being adopted through an agency adoption proceeding. This amended rule, to be effective July 1, 1985, states:

Article 1, Section 1 (J) (page 9)

A. Insert a new subsection (Article 1, Section I (J) (2)) to read as follows:

"2. Any children in the process of being adopted by the covered employee through an agency adoption who are living in the household of the employee and who are or will be included as a dependent on the employee's federal income tax return for the current or next tax year (if filing is required); and"

B. Renumber Subsections Article 1, Section I (J) (2) and (3) to Article 1, Section I (J) (3) and (4), respectively.

Article 1, Section I (K) (page 10)

A. Insert a new subsection (Article 1, Section I (K) (2) (b)) to read as follows:

"b. Children in the process of being adopted through an agency adoption - the date the adoption contract or agreement was executed by the covered employee and adoption agency."

B. Renumber Subsections Article 1, Section I (K) (2) (b) and (c) to Article 1, Section I (K) (2) (c) and (d), respectively.

James D. McElveen
Executive Director

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its rules to reduce the life insurance premiums from \$1.02/\$1,000 for life coverage and \$1.10/\$1,000 for life with accidental death and dismemberment to \$.80/\$1,000 and \$.88/\$1,000, respectively, effective July 1, 1985.

James D. McElveen
Executive Director

RULE

Department of the Treasury Bond Commission

The State Bond Commission at a regular meeting on June 11, 1985 unanimously adopted an amendment to its rules as previously adopted and amended.

Rule No. 2 of the State Bond Commission is amended to read as follows:

"2. Applications must be filed with the Commission at least 11 working days in advance of a commission meeting, except in cases of absolute emergencies or in case where staff permission for later filing of routine matters is granted."

Mary Evelyn Parker
State Treasurer and Chairman

Notices of Intent

NOTICE OF INTENT

Department of Agriculture Office of Agricultural and Environmental Sciences Advisory Commission on Pesticides

In accordance with the provisions of the Administrative

Procedure Act (R.S. 49:950 et seq.) and R.S. 3:3203, the Department of Agriculture, Advisory Commission on Pesticides, is hereby giving notice of its intention to adopt the amendments detailed below. The Advisory Commission on Pesticides has scheduled a meeting for Friday, June 28, 1985 at 9 a.m., in the Mineral Board Room, Natural Resources Building, Baton Rouge. Comments should be forwarded to: Harry Calhoun, Director, Advisory Commission on Pesticides, Department of Agriculture, Box 44153, Baton Rouge, LA 70804. All interested persons will be afforded an opportunity to submit views or arguments at the board meeting.

Adopt LAC 7:13112:

§13112. Chart of Tolerances

Content of active ingredients on all pesticides should be at the level of guarantee. However, determination of compliance based on assay of a single sample shall be made as follows:

A. A single sample whose assay deviates below the stated guarantee shall be considered in compliance except as noted in (B), below, if its active ingredients are found to be within the following ranges:

Active Ingredient % Guaranteed	Allowable Deviation Below Guarantee
Up to 1.00%	15% of Guarantee
1.01% - 19.99%	0.1 plus 5% of Guarantee
20.00% - 49.99%	0.5 plus 3% of Guarantee
50.00% - 100.00%	1.0 plus 2% of Guarantee

B. A single sample whose assay deviates below the stated guarantee beyond the above limits may not be considered "deficient" if special sampling problems such as those associated with fertilizer-pesticide mixtures and granular formulations or if problems associated with accuracy, specificity or reproducibility of the method of analysis can reasonably be expected to have contributed to the lower assay.

C. A single sample whose assay ranges above the stated guarantee shall be judged individually. However, an assay ranging above the stated guarantee shall not be considered violative if:

1. No illegal residue can be expected to result when product is used according to label directions.
2. No significant increase in hazard to man or the environment can be expected to result when product is used according to label directions.
3. Stability of the formulation or ingredients thereof require overformulation to insure that assay over a period stated on the label shall not fall below the minimum provided in (A), above.

Amend LAC 7:13127(D)(2)(Category 4):

§13127. Certification of Agricultural Consultants

* * *

D. Certification of Agricultural Consultants

* * *

2. Applicants for certification as agricultural consultants shall elect to be examined in one or more of the following categories:

* * *

Category 4. Soil Management

a. Agricultural Field Soil Management

Knowledgeable in symptoms of soil and/or tissue nutrient problems; sampling techniques for soil and/or tissue analysis; interpretation of laboratory results; and recommendations for soil and/or tissue amendments.

b. Agricultural Soil, Water and Tissue Laboratory Analysis

Knowledgeable of all diagnostic procedures pertaining to analysis of soil, water and/or tissue samples.

c. Agricultural Soil Reclamation

Knowledgeable of techniques, methods, etc. for restoring or attempting to restore soil productivity as a result of physical and/or chemical disturbance or natural causes such as severe erosion or contaminated soils.

d. Agricultural Water Management

Knowledgeable of irrigation scheduling practices and techniques for various enterprises requiring water on a regular or intermittent basis.

Adopt LAC 7:13119(H):

§13119. Examinations of Applicators, Salespersons and Agricultural Consultants

* * *

H. All applicants for private applicators' certification must be at least 16 years of age or emancipated minor. All applicants for salesperson certification must be at least 18 years of age or emancipated minor.

Amend LAC 7:13147(A) and LAC 7:13147(B):

§13147. Regulations Governing Bulk Pesticides

A. Definitions

* * *

Bulk repackaging means the transfer of bulk quantities of a registered pesticide from one bulk container to another bulk container in an unaltered state in preparation for sale to another person.

B. No person shall install or operate facilities engaged in bulk distribution of restricted use pesticides to owner-operators or private applicators in this state unless such person has made written notification of such activity by completing the form prescribed by the commissioner. In addition, manufacturers are prohibited from selling bulk pesticides to dealers that do not have proper facilities.

* * *

Bob Odom
Commissioner

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

Rule Title: Advisory Commission on Pesticides

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
There will be no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
There will be no 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.

Richard Allen
Assistant Commissioner

Mark C. Drennen
Legislative Fiscal Officer

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: LAC 11-15:12.4 - 12.8 (Trade Names and Names of Licensees, to delete the substantial interest requirement from the rule allowing these licensees the same privilege of

license name as individual licensees); LAC 11-15:14.8 (Advertising, requires that offering of any free prizes or gifts, etc. as an inducement to sale must be clearly advertised as being offered by the owner (seller) of the property and not the licensed broker or salesperson); LAC 11-15:33.1, 33.1.1, and 33.1.3 (Out-of-State Broker Cooperation, adds the term "lease" of real property to the requirement for cooperation with an instate broker to keep rule in agreement with law); and LAC 11-15:27.1, 27.2(k), and 27.4 (Interstate Land Sales, requires land parcels of five or more lots, etc. to be registered with the commission, requires recent photograph as part of application packet, and allows commission to accept the inspection of another state or governmental entity in place of requiring own inspection.)

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, 9542 Brookline Avenue, Baton Rouge, LA. 70808, and may be obtained in writing by writing Bert Coles, Public Information Representative, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA. 70808. Interested parties may direct inquiries and present their views in writing until June 30, 1985.

Anna-Kathryn Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Interstate Land Sales**

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

Under current procedure all inspection costs are reimbursed by the realtor/developer seeking to sell out-of-state property in Louisiana. Thus the expenses of the inspection trip are not borne directly by the commission. Any cost savings in terms of employee time cannot be estimated since the number of inspections varies from year to year, and the commission may still require such inspections if it determines that it is necessary.

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

There is no impact on state or local revenues, except to the extent that reimbursements are reduced.

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

There are currently substantial duplicate inspections by different state real estate commissions. To the extent that the Louisiana Real Estate Commission can rely on inspections by other states or on documentary evidence and thereby avoid personal inspections, the realtor/developer will save on the expense of such on-site inspections by Louisiana officials.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no anticipated impact on competition or employment.

Anna-Kathryn Williams
Executive Director

Mark C. Drennen
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Trade Names and Names of Licensees**

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

There is no impact on state or local expenditures.

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

There is no impact on state or local revenues.

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

The primary benefit of these rules will be to corporations wishing to use trade names. Under current regulations, it is more difficult to use a trade name unless the company is individually owned or owned by a partnership.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no anticipated impact on employment or competition.

Anna-Kathryn Williams
Executive Director

Mark C. Drennen
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Out-of-State Broker Cooperation**

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

The proposed rule change will have no impact.

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

The proposed rule change will have no impact.

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

No change, as is presently required by law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

The proposed rule change will have no impact.

Anna-Kathryn Williams
Executive Director

Mark C. Drennen
Legislative Fiscal Officer

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

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

This regulation has no impact on the expenditures of state or local governments.

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

This regulation has no impact on the revenues of state or local governments.

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

This regulation requires any advertisement to make clear that it is the property owner rather than the real estate broker who is offering any valuable consideration as is currently required by law. Since it does not apply to owner-brokers or to time sharing sales, its overall impact on brokers is only to bring the rule into conformance with the existing law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

This rule is not anticipated to have any impact on competition or employment, although it will require brokers to indicate clearly who is providing any gifts, prizes or other consideration as an inducement to purchase real estate.

Anna-Kathryn Williams
Executive Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741

In accordance with R.S. 49:950 et. seq., The Administrative Procedure Act, and pursuant to Louisiana Revised Statutes, Title 17 Section 7(5)(7), the State Board of Elementary and Secondary Education hereby gives notice that it intends to adopt the 1984 revised edition of Bulletin 741, entitled *Louisiana Handbook for School Administrators*.

The revised edition of Bulletin 741 includes policies and standards governing the operation and administration of public schools and the standards on which school approval is granted. Policies and standards included in the Bulletin as these relate to regular schools K-12 concern the learning environments of the schools. They include references to policies required to be adopted by local systems; to the certification and evaluation of school personnel; to the maintenance of records and reports by local education agencies, including the maintenance of financial records; to the scheduling of classes including a requirement for a 360-minute instructional day for all students K-12; to maximum class size in K-12 and to maximum student hours per week for secondary teachers; to reports that must be made of student progress; to policies on student services including policies on student attendance, screening and evaluation, disciplinary regulations; to requirements for plant operations and maintenance; to standards for school libraries; to standards for school transportation and school food services; to standards for elementary and secondary programs of studies including required course work for elementary and for the graduation of secondary students; to the scheduling of classes for the kindergarten and elementary grades; to policies for early college admission; to standards governing elementary and secondary summer school programs; and to regulations for adult education programs and alternative schools.

The proposed revised Bulletin contains minimum standards for state approval of regular and extended vocational education and for cooperative education programs which are reimbursed with federal and state funds. These standards include student eligibility requirements; standards for maintenance of the physical environment and for equipment; requirements for instructors; scheduling of classes; credits to be awarded for course work; regulations on vocational student organizations; eligibility for travel funds; and adult classes in vocational education. This portion of the Bulletin also includes administrative procedures for the operation of vocational agriculture/agribusiness, business education, general cooperative education, health occupations, home economics, industrial arts, marketing and distributive education, trade and industrial education and vocational guidance.

The proposed revised Bulletin contains a section on policies and standards for the operation of special schools, including a requirement for compliance monitoring; standards for and categories of school approval and rules for general school administration. It includes regulations requiring compliance with Louisiana state law (Act 754 of 1977) and federal law P.L. 94-142. Local agencies are required to maintain written policies governing special schools, including policies on the admission and release of students. Special schools' standards are included as these relate to emergency planning and procedures; personnel policies; staff organization and development; maintenance of and access to records and reports; requirements for the certificate of achievement; scheduling of classes including 360 minutes a day of certified IEP instructional time; and class sizes and teacher/pupil ratios for exceptional students. The special school section includes procedures for participation in research projects; it contains policies on student attendance and discipline. Requirements for vision and hearing

screening as well as educational screening and evaluation are included. Further, this section has standards on the program of studies in special schools and on high school graduation requirements. It contains policies on extended year programs for exceptional students.

The Bulletin contains a Glossary and a list of departmental administrative bulletins.

A copy of proposed Bulletin 741 is on file in the board office and in the Office of the Louisiana Register.

Interested persons may comment on the proposed policy changes and/additions by submitting written comments to the board office between 8 a.m. and 4:30 p.m. on weekdays or by mailing same to the State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064. Inquiries considering the Bulletin will be answered by James V. Soileau, Executive Director of BESE, including the schedule for hearings of meetings on the proposed rule.

James V. Soileau
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Bulletin 741, 2.090.06

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

It is estimated that this action would require 205 foreign language teachers for grade 7 in 1987-88 and 195 foreign language teachers in grade 8 in 1988-89 to provide foreign language programs to academically able students. This estimate is based on six classes per day per teacher at a pupil/teacher ratio of 30 to 1 with an assumed 60 percent of total projected student enrollment designated as academically able. If these teachers were provided under the MFP as Second Language Specialists at the current rate of \$14,500 plus retirement per teacher, the cost of 7th grade in 1987-88 would be \$2,972,500 and the cost of 8th grade in 1988-89 would be \$2,827,500. If, however, these teachers were provided through CODOFIL and the Cordell Hull Foundation as foreign associate teachers, the cost for 1987-88 would be \$2,460,000 and the cost for 1988-89 would be \$2,340,000.

It is assumed that costs associated with this proposed requirement would be borne by the local school systems if state funding for implementation were not provided. Some systems which have requested establishment of foreign language programs under provisions of Act 714 of 1975 have not yet implemented those programs due to unavailability of state funding.

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

No impact on state revenue collections would result.

Any State funds made available for this purpose would be allocated to the local school districts under the MFP or, if foreign associate teachers, by the Department of Education as Aid to Local Governments based upon the number of academically able students identified by each school district.

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

No cost or direct economic benefit to affected persons or groups is anticipated, other than the enhanced employment opportunities for foreign language instructors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

This action will eventually result in the employment of

400 additional foreign language teachers in the 7th and 8th grades.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bulletin 741
(standards 2.056.01, 2.056.02 - p. 36)**

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

The present state nursing program provides vision screening for seven grades and hearing screening for five grades at a cost of \$3.3 million. The proposed change to provide annual screening would require coverage of six more grades for vision and eight more grades for hearing, for a total of 14 additional grades. Implementation of this rule change is anticipated to double the cost of the state nursing program from \$3.3 million to 6.6 million in 1984-85 and subsequent years.

The implementation costs which would be experienced by the local school systems would be related to local salary supplements provided over and above the state salary or end-of-year bonuses to nurses. The extent of these costs has not been determined at this time.

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

No impact on state revenue collections would result. Implementation would result in an estimated \$3.3 million increase in state funding to the local school systems.

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

There would be no cost to students who would benefit by having vision and hearing problems detected earlier.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Implementation of the proposed change would result in employment of approximately 270 additional nurses at a salary of \$12,422 each to conduct the screenings. Each local school system maintains a waiting list for nursing positions. The additional positions would be filled primarily by nurses who are unable to work evening or night shifts and would otherwise be unemployed.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bulletin 741**

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

It is estimated that inservice training for an estimated 1,200 teachers in 1984-85 will cost approximately \$60,000 (20 teachers per day for five days at an average cost per day of \$200). Inservice costs are estimated at \$40,000 in 1985-86 and \$20,000 in 1986-87.

Based on current enrollment in Algebra I (50% of high school students), Geometry (30%) and Algebra II (10%) and projected total enrollment through 1986-87, the proposed mathematics requirement would result in an additional 32,452 students in Algebra I in 1984-85 and approximately 42,830 additional students in Geometry and Algebra II in each of the

years 1985-86 and 1986-87. It is assumed in these estimates that total enrollment would not be affected by the proposed graduation requirements.

At an average cost of \$15 per textbook, textbook purchases, which would be made in the summer prior to opening of school, are estimated at \$486,780 from 1983-84 funds and \$642,450 in 1984-85 and 1985-86, for a total of \$1,171,680 over three years. This cost would be borne by the local school systems either indirectly through substitution of these mathematics textbooks for other scheduled purchases in the existing textbook budget (funded primarily by the state on a per pupil basis) or directly through purchase of additional textbooks.

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

There will be no effect on state or local revenue collections.

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

No direct economic benefit to affected persons or non-governmental groups is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No net increase in the number of teachers employed is anticipated, although those teachers currently teaching other mathematics courses will be either retrained or replaced by individuals qualified to teach the required courses.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bulletin 741 (Standard 2.105.19)
Biology and Chemistry Requirements**

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

No impact is anticipated under the biology portion of the proposed requirement. Almost 100 percent of high school students currently take a biology course.

The chemistry requirement under the proposed rule change is projected to result in 40,805 additional students in chemistry in 1986-87. This estimate is based on current enrollment of 15 percent of juniors in chemistry and projected total junior enrollment of 49,162 in 1986-87 of which 98 percent would enroll in chemistry. It is assumed in the following estimates that this level of total enrollment would continue and would not be affected by the proposed graduation requirements.

Additional cost for consumables (glassware, chemicals, etc.) at \$25 per student for 40,805 additional students is estimated at \$1,020,125 beginning with purchases from 1985-86 funds and continuing thereafter. Under current funding mechanisms, these additional expenses would be borne by the local school systems.

Costs associated with purchase of chemistry textbooks at an average of \$13.80 per text for 40,805 students would be \$563,109 beginning with purchases from 1985-86 funds. The local school systems would bear this cost either indirectly through substitution of these textbooks for other scheduled purchases within the existing textbooks budget (funded primarily by the state on a per pupil basis) or directly by purchase of additional textbooks.

In individual school systems, the cost associated with

renovation and construction of chemistry laboratories to serve additional students would depend on the present laboratory facilities and scheduling options. Based on information available to the Department of Education, it is possible that renovation costs would average \$100,000 per lab and that an average of two renovations per district would be needed for each of 66 districts at a total cost of \$13.2 million. Under current funding mechanisms for local districts, these capital outlay costs would also be borne by the local school systems. These projects would probably be initiated in 1984-85 for completion by the 1986-87 school year.

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

No impact on state or local revenues is anticipated.

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

The anticipated benefit to students by meeting the chemistry requirement would be better preparation for educational and employment opportunities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Based on increased chemistry enrollment of 40,805 in 1986-87 and each year thereafter, an increased demand for chemistry teachers would result. Although the current class size in each school would affect the total number of chemistry teachers required, if an average class size of 25 is assumed for an even statewide distribution of students with each teacher responsible for 5 sections, an additional 326 chemistry teachers would be required. A corresponding decrease in the number of teachers required for elective courses is anticipated, so that a net increase in employment of teachers would not result.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

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

Rule Title: Bulletin 741 (standards 2.038.03 - p. 26)

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

Based on a comparison of the current numbers of counselors in each school with grades 9 through 12 and the required number per school under the proposed ratio, it is projected that 28 additional counselors would be required. Forty-eight of the 66 school systems already meet or exceed the proposed ratio.

Under the current MFP, funding is not specifically provided for counselors and only approximately six local systems have fewer total positions currently employed than are allotted under the MFP. Therefore, the cost of these positions would be borne by the local school systems either directly through employment of counselors over and above positions allotted under the MFP or indirectly by substitution of counselors for other types of positions currently supported by MFP funds. The cost associated with these 28 positions is estimated at \$444,186 in 1984-85 which would continue at approximately the same level thereafter (average state salary for Master's Degree plus retirement of \$15,863.79 × 28 positions).

The local systems would also bear the cost of any local salary supplements for the additional counselors.

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

No impact on state revenue collections will result. A very

minimal impact in state funding may be experienced by those six LEA's which do not currently employ all positions allotted under the MFP.

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

There would be no costs to students who would benefit by receiving assistance from the counselors. This would aid in enabling the student to reach his/her maximum educational potential.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

The proposed rule change would provide employment for 28 additional guidance counselors. This may affect employment of a corresponding number of other types of school employees should parishes choose to substitute counselors for other personnel presently allotted and employed.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

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

Rule Title: Bulletin 741 (2.037.0 Page 30)

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

No implementation costs are projected. The length of the school day has not been changed; only the length of the minimum instructional time within the school day.

Therefore, the proposed rule does not require an increase in the length of time personnel are required to be present at school, although individual local systems may choose to meet the requirement through expansion of the school day rather than through adjustment of existing schedules.

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

No impact on state or local revenues is anticipated.

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

No direct cost or economic benefit to affected persons or non-governmental groups is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No impact on competition or employment is anticipated.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

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

Rule Title: Bulletin 741 (2.090.06)

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

It is estimated that implementation of the proposed requirement would require 360 additional foreign language instructors in 1985-86, 720 in 1986-87 and 1,080 in 1987-88 and subsequent years. This estimate is based on each teacher serving two schools per day, except in 27 schools having more than four 4th grade sections. Of 906 elementary schools with grades 4, 5 and 6, 240 currently have foreign language programs staffed by 290 instructors.

The estimated cost, based on employment of foreign associate teachers at \$12,000 per year, is \$4,320,000 in 1985-86 (4th grade), \$8,640,000 in 1986-87 (4th and 5th grades) and \$12,960,000 in 1987-88 and subsequent years (4th, 5th and 6th grades). The 36 school systems which do not currently offer foreign language programs in these grades would initiate programs with foreign associate teachers provided through CODOFIL and the Cordell Hull Foundation. These would gradually be replaced by Second Language Specialists, probably over a five to six year period, with an increase in cost due to higher salaries paid to Second Language Specialists (average state salary of \$14,500).

It is assumed that costs associated with this proposed requirement would be borne by the local school systems if state funding for implementation were not provided. Some systems which have requested establishment of foreign language programs under provisions of Act 714 of 1975 have not yet implemented those programs due to unavailability of state funding.

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

No impact on state revenues would result. Local school systems would receive any state funds made available for support of implementation costs of this requirement.

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

No cost or economic benefit to affected persons or groups is anticipated other than the enhanced employment opportunities for foreign language instructors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

The proposed requirement would result in creation of 1,080 foreign language instructor positions by 1987-88. It is anticipated that these positions would initially be filled by foreign associate teachers who would eventually be replaced by Second Language Specialists, who under BESE policy are given preference in employment. Training to become a Second Language Specialist requires two years and two summers; therefore, this replacement would occur over a five to six year period through recruitment of Specialist trainees.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Trade and Industrial Education Credit for Cosmetology

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 policy for inclusion in Bulletin 741, page 98 pertaining to secondary students receiving credit for attending a private cosmetology school:

SECONDARY STUDENTS ATTENDING A PRIVATE COSMETOLOGY SCHOOL

Secondary students attending an approved cosmetology school, licensed by the Louisiana State Board of Cosmetology, may receive trade and industrial education credit, if time requirements for Carnegie units are met and if an equivalent course is not offered by the local school system.

If the course content is equivalent to the content of the cosmetology course listed under standard 2.105.32, the units of credit shall be reported on the student's transcript by the title.

If the course content is not equivalent to the course listed

under standard 2.105.32, the units of credit shall be reported by the actual title.

A copy of the written agreement between the parish/city school system and the private Cosmetology school shall be on file in the Trade and Industrial Education Bureau.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., August 8, 1985 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

James V. Soileau
Executive Director

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

**Rule Title: Trade and Industrial Educational
Credit for Cosmetology**

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

There will be no implementation costs to the state or local government.

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

Will have no effect on revenue collections or state or local governmental units.

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

Will benefit students as described in (B) above.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Will graduate secondary students with marketable skills.

Joseph F. Kyle
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Computer Literacy Curriculum Guide

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 Computer Literacy Curriculum Guide (Bulletin 1739) as submitted by the department. Copies of this curriculum guide may be seen in the Office of the Louisiana Register and Office of the Board of Elementary and Secondary Education.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., August 8, 1985 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

James V. Soileau
Executive Director

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

**Rule Title: Computer Literacy Curriculum Guide
(Bulletin 1739)**

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

Development and piloting costs to the state for 1984-

85 totals \$63,491.42, and the implementation budget request for 1985-86 is in the amount of \$61,172.00. The total cost for 1984-86 is \$124,663.42.

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

The sale of computer literacy curriculum guides is expected to generate approximately \$500 in 1985-86.

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

There will be no cost to the affected groups. The benefits are to the quality of public education that accrues from the availability of the state standards and curriculum guide.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

The rule will have no effect on competition and employment.

Joseph F. Kyle
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

State Plan for Nutrition

In accordance with R.S. 49:950 et. seq., The Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the State Plan for Nutrition Evaluation and Training Program (FY 86). Copies of the plan may be seen at the Office of the Louisiana Register and Office of the Board of Elementary and Secondary Education.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., August 8, 1985 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

James V. Soileau
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: State Plan**

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

There are no estimated implementation costs or savings to the agency.

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

There is no estimated effect on revenue collections, as the Nutrition Education and Training Program is not a revenue-generating program.

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

There would be no estimated cost effect on the recipient agencies. Teachers, food service personnel, and children would receive training and materials in the area of Nutrition Education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no estimated impact on competition and em-

ployment in the public and private sectors as a result of this action.

Joseph F. Kyle
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Textbook Adoption Cycle

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 amended the 1985-86 textbook adoption cycle to include computer literacy technology and computer science and approved the inclusion of computer literacy technology and computer science on the textbook adoption cycle each consecutive year.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., August 8, 1985 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

James V. Soileau
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Textbook Adoption**

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

The establishment of an additional textbook adoption committee to review the textbooks submitted for adoption would cost approximately \$5,000 in state funds. Sufficient funds exist in the 1985-86 budget request.

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

None.

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

The change in the rule will allow the local school systems to purchase up to date textbooks in the rapidly changing fields of computer literacy technology and computer science.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Keeping the students informed of the latest developments in computer literacy and computer science will make them more competitive and employable in our computer oriented society.

Joseph F. Kyle
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Southern University Board of Supervisors

In accordance with R.S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Southern University Board of Supervisors intends to adopt the following fee changes:

(1) Tuition on each of the three campuses of Southern University shall be increased by \$50 per semester; \$25 per summer session and a pro-rata amount for part-time fees.

(2) The out-of-state fee for undergraduates at each university shall be increased by \$25 per semester.

(3) The out-of-state fee for law students shall be increased by \$100 per semester.

(4) The out-of-state fee for graduate students at Southern University-Baton Rouge shall be increased by \$215.

(5) Student assessed fees for the Student Government Association at Southern University-Shreveport/Bossier City shall be increased by \$4 per semester.

Interested persons may submit written comments through August 1, 1985 at the following address: Henrietta Vessel, Administrative Secretary, Board of Supervisors, Box 10879, Baton Rouge, LA 70813. All inquiries regarding the proposed changes shall be directed to Tolor E. White, Vice President of Finance and Business Affairs at (504) 771-5711 or Southern University, Baton Rouge, LA 70813. A copy of this notice is available for review at both of the above named offices.

Jesse N. Stone, Jr.
President

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Increase Tuition**

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

There will be no estimated implementation costs to the agency.

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

1985-86	\$290,880
1986-87	\$327,465
1987-88	\$327,950

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

The increase in fees will affect students at Southern - New Orleans as the cost of their education will increase slightly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no estimated affect on competition and employment.

Jesse N. Stone
President

Mark C. Drennen
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Increase Tuition**

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

There will be no estimated implementation costs to the agency.

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

1985-86	\$ 967,865
1986-87	\$1,120,939
1987-88	\$1,120,939

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

The increases in fees will affect students in the Southern University System as the cost of their education will increase slightly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no estimated effect on competition and employment.

Jesse N. Stone
President

Mark C. Drennen
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Increase Tuition**

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

There will be no estimated implementation costs to the agency.

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

1985-86	\$76,884
1986-87	\$88,059
1987-88	\$88,059

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

The increases in fees will affect students in the Southern University System as the cost of their education will increase slightly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no estimated effect on competition and employment.

Jesse N. Stone
President

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et. seq., in particular Sections 1084 B (1) and in accordance with the Administrative Procedure Act R.S. 49:950, the secretary, Department of Environmental Quality has initiated rulemaking on the proposed New Source Performance Standards. The department will afford all interested persons the opportunity to submit comments on the proposed regulations, orally or in writing at a public hearing scheduled on July 11, 1985 at 10 a.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. All written comments should be submitted no later than July 11, 1985 to Gus Von Bodungen, Air Quality Division, Box 44096, Baton Rouge, LA 70804-4096, or phone 504/342-9047.

The proposed regulations consist of the following:

Establishment of Subparts A, D, Da, E, F, G, H, I, J, K, M, N, T, U, V, W, X, Y, Z, AA, BB, CC, DD, GG, HH, MM, UU, KK, NN and PP (New Source Performance Standards).

Establishment of test methods 1, 2, 2A, 2B, 3, 4, 5, 5A, 6, 6A, 6B, 7, 7A, 7B, 9, 16, 16A, 17, 19, 20, 24, and 25.

The proposed regulations limit the amount of air pollution that specific types of new and modified sources can emit. These standards are set to allow industrial growth while maintaining present air quality. These limits will be applied uniformly to all new stationary sources of the types covered by these proposed regulations.

The agency contact responsible for responding to inquiries

or requests for copies of the proposed revision is Gus Von Boudungen, Box 44096, Baton Rouge, LA 70804-4096, or phone 504/342-1206. All documents relating to the actions of this notice are available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 2945 North I-10 Service Road, Metairie, LA.

Department of Environmental Quality, Eighth Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

Department of Environmental Quality, 804 Thirty-First Street, Monroe, LA.

State Office Building, 1525 Fairfield Avenue, Shreveport, LA.

Department of Environmental Quality, 1155 Ryan Street, Lake Charles, LA.

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA.

Patricia L. Norton
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: NSPS Regulations**

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

There are no additional implementation costs or savings to state or local agencies because all expenses associated with implementation of these proposed regulations will be incurred via the existing budget and staff.

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

There will be no estimated effect on revenue collections being that an overall compliance fee has already been implemented.

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

There will be no costs to affected groups because the industry has already implemented these regulations under federal requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no effect on competition and employment because these regulations have been in place many years on the federal level.

Patricia L. Norton
Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Water Resources**

Under the authority of the Environmental Quality Act. R.S. 30:1073 (J), R.S. 30:1096(D), R.S. 30:1137(I) and R.S. 30:1148(A), and in accordance with provisions of R.S. 49:950 et seq., the secretary of the Department of Environmental Quality initiated rulemaking procedures on proposed Notification Regulations and Procedures for Unauthorized Discharges on May 13, 1985.

Following initiation of rulemaking procedures by the secretary, the proposed rule was forwarded on June 10, 1985 to the

oversight subcommittees of the joint committees on Natural Resources for their consideration and approval. Upon approval by the oversight subcommittees, the secretary of the Department of Environmental Quality intends to consider final adoption of this rule.

The primary purposes of the proposed rule are to expand on the statutory language requiring that the Department of Environmental Quality be notified of all unauthorized discharges to the environment of the state and to clarify the procedures for providing such notification. In general, the following provisions are proposed: (1) notification requirements for various types of unauthorized discharges, (2) written and verbal notification procedures, and (3) reportable quantities of various pollutants.

A public hearing on the proposed rule will be held at 10 a.m. on Tuesday, July 2, 1985 in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend the public hearing and present a statement and to submit written comments which will be considered by the secretary before a final decision is made.

Copies of the proposed rule may be obtained by writing to Laurinda Durr, Department of Environmental Quality, Office of Water Resources, Box 44091, Baton Rouge, LA 70804-4091, or by phoning (504) 342-6363. Copies of this rule are also available for inspection at the following locations from 8 a.m. until 4:30 p.m. daily, Monday through Friday:

State Land and Natural Resources Building, Room 900, 9th Floor, 625 North Fourth Street, Baton Rouge, LA.

Capitol Regional Office, 11720 Airline Highway, Baton Rouge, LA.

Northwest Regional Office, State Office Building, 1525 Fairfield Street, Shreveport, LA.

Northeast Regional Office, 804 31st Street, Monroe, LA.

Southeast Regional Office, 3945 N. I-10 Service Road, Metairie, LA.

Acadiana Regional Office, 100 Eppler Road, Lafayette, LA.

Southwest Regional Office, 1155 Ryan Street, Lake Charles, LA.

Patricia L. Norton
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Notification Regulations and
Procedures for Unauthorized Discharges**

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

There are no estimated costs or savings to state and local governmental units. Reports will be received and investigated by existing personnel. The department presently maintains a toll-free hotline and operates a 24 hour answering service and emergency response system.

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)

Estimated costs to directly affected persons or non-governmental groups will be minimal. These costs would be limited to occasional telephone charges and/or preparation and mailing costs for written notifications.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There should be no effect on competition or employment in the public or private sectors.

Patricia L. Norton
Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Governor's Special Commission
On Education Services
Loan/Grant Division**

The Loan/Grant Division of the Governor's Special Commission on Education Services intends to revise and reissue certain sections of its lender manual in order to establish a rule covering over-awards on guaranteed student loans, as well as to make minor changes clarifying certain portions by inserting omitted words, deleting repetitive phrases, and correcting typographical errors.

No rules are being amended; one is being established, on which there was no previous rule.

The proposed changes to the Lender Manual are available for review at the office of the commission.

Persons who desire to do so may submit comments or suggestions in writing to Evelyn Y. Henry, Executive Director-Coordinator, Governor's Special Commission on Education Services, Box 44127, Baton Rouge, LA 70804.

Julia G. Wagner
Director

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

Rule Title: Guaranteed Student Loan Program

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

There will be an estimated implementation cost of approximately \$1,200 for printing and \$350 for postage.

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

There is no estimated effect on revenue collections.

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

There are no estimated costs to affected groups, but individual manuals detailing procedures with examples will benefit lenders and schools as they will have one reference source, which will be updated as changes occur on a federal level.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no estimated effect on competition and employment.

Julia G. Wagner
Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Family Security, proposes to adopt federal policy guidelines in the Disability Determination Program.

Summary

The Disability Determination Program operates under federal manuals and regulations as required for 100 percent federal financial participation. Because this program is totally funded by the federal government, the state has no policy options which effect individuals applying for disability benefits under Social Security.

This proposed rule adopts the Program Operational Manual System of the federal government as the official policy guide for determining disability under Social Security.

Comments

Interested persons may submit written comments through July 8, 1985, to the following address: Marjorie T. Stewart, Assistant Secretary, Box 44065, Baton Rouge, LA 70804. She is the person responsible for responding to inquiries regarding this proposed rule. A copy of the proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

Notice of Public Hearing

A public hearing on this proposed rule will be held on July 3, 1985, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Proposed Rulemaking

PROPOSED RULE

The official policy of the Disability Determinations Program shall be the federally produced and distributed Program Operational Manual System. Any changes in policy promulgated, in accordance with federal rulemaking procedures shall be the official policy of the Disability Determinations Program.

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

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

**Rule Title: Policy of Disability
Determination Program**

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

There is no implementation cost associated with this proposed rule.

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

There is no effect on revenue collections.

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

There is no effect on persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no known effect on competition and employment.

Marjorie T. Stewart
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

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

PROPOSED RULE

Effective September 1, 1985, the Office of Family Security shall amend the Title 19 State Plan to include the eligibility requirement of enumeration in the Adult Assistance and Medicaid Programs as required by Section 2651 of the Deficit Reduction Act of 1984 (Public Law 98-369). Verification of the applicant's/recipient's social security number (SSN) shall be required. Applicants who apply for assistance on or after September 1, 1985, must provide or apply for a social security number at application. Recipients who became eligible before September 1, 1985, must provide or apply for their social security number at redetermination of eligibility.

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.

Interested persons may submit comments to the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. She is the person responsible for responding to inquiries regarding the proposed rule. A copy of the proposed rule and its fiscal and economic impact statement are available for review in each local Office of Family Security.

A public hearing will be held on this proposed rule on July 3, 1985, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views and arguments, orally or in writing, at said hearing.

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

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Enumeration Requirement for Eligibility

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
No fiscal impact is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
No effect on revenue is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
No costs and/or economic benefits are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
No effect on competition and employment is anticipated.

Marjorie T. Stewart
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

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

Proposed Rule

Effective September 1, 1985, the Title XIX State Plan will be amended to include sanctions against Intermediate Care Facilities for the Handicapped.

PENALTIES FOR VIOLATIONS

1. A facility which violates any state or federal regulation or departmental rule where such violation poses a serious threat to the health, safety, rights, or welfare of a resident shall be liable to civil fines of \$100 per day for first violation and \$1,000 per day for confirmed repeat violations for each day that such violations continue. These civil fines shall be in addition to any criminal action which may be brought under other applicable laws.

2. Where the department has reasonable cause to believe that there has been a serious violation, the secretary shall give written notice by certified mail to the operator of the facility in question. The written notice shall specify the alleged violations, cite the legal authority which establishes such violations, and advise the operator that he has three days from receipt of the notice to request an appeal hearing. If no appeal is requested, the department shall assess civil fines as provided in Paragraph 1. The department shall forward its findings to the facility by certified mail, and any fines imposed shall commence as of the date such determination is received by the alleged violator.

3. If an appeal is requested on a timely basis, the department shall conduct an administrative hearing in accordance with the provisions of the Administrative Procedure Act. Such hearing must be held within one week of receipt of the request. The department shall review all relevant evidence and make its final written determination in the matter no later than three days after the administrative hearing is begun, provided that the hearing officials may continue the matter for good cause shown where such continuance will not jeopardize the health, safety, rights, or welfare of the facility's residents.

4. At the conclusion of an administrative hearing, the department shall make specific written findings as to each alleged violation. The agency's findings shall be mailed to the facility at the last known address by certified mail. Any fines imposed shall commence as of the date such agency findings are received by the alleged violator.

5. If the department's findings are adverse to the facility, it may request judicial review of such matter to the Nineteenth Judicial District Court within 15 days of receipt of such findings. Such appeal shall be suspensive.

The facility shall furnish, with the appeal, bond in the minimum amount of one and one-half times the amount of the fine imposed by the department. The bond furnished shall provide in substance, that it is furnished as security that the facility will prosecute its appeal, that any judgment against it will be paid or satisfied from the amount furnished or that otherwise the surety is liable for the amount assessed against the facility. The appeal shall be heard in a summary proceeding which shall be given precedence over other pending matters.

6. At the conclusion of the judicial review, the court shall enter an appropriate order either reversing or modifying the agency's findings or upholding the agency's findings. If the agency's findings are upheld, the court shall order the payments of all fines imposed.

7. The department is empowered to institute all necessary civil court action to collect fines imposed and not timely appealed. No facility may claim imposed fines as reimbursable costs, nor increase charges to residents as a result of such fines.

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

Emergency rulemaking has been invoked to implement this policy effective May 10, 1985. The Emergency Rule was necessary to insure the health, safety and welfare of residents of intermediate care facilities for the handicapped, to comply with federal

regulations (42 CFR 442.400-516), and to provide for continuance of federal financial participation.

Interested persons may submit written comments at the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. 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 parish in the local Office of Family Security.

A public hearing on the proposed rule will be held July 3, 1985, in the Louisiana State Library Auditorium, 760 Riverside, North, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views and arguments, orally or in writing, at said hearing.

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: ICF/H Penalties**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
No fiscal impact is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
No effect on revenue collection is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
No costs and/or economic benefits are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
No effect on competition and employment is anticipated.

Marjorie T. Stewart
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Family Security, propose to implement the following Notice of Intent.

Proposed Rule

Effective September 1, 1985, the Title XIX State Plan will be amended to require that a written plan of care developed specifically for each applicant must be reviewed and approved by the Office of Family Security prior to establishing the effective date of the applicant's medical certification in an intermediate care facility for the handicapped. If the plan of care is approved, the effective date of certification can be retroactive to the date all other eligibility factors were met.

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

Emergency rulemaking has been invoked to implement this policy effective May 10, 1985. The Emergency Rule was necessary to insure the health, safety, and welfare of residents of intermediate care facilities for the handicapped.

Interested persons may submit comments to the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. She is the person responsible for responding to inquiries regarding the proposed rule. A copy of the proposed rule and its fiscal and economic impact statement are available for review in each local Office of Family Security.

A public hearing will be held on this proposed rule on July 3, 1985, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views and arguments, orally or in writing, at said hearing.

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Written Plan of Care
Requirement for ICF/H Certification**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
No fiscal impact is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
No effect on revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
No costs and/or economic benefits are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
No effect on competition and employment is anticipated.

Marjorie T. Stewart
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Office of 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 proposes to adopt the following change to the policies and guidelines for Section 1122 capital expenditure reviews to be effective August 20, 1985. The proposed change will be made to the Rule published in Volume 11, Number 4 of the *Louisiana Register*, April 20, 1985. It will substitute for the section on appeal procedures on page 358 in that published Rule.

A public hearing will be held on Tuesday, July 2, 1985 at 10 a.m. in the auditorium of the State Library, 760 Riverside, Baton Rouge, LA. Interested persons may submit written comments on the proposed change until July 15, 1985 at the following address: Joseph Ross, Division of Policy Planning and Evaluation, 200 Lafayette St., Suite 406, Baton Rouge, LA 70801.

Proposed Rule

FAIR HEARING PROCEDURES

In findings of nonconformity, 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 date of the notification of nonconformity and must be accompanied by a filing fee of \$500.

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 120 days from the date of notification of nonconformity. If the hearing is not concluded within this time, the findings of DHHR will be considered upheld.

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 (except in the case of an appeal of an application found in nonconformity which was remanded at a prior hearing for the purpose of re-review).

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

The hearing shall be open to the public, 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.

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

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.

Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the designated planning agency's specialized knowledge. The designated planning agency's experience, technical competence and specialized knowledge, which shall not be at issue at the hearing, may be utilized in the evaluation of the evidence.

A party may conduct cross-examinations required for a full and true disclosure of the facts. Cross-examination shall be limited to the issue of nonconformity with the standards, criteria and plans, and to the issue of adherence to procedures by DPPE. Questions concerning other unrelated applications shall not be allowed.

Pre-hearing discovery is limited to the taking of depositions for the perpetuation of testimony of a witness who will not be available to testify at the time of the hearing.

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 office 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 subpoena without depositing said sum of money.

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 represen-

tatives 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.

The following issues shall not be considered at a hearing:

1. The correctness, adequacy, or appropriateness of the standards, criteria, or plans against which the proposed expenditure was measured; and
2. Whether the proposed expenditure is subject to review by the designated planning agency.

The fair hearing under Section 1122 shall be limited to the circumstances existing at the time of the review of the application. Any changes in circumstances after the review and prior to the hearing, such as statistical updates, clarifications and the like, are not admissible.

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.

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.

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. (The date of mailing is the date of notification, as per the interpretive ruling issued by DHHR on February 18, 1982.)

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

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

Opponents of Section 1122 applicants who receive findings of conformity are not entitled to a fair hearing or to judicial review.

The applicant is entitled to seek reconsideration from DHHR in accordance with federal regulations.

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.

An applicant who fails to have the notification to nonconformity reversed shall forfeit his filing fee.

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

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: 1122 Policies and Guideline

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

No costs or savings are predicated as a direct result of changes in the policies and guidelines.

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

Increased revenue from the implementation of a \$500 appeal fee is estimated at \$7500 per year for each of FY 85-86, 86-87, and 87-88, resulting in a total increase in revenue for the three year period of \$22,500.

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

Applicants under Section 1122 whose applications are disapproved and who wish to appeal this decision will be charged a \$500 filing fee to defray the costs of the appeal. The fee will be refunded if the appeal results in a reversal of the disapproval.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No direct effect anticipated.

Sandra L. Robinson, M.D., M.P.H. Secretary and State Health Officer
Mark C. Drennen Legislative Fiscal Officer

NOTICE OF INTENT

**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 proposes to adopt the following changes to the policies and guidelines for Section 1122 capital expenditure reviews to be effective August 20, 1985. The proposed changes will be made to the Rule published in Volume II, Number 4 of the *Louisiana Register*, April 20, 1985. It will amend:

1) The Introduction (Page 1, Paragraph 2) by deleting home health agencies from the list of health care facilities covered under Section 1122.

2) The section on Expenditure and Changes Subject to Review (Page 5, Paragraph 5) by adding a sentence to clarify information to be used in full review of reclassified beds. The sentence will read "The current need (and other criteria) for the proposal will be reevaluated in terms of the new proposal."

3) The section on Evidence of Obligation/Expiration of Approval by

a) Changing number 1.b., Sentence 1 of Page 12 to read "Vertical construction date (to be no later than 18 months from the date of Notice of Conformity on 24 months from such date if an extension to submit evidence of obligation was granted)."

b) Changing number 5., Paragraph 1 on Page 13 to read "... has been designated by the applicant/owner for the project."

c) Adding number 5., Paragraph 2 on Page 13 to reiterate change 2) a) above.

d) Adding a paragraph at the end of the section (p.13-A) to provide for extension of the date of vertical construction in certain circumstances.

These changes are for clarification only. They provide for no change in the agency's operating procedure.

A public hearing will be held on Tuesday, July 12, 1985 at 10 a.m. in the auditorium of the State Library, 760 Riverside, Baton Rouge, LA. Interested persons may submit written comments on the proposed change until July 15, 1985 at the following address: Joseph Ross, Division of Policy, Planning and Evaluation, 200 Lafayette St., Suite 406, Baton Rouge, LA. 70801.

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

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

Rule Title: 1122 Policies and Guidelines

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

No costs or savings are expected as a direct result of changes in the policies and guidelines.

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

No costs or savings are expected as a direct result of these changes.

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

No costs or benefits are expected as a direct result of these changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No effects are expected as a direct result of these changes.

Sandra L. Robinson, M.D., M.P.H. Secretary and State Health Officer
Mark C. Drennen Legislative Fiscal Officer

NOTICE OF INTENT

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

Effective August 20, 1985, the Department of Health and Human Resources, Office of Management and Finance, Division of Policy, Planning and Evaluation proposes to amend that portion of the 1985-1990 State Health Plan which pertains to comprehensive physical rehabilitation facilities. The State Health Plan is mandated by Public Law 93-64 as amended by Public Law 96-79. The amendment relates to the resource goal of occupancy rate for free-standing comprehensive physical rehabilitation facilities and for rehabilitation units of general hospitals.

The proposed revision will replace Resource Goal Number 2, Occupancy Rate, on page 82 of the current State Health Plan and shall read as follows:

2. Occupancy Rate: Free-standing Comprehensive Physical Rehabilitation Hospitals

A comprehensive physical rehabilitation hospital shall maintain annual occupancy rates relative to the number of beds in the facility:

0 - 49 - 50%	100 - 199 - 70%
50 - 99 - 60%	200 + - 75%

In determining occupancy rates, beds used in the calculations include: (a.) licensed but not Section 1122 approved beds which are in use or could be put into use within 24 hours, and (b.) 1122 approved and licensed beds which are in use or could be put into use within 24 hours.

* Beds that can be brought into service within 24 hours shall be construed to mean the appropriate number of beds in rooms originally constructed and equipped as hospital rooms that either (1) have not been converted to other uses, or (2) retain all essential nonmovable equipment and connections necessary for patient care in accordance with licensing standards. "Nonmovable" equipment shall include equipment which can be removed only through reconstruction or renovation.

For any additional comprehensive rehabilitation beds to be approved:

A. The bed to population ratio shall not exceed .325 per 1000 population; and

B. Either optimal occupancy must be reached by all free-standing comprehensive physical rehabilitation hospitals in all bed size categories or a 75 percent occupancy of all rehabilitation hospitals in the health planning district must be attained.

Rehabilitation Unit of a General Hospital

A rehabilitation unit of a general hospital shall maintain annual occupancy rates relative to the number of beds in the facility:

0 - 49 - 50%	100 - 199 - 70%
50 - 99 - 60%	200 + - 75%

In determining occupancy rates, beds used in the calculations include: (a.) licensed but not Section 1122 approved beds which are in use or could be put into use within 24 hours, and (b.) 1122 approved and licensed beds which are in use or could be put into use within 24 hours.

* Beds that can be brought into service within 24 hours shall be construed to mean the appropriate number of beds in rooms originally constructed and equipped as hospital rooms that either (1) have not been converted to other uses, or (2) retain all essential nonmovable equipment and connections necessary for patient care in accordance with licensing standards. "Nonmovable" equipment shall include equipment which can be removed only through reconstruction or renovation.

For any additional comprehensive rehabilitation beds of a general hospital to be approved:

A. The bed to population ratio shall not exceed .325 per 1000 population; and

B. Either optimal occupancy must be reached by all rehabilitation units of general hospitals in all bed size categories or a 75 percent occupancy of all rehabilitation units of all general hospitals in the health planning district must be attained.

Adjustment

An existing rehabilitation hospital or rehabilitation unit of a general hospital which has operated at a level of 10 percent or more above its optimal occupancy, as determined by bed size category, for a period of 12 consecutive months will be allowed to add a number of beds that would bring its occupancy down to the optimal occupancy level for its bed size.

The occupancy rate for the 12 consecutive months shall be determined by Division of Policy, Planning and Evaluation from the four most recent quarters of data due to have been reported by the hospital to the Division of Licensing and Certification.

Interested persons may acquire a copy of the revision at the Division of Policy, Planning and Evaluation, 200 Lafayette Street, Suite 406, Baton Rouge, LA 70801. Written comments on the revisions may be addressed to Joseph Ross, Administrator, Division of Policy, Planning and Evaluation, 200 Lafayette Street, Suite 406, Baton Rouge, LA 70801.

A Public hearing on the proposed revision has been scheduled for July 2, 1985, at 10 a.m. in the auditorium of the State Library, 760 Riverside Mall, Baton Rouge, LA. At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed rule, orally or in writing. Written comments will be accepted by Joseph Ross at the above address through July 31, 1985.

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: La. State Health Plan**

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

No costs or savings are expected as a direct result of

changes in this policy. Rather it will permit effective implementation of the State Health Plan.

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

No costs or savings are expected as a direct result of these changes.

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

No costs or benefits are expected as a direct result of these changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No effects are expected as a direct result of these changes.

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

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**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 proposes to adopt the following changes to the Louisiana State Health Plan to be effective August 20, 1985. The proposed changes will be made to the Rule published in Volume 11, Number 4 of the *Louisiana Register*, April 20, 1985. It replaces the current adjustment for inaccessibility to minority groups in the section on Long Term Care, to allow the addition of up to 1572 nursing home beds, statewide. These allowable beds are distributed by the health planning district according to need figures specified in the section. This change is an attempt to make nursing home beds available equitably to all citizens of the state by providing for nursing home establishment in predominately minority areas and by minority owners.

A public hearing will be held on Tuesday, July 2, 1985 at 10 a.m., in the auditorium of the State Library, 760 Riverside, Baton Rouge, LA. Interested persons may submit written comments on the proposed change until July 15, 1985 at the following address: Mr. Joseph Ross, Division of Policy Planning and Evaluation, 200 Lafayette St., Suite 406, Baton Rouge, LA 70801.

PROPOSED RULE

1. Inaccessibility to minority groups.

It is recognized that certain historical factors may limit the accessibility of nursing home beds to minority groups. For Section 1122 purposes, minority groups are defined as any population group constituting at least 10 percent but less than 50 percent of Louisiana's population in the 1980 U.S. census.

Inaccessibility refers to historical patterns of underutilization of nursing home beds by minority groups when compared to majority utilization rates. Data presently available documents this discrepancy between the minority and majority utilization rates for nursing home beds.

Based upon this data, a total number of 1572 nursing home beds may be approved statewide in order to address the present problem of the underserved minority elderly population. The following chart identifies the maximum number of beds which may be approved in each health planning district.

Planning District	Maximum # of Beds
1.	415
2.	195
3.	19
4.	145
5.	0
6.	33
7.	402
8.	218
9.	145
TOTAL	1572

The parish in the health planning district with the largest bed need shall be limited to a maximum number of minority nursing home beds not to exceed the established minority bed need for that respective parish. Minority beds refers to the number of beds approved in accordance with the provisions for inaccessibility to minority groups. Beds granted under this exception will be subtracted from the total number of beds contained under the minority utilization rate and will be added to the total parish nursing home bed inventory. Any application which shows a need of less than 100 beds in the parish must justify exceeding the ratio based on the geographical utilization rate in the service district.

Proposals submitted for such minority nursing home beds, shall demonstrate that at least 51 percent of the ownership of the facility and voting control is by a minority group or individual. Such minority ownership shall be retained throughout the existence of the facility. Falsification of documentation of ownership will be subject to revocation of the Section 1122 approval and other fines and penalties prescribed by state and federal laws.

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: State Health Plan**

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

The cost of implementing this rule is estimated as follows: No cost in FY 1985-86; \$866,276 in FY 1986-87, including \$313,155 in state funds and \$553,121 in federal funds; and \$2,176,474 in FY 1987-88, including \$786,787 in state funds and \$1,389,687 in federal funds.

These estimates of costs to the Medicaid program are made with the assumption that 600 beds of the 1,572 allowed under the minority exception will be approved and opened in the next three fiscal years. It is further assumed that opening of these 600 beds will preclude the construction and opening of 300 other beds for which Section 1122 approvals currently exist. Therefore, the net impact through 1987-88 will be the opening of 300 beds under the minority exception.

If all of the 1,572 beds allowed under the exception are subsequently constructed and in operation, the annual cost will be \$11,458,365, including \$4,143,787 in state funds and \$7,314,578 in federal funds. This estimate assumes no change in daily payment rates and state match rates utilized by DHHR in the cost projection for 1986-87 and 1987-88.

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

Increased costs will result in additional federal revenues of \$553,121 in 1986-87 and \$1,389,687 in 1987-88.

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

Some economic benefits may be realized by the owners of nursing homes made possible under this adjustment but it is impossible to estimate the magnitude of these benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There may be some increase in nursing home competition and in nursing home employment but it is impossible to estimate the magnitude of this impact.

Sandra L. Robinson, M.D., M.P.H. Mark C. Drennen
Secretary and State Health Officer Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Preventive and Public Health Services
Food and Drug Control Unit**

Effective August 20, 1985, the Department of Health and Human Resources, Office of Preventive and Public Health Services, Food and Drug Control Unit, in order to implement the provisions of LSA R.S. 40:601 et seq. proposes to adopt these regulations to establish tolerances for pesticides in food. These regulations will make the Pesticide Tolerances in Food regulations uniform with those of the federal government and comply with LSA R.S. 40:607(1) and LSA R.S. 40:611.

The Office of Preventive and Public Health Services of the Department of Health and Human Resources proposes the following Rule in order to make the Pesticide Tolerances in Food regulations uniform with those of the federal government and to comply with LSA R.S. 40:607(1) and LSA R.S. 40:611. Towards that end, Section 2.310 of the regulations pertaining to foods, Louisiana food, drug and cosmetic regulations of September, 1968 (the Red Book) is hereby added to provide as follows:

Section 2.310 Tolerances for Pesticides in Food. The Department of Health and Human Resources/OPPHS hereby adopts the federal regulations for Tolerances for Pesticides in Food administered by the Environmental Protection Agency, as found in 21 CFR 193 dated April 1, 1984.

Interested persons may submit comments on the proposed Rule to the following address: Daneta Daniel Bardsley, Ed.D., Assistant Secretary, Office of Preventive and Public Health Services, Department of Health and Human Resources, Box 60630, New Orleans, LA 70160.

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Pesticides Regulations**

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

There are no cost or savings to state or local governmental units.

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

There is no effect on revenue collections.

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

There are no costs and/or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no effect on competition and employment.

Claude Carbo Mark C. Drennen
Deputy Assistant Secretary Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Preventive and Public Health Services Seafood Sanitation Unit

Effective August 20, 1985, the Department of Health and Human Resources, Office of Preventive and Public Health Services, Seafood Sanitation Unit, in order to implement the provisions of LSA R.S. 40:607(B) and 604 proposes to adopt these additional regulations to amend the food regulations, of the Food, Drug and Cosmetic Regulations dated September, 1968 (the "Red Book"). This Rule outlines the requirements or conditions for certification, decertification, or denial of certification of shellfish shippers handling shell-stock. This Rule is necessary in order to prevent nonmeritorious persons from receiving certification in the absence of formally established criteria.

A new chapter entitled "Certification Requirements for Shellfish Shippers Handling and Selling Shell-stock" shall be established, and 6.201-6.203 shall provide the rules for obtaining and maintaining certification as follows:

§6.201 Definitions

(a) *Shellfish* - The term as used in this rule includes fresh and fresh frozen oysters, clams and mussels.

(b) *Shell-Stock* - The term "shell-stock" as used in this rule includes live, unshucked oysters, clams or mussels.

(c) *Shell-Stock Shipper* - Persons who grow, harvest, buy or sell shell-stock.

(d) *Shucker-Packer* - Shippers who shuck and pack shellfish. A shucker-packer may also act as a shell-stock shipper.

(e) *Repacker* - Shippers, other than original shucker-packer who pack shucked shellfish into containers for delivery to the consumer. A repacker may shuck shellfish if he has the necessary facilities.

(f) *Reshipper* - Shippers who tranship shucked stock in original containers, or shell-stock from certified shellfish shippers to other dealers or to final consumers, but who do not shuck or repack shellfish.

(g) *Certified Shellfish Shippers* - Any shell-stock shipper, shucker-packer, repacker, or reshipper who is certified by the Office of Preventive and Public Health Services for inclusion on the U.S. Food and Drug Administration's listing of approved shellfish shippers. Shellfish shippers shall be certified annually and shall file an application for recertification each year with the Office of Preventive and Public Health Services.

§6.202 Minimum Requirements That Shellfish Shippers Handling And Selling Shell-stock (Unshucked Shellfish) Must Abide By In Order to Receive Or Maintain Certification.

(a) Shellfish shippers shall handle or offer for sale to the public only shellfish that were harvested from waters currently approved by the state health officer as prescribed in Section 9:003 of the State Sanitary Code.

(b) Shellfish shippers shall keep accurate daily records of shellfish purchases and sales as prescribed in Section 9:003 of the State Sanitary Code.

(c) Shellfish shippers shall only handle shell-stock that are properly tagged in accordance with the instructions given in Sections 9:050, 9:050-1 and 9:050-2 of the State Sanitary Code.

(d) Shellfish shippers shall refrigerate shell-stock when the ambient temperature exceeds 50°F as required in Section 9:051 of the State Sanitary Code.

§6.203 Decertification Or Denial Of Certification Of Shellfish Shippers.

The certification of any shellfish shippers handling or making shipments of shell-stock may be suspended or revoked for fail-

ing to comply with any one of the four basic requirements for maintaining certification previously listed.

An application for certification shall not be accepted from any individual or corporation previously found guilty in a civil or criminal proceeding of knowingly selling shellfish that were harvested from waters not approved for shellfish harvesting by the state health officer.

Any individual or corporation currently charged by any state or federal regulatory agency with harvesting or knowingly selling shellfish from waters not approved by the state health officer shall be ineligible for certification until all charges have been dismissed, or until found innocent of said charges.

Interested persons may submit comments on the proposed rule to the following address: Daneta Daniel Bardsley, Ed.D., Assistant Secretary, Office of Preventive and Public Health Services, Department of Health and Human Resources, Box 60630, New Orleans, LA 70160.

A public hearing on the proposed rule will be held on June 24, 1985 in Room 511 of the State Office Building located at 325 Loyola Avenue in New Orleans, LA beginning at 10 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

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

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Shellfish Shippers

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

It will not cost or save this agency anything if the proposed rule is implemented as written.

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

The passage of this rule will have no effect on revenue collections by state or local governmental units.

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

There should not be any costs and/or economic benefits to directly affected persons or non-governmental groups that are presently complying with the requirements of the State Sanitary Code and the Food and Drug Law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

The passage of this rule should not have any effect on competition and employment in the public and private sector.

Daneta Daniel Bardsley
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

In accordance with the laws of the State of Louisiana, and with reference to the provisions of Title 32 of the Louisiana Revised Statutes Chapter 4, Section 727(A), the Office of Motor Vehicles intends to adopt the following proposed rule on the requirement of name usage on vehicle Certificates of Title.

NAME USAGE ON VEHICLE CERTIFICATES OF TITLE

(1) The applicant's name on a title application may be

shown as written on the bill of sale, invoice or reverse side of title or Certificate of Origin.

(2) If the name is different on more than one document (title, invoice, etc.) applicant may use whichever name indicated on documents he/she desires.

(3) The name as mortgagor on the chattel mortgage must correspond with the name on title application.

(4) No titles or ranks will be used as prefixes or suffixes to names such as: Dr., M.D., Ph.D., Col., Mr., Mrs., or Ms.

(5) Suffixes such as Sr., Jr., II, III, etc. may be used when it is a part of the legal name.

(6) Commas, periods, quotation marks, slashes, and hyphens will not be allowed in any name.

(7) When two names are used, the second name must begin with the complete first name of the second person.

(8) In care of (c/o) will not be allowed in name.

(9) Last names such as Mac Donald must be entered on application without spaces.

(10) A middle initial (when one exists) is required when the last name is Son or Sons. EXAMPLE: Diane E. Son or William L. Sons

(11) An abbreviated form of a name will be required, when there are 28 characters or more in the name.

Inquiries concerning these proposed rules may be made in writing to J. Dwain Perkins, Deputy Assistant Secretary, Office of Motor Vehicles, Box 64886 Baton Rouge, LA 70896.

Buster J. Guzzardo, Sr.
Administrator

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Name Usage on Vehicle Cert. of Title

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

There are no implementation costs to state or local governmental units.

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

There is no effect on revenue collections of state or local governmental units.

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

There are no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no effect on competition and employment.

James L. Thibodeaux
Finance Manager

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Transportation and Development Office of Highways

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Transportation and Development, pursuant of LSA-R.S. 47:714.1 and LSA-R.S. 51:781-801, intends to adopt amended specifications for gasohol 10 percent ethanol enriched gasoline as follows:

AMENDED SPECIFICATIONS FOR GASOHOL OR 10% ETHANOL ENRICHED GASOLINE

General Description: This specification covers a mixture of gasoline and ethanol in a 90-10 volume mixture for use in automotive internal combustion engines. A green dye shall be used in this mixture to color it so as to differentiate it from normal gasolines, when the gasohol or 10 percent ethanol enriched gasoline qualified for Louisiana tax exemption.

Detailed Requirements: Gasohol or 10 percent ethanol enriched gasoline shall conform to the following detailed requirements:

Property	
Ethanol, %	9.5-13.0
Gasoline, %	87-90.5
Flash Point, °F, max.	110
Suspended Matter	None
Water, %, max.	0.30
Sulfur, %, max.	0.25
Reid Vapor Pressure, lbs., max.	13.5
Methanol, %, max.	1.0
Octane Number, $\frac{R + M}{2}$	Reg. Unleaded (87) Reg. Leaded (89) Premium (91)

Distillation Data

Percent Distilled (0-167) °F, min.	10
Percent Distilled (168-284) °F, min.	50
Percent Distilled (285-392) °F, min.	90
Residue, %, max.	2.0
Recovery, %, min.	95
End Point, °F, max.	437
Purity	99.0
Effects on seals, gaskets, packing	None
Effects on human flesh	None
Chemicals used to denature alcohol, %, max.	5.0
Water, %, max.	1.0

Labeling on the face of the pumps with the word gasohol or 10 percent ethanol enriched gasoline using black letters at least one inch in height on yellow background is required.

Methods of blending at jobber top-loading rack: Loading arm must be equipped with the drop pipes and flow deflectors. Fill the tank truck compartment 90 percent of the compartment's volume and gasoline. Complete the filling of the compartment with 10 percent ethanol. Due to the slow loading rate of jobbers' racks, it is recommended that the alcohol and the gasoline be at approximately the same temperature.

Methods of blending at bottom-load terminals: Fill the transport compartment 10 percent of compartment's volume with alcohol. Bottom-load to the compartment's capacity with gasoline. The difference in products' temperatures is not as critical here as in tank wagon top-loading.

Storage stability in previously used gasoline tanks: The alcohol in gasohol or 10 percent ethanol enriched gasoline will remove, very efficiently, varnish, oxidized gasoline, and rust from the inside walls of previously used gasoline tanks. Because of this fact, any tank must be *RESTED FOR TWENTY FOUR HOURS AND THE BOTTOM THIEFED* before this product can be dispensed. Due to the vapor pressure of this product, it is recommended that a P-V vent be placed on all tanks which have a slow product withdrawal rate in order to protect and maintain the octane number. It

is a #548A 2 inch thread 16-ounce pressure, 1-ounce vacuum #6 mesh screen. The standard vapor recovery P-V vent is not applicable for gasoline or 10 percent ethanol enriched gasoline service.

Storage stability in new gasoline tanks: Any new tank must be graded down three inches to the fill stack at the "A" end of the tank. This is so that the water bottom can be thiefed out. The suction stub should not be any further than three inches from the bottom of the tank. Under no circumstances should a fill stack be placed in the center of the tank unless an opening is provided to thief the tank at the low ("A") end. Due to the high vapor pressure of alcohol blending stocks, a P-V vent should be placed on the vent riser discharge. All fill stacks must have interior drop tubes. All gasoline or 10 percent ethanol enriched gasoline storage tanks over 1,500 gallons must also have drop tubes.

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: James Pitts; Department of Transportation and Development; Materials Lab.; Box 94245, Capitol Station; Baton Rouge, LA 70804-9245.

Robert G. Graves
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Defines Properties of Gasohol**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
The rule change will cause no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
The rule change will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
The rule change will cause no costs or economic benefits to directly affected persons or non-governmental groups. Blenders in the state are complying with these standards now.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
The rule change will have no effect on competition and employment.

Robert G. Graves
Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Transportation and Development
Office of Highways**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Transportation and Development, pursuant to LSA-R.S. 48:274.1, Act No. 681 of 1984, intends to adopt procedures governing outdoor advertising signs on interstate highway right of way areas.

A copy of the proposed *Engineering Directives and Standards Manual VI 2.1.7* can be obtained for review from the Office of Highways, 502 St. Phillip Street, Baton Rouge, LA.

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: Neil L. Wagoner, Assistant Secretary, Office of Highways, Department of Transportation and Development, Box 94245, Capitol Station, Baton Rouge, LA 70804-9245, Telephone: (504) 342-7508.

tion and Development, Box 94245, Capitol Station, Baton Rouge, LA 70804-9245, Telephone: (504) 342-7508.

Neil L. Wagoner
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Standards Manual VI 2.1.7 (EDSM)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
The program will affect the state's highway districts (7 of 9) that contain interstate highways. In 1984-85 each of these districts' outdoor advertising staffs has expended unbudgeted man hours planning for the program (surveying exit areas to determine potential advertisers and sign locations, mileage from the exit, etc.). Implementation costs in 1985-86 include one-time construction of 720 mainline and off-ramp background signs, on which the advertising logo signs will be attached (90:10 federal/state match) and sign maintenance and replacement costs. This background sign construction will be contracted out in 1985-86. Necessary sign maintenance and replacement will be absorbed by the three statewide sign crews. Annual shop materials cost for background sign repair and replacement are estimated at \$56,300. All self-generated revenues remaining after these replacement materials are purchased will be deposited to a ten-year amortization fund. If the program is highly successful, DOTD may add an additional sign crew in 1987-88 funded with self-generated revenues.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)
The Fiscal Office estimates that one-fourth of the logo sign spaces will be rented in 1985-86, generating \$95,100 in self-generated revenues. In 1986-87 a total of one-half of the available logo sign spaces will be rented, generating \$190,200 in self-generated revenue. Logo sign rentals should peak in 1987-88 when about three-fourths of the available spaces should be rented, generating \$285,300 in self-generated revenue annually thereafter.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)
The Fiscal Office estimates that by 1987-88 between 500 and 600 gas, food, and lodging establishments located near Louisiana's interstate systems will choose to rent logo sign space. Logo decals must be provided to DOTD by the establishments at no cost to the state, and must meet state and federal specifications. These participating establishments will benefit from added visibility to the passing motorists. Motorists will benefit by gaining reliable information about available services.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
The Fiscal Office estimates that the information logo sign program will not affect nor interfere with the outdoor advertising business in Louisiana.

Robert R. Macdonald
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

Committee Reports

COMMITTEE REPORT

House of Representatives House Natural Resources Committee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Committee met on May 23, 1985 and reviewed certain changes in state regulations proposed by the Louisiana Department of Environmental Quality as an Emergency Rule, with the following results:

1) Proposal by the Department of Environmental Quality to revise the Louisiana State Implementation Plan for achieving and maintaining the National Ambient Air Quality Standards (NAAQS) for Ozone in the Baton Rouge area.

Approved by a vote of 10-0.

Clyde W. Kimball
Chairman

COMMITTEE REPORT

House of Representatives House Natural Resources Committee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Committee met on May 23, 1985 and reviewed certain changes in state regulations proposed by the Louisiana Department of Environmental Quality for which Notice of Intent was published in the April 20 *Louisiana Register* with the following results:

1) Proposal by the Department of Environmental Quality to revise the Prevention of Significant Deterioration Regulations (PSD) to incorporate EPA recommended technical changes so as to ensure federal enforceability of the state regulations.

Approved by a vote of 10-0.

Clyde W. Kimball
Chairman

COMMITTEE REPORT

House of Representatives Committee on Appropriations Oversight Review

Dear Governor Edwards:

This letter is to inform you that on May 29, 1985, the Subcommittee on Oversight of the House Committee on Appropriations voted to disapprove several of the rules promulgated by the Department of Health and Human Resources, purporting to amend the rules dealing with pharmacist and the drug formulary. The proposed amendments which were disapproved reads as follows:

1. Implementation of a restricted formulary which will limit coverage of reimbursable drugs to those listed within the formulary effective July 1, 1985.

This proposed rule is disapproved following consideration of testimony before the committee which revealed the following facts:

A. Removal of specific drugs within an approved category has been found by the courts to constitute discrimination in treatment.

B. An independent study has shown that reduction in drugs dispensed under Medicaid entitlement results in an increase in Physician and Hospital services at a rate of 250 percent of the reduction.

2. Amendment of the Louisiana Maximum Allowable Cost regulations to include only those drugs which are reimbursable through the Medical Assistance Pharmacy Program's restricted formulary effective July 1, 1985.

This proposed rule is disapproved as it is contingent upon approval of a restricted formulary which has been disapproved for the aforementioned reasons.

3. Proposal to eliminate all cost override provisions relating to the acquisition cost of those drugs included under Louisiana Maximum Allowable Cost Regulations effective July 1, 1985.

This proposed rule is disapproved as it is contingent upon approval of a restricted formulary approach which has been disapproved for the aforementioned reasons.

4. Implementation of estimated acquisitions costs provisions based on: *American Druggist Blue Book* average wholesale price less 10 percent for all other drugs reimbursed by the Pharmacy Program effective July 1, 1985, as mandated by HCFA Region VI.

This proposed rule is disapproved following consideration of testimony before the committee which revealed the following facts:

A. There is no basis under either Louisiana's State Plan or federal regulations for mandating said change.

B. No representative audits have been conducted in Louisiana to determine the relationship between Blue Book pricing and the state's acquisition cost/reimbursement mechanism.

C. No study has been conducted to consider the effects such a change in one aspect of acquisition would have on the entire methodology now utilized by Louisiana.

5. Reduction of pharmacists' dispensing fees from \$3.67 to \$3.30 per prescription under the Medicaid reimbursement provisions of the Pharmacy Program.

The proposed rule is disapproved as it directly relates to the state's estimated acquisition cost/reimbursement mechanism which is in need of further study prior to implementation of any change. Additionally, as other Medicaid providers shall have their rates frozen, disapproval of this rule will have the effect of freezing pharmacy provider dispensing fees.

6. Removal from the Pharmacy Program's restricted formulary certain categories of drugs which are ranked the lowest according to life sustaining necessity.

This proposed rule is disapproved as it relates to the restricted formulary concept which has been disapproved for the aforementioned reasons.

Thank you for your attention in this matter. If you desire any further information on the subcommittee's action, please contact Noel Hunt, House Committee on Appropriations (342-6292).

Elias Ackal, Jr.
Chairman

COMMITTEE REPORT

House of Representatives Committee on Appropriations Oversight Review

Dear Governor Edwards:

This letter is to inform you that on May 9, 1985, the Subcommittee on Oversight of the House Committee on Appropria-

Potpourri

POTPOURRI

Department of Agriculture Horticulture Commission

The next retail floristry examinations will be given at 10 a.m. daily at Northeast Louisiana University, Monroe, Louisiana on July 22, 23, 24, 25 and 26, 1985. The deadline for getting in application and fee is July 5, 1985.

Further information concerning examinations may be obtained from Ervin Johnson, Assistant Director, Horticulture Commission, Box 44517, Capitol Station, Baton Rouge, LA 70804, phone (504) 925-7772.

Bob Odom
Commissioner of Agriculture

POTPOURRI

Department of Environmental Quality Office of Water Resources

The Department of Environmental Quality, Office of Water Resources will conduct a public hearing to present, for public review and comment, the proposed FY 1986 construction grants project priority list. This list is a ranking of communities that request federal assistance for the construction of wastewater treatment facilities and will determine which applicants may receive federal assistance in FY 1986. The proposed list is prepared in accordance with provisions of 40CFR 35.2015-2025.

The public hearing will be held on Thursday, August 1, 1985, at 10 a.m. in the mineral board hearing room, in the lobby of the State Lands and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons may submit written comments to J. Dale Givens, Assistant Secretary, Office of Water Resources, Box 44091, Baton Rouge, LA 70804. Written comments will be received until August 15, 1985.

Copies of the proposed FY 1986 construction grants priority list will be available for public review at least 30 days prior to the hearing at the Department of Environmental Quality, Water Pollution Control Division, 625 North Fourth Street, Baton Rouge, LA and in the following Department of Environmental Quality regional offices throughout the state:

Acadiana Regional Office, 100 Eppler Road, Lafayette, LA.

Capitol Regional Office, 11720 Airline Highway, Baton Rouge, LA.

Lafourche Regional Office, 302 Baratavia Street, Lockport, LA.

Northeast Regional Office, 804 Thirty-First Street, Monroe, LA.

Northwest Regional Office, 1525 Fairfield Street, Room II, Shreveport, LA.

Southeast Regional Office, 3945 North I-10 Service Road, Metairie, LA.

Southwest Regional Office, 1155 Ryan Street, Lake Charles, LA.

Kisatchie-Delta Regional Planning & Development Office, 1220 MacArthur Drive, Alexandria, LA.

J. Dale Givens
Assistant Secretary

tions reconsidered the Department of Health and Human Resources Rule that had been disapproved at its May 6, 1985 meeting and decided to approve the Rule because the state is under court order to comply. The rule amends the Title XIX State Plan and the Chapter XIX Medical Assistance Manual dealing with medicaid reimbursement for eye care services. The proposed amendment reads as follows:

"Optometrists who perform eye care services that are within the scope of optometric practice will receive Medicaid reimbursement to the same extent, and according to the same standards, as physicians who perform these same eye care services."

The intended effect of the approval of the above quoted rule is to comply with the court ordered compliance.

Thank you for your attention in this matter. If you desire any further information on the subcommittee's action, please contact Noel Hunt, House Committee on Appropriations (342-6292).

Elias Ackal, Jr.
Chairman

COMMITTEE REPORT

House of Representatives House Natural Resources Committee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Committee met on May 23, 1985 and reviewed certain changes in state regulations proposed by the Louisiana Department of Natural Resources for which Notice of Intent was published in the April 20 *Louisiana Register* with the following results:

1) Proposal by the Department of Natural Resources for the development of a Commercial and Apartment Conservation Service (CACS) State Plan.

Approved by a vote of 6-4.

Clyde W. Kimball
Chairman

COMMITTEE REPORT

House of Representatives House Natural Resources Committee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Committee met on May 23, 1985 and reviewed certain changes in state regulations proposed by the Louisiana Department of Natural Resources for which Notice of Intent was published in the April 20 *Louisiana Register* with the following results:

1) Proposal by the Office of Conservation to revise state-wide Order 29-B which provides for the administrative allowing of a test period for both Injectivity Tests and Pilot Projects prior to requiring a public hearing.

Approved by a vote of 9-1.

Clyde W. Kimball
Chairman

POTPOURRI

**Department of Natural Resources
Fishermen's Gear Compensation Fund**

In accordance with the provisions of the Fishermen's Gear Compensation Fund, L.R.S. 56:700.1 through 56:700.5, and in particular, Section 700.4 thereof; regulations adopted for the fund as published in the *Louisiana Register* on August 20, 1980; and also the rules of the secretary of this department, notice is hereby given that six completed claims, amounting to \$4,583.97, were received during the month of May, 1985. During the same month, 15 claims, amounting to \$17,874.33 were paid. The following is a list of the paid claims:

Claim No. 84-1912 Edward Fitch, Sr.	Claim No. 84-1913 Edward Fitch, Sr.	Claim No. 84-2060 Ricky DeJean
Claim No. 84-2073 Otis Cantrelle	Claim No. 84-2079 Archie Dufrene	Claim No. 84-2080 Archie Dufrene
Claim No. 84-2087 Daniel Charpentier	Claim No. 84-2132 Mervin Ledet, Sr.	Claim No. 84-2146 Arthur Plaisance
Claim No. 84-2170 Joseph Dion	Claim No. 84-2172 Leo Toups, Sr.	Claim No. 84-2240 Alton Pitre
Claim No. 84-2241 Alton Pitre	Claim No. 85-2257 Anthony Toups	Claim No. 84-2258 Anthony Toups

No hearings are scheduled for the month of July, 1985.

B. Jim Porter
Secretary

POTPOURRI

**Department of Revenue and Taxation
Tax Commission**

NOTICE

Pursuant to R.S. 47:1837 the following is the result of the Tax Commission's measurement of the level of appraisals and/or assessment and the degree of uniformity of assessment for commercial improvements in each parish throughout the state for the tax year 1984 (Orleans 1985). This data shall constitute prima facie evidence of the uniformity or lack of uniformity with constitutional and/or statutory requirements for each parish in the state.

Parish	Mean (%)	Median (%)	Coefficient of Dispersion (%)
Acadia	13.6	13.9	10.8
Allen	14.1	14.7	8.5
Ascension	13.4	14.4	14.9
Assumption	14.6	15.0	6.1
Avoyelles	14.4	14.6	6.6
Beauregard	14.4	14.0	15.9
Bienville	15.3	15.3	9.4
Bossier	14.1	14.2	6.5
Caddo	14.9	15.0	6.7
Calcasieu	15.0	14.1	16.1
Caldwell	13.4	13.8	13.0
Cameron	12.9	13.7	15.9
Catahoula	13.2	13.7	9.0
Claiborne	14.8	15.1	10.8
Concordia	13.8	13.7	6.0

Parish	Mean (%)	Median (%)	Coefficient of Dispersion (%)
DeSoto	14.6	14.8	8.9
East Baton Rouge	15.0	15.0	6.0
East Carroll	15.2	14.9	8.7
East Feliciana	13.9	14.4	8.6
Evangeline	14.9	14.4	15.4
Franklin	14.7	14.4	9.2
Grant	13.6	13.7	13.9
Iberia	14.0	14.7	17.7
Iberville	15.2	15.0	6.6
Jackson	14.8	14.5	13.4
Jefferson	15.4	15.1	7.9
Jefferson Davis	14.9	15.1	8.1
Lafayette	14.6	14.6	11.0
Lafourche	14.4	14.9	7.2
LaSalle	15.0	15.0	4.2
Lincoln	14.4	14.4	5.6
Livingston	13.1	14.0	19.6
Madison	15.6	15.0	12.6
Morehouse	14.0	13.9	7.0
Natchitoches	15.1	15.1	10.8
Orleans—1st M.D.	13.9	14.1	8.0
2nd M.D.	14.0	14.7	8.1
3rd M.D.	14.1	14.2	8.5
4th M.D.	14.4	14.9	14.1
5th M.D.	15.3	14.8	13.6
6th M.D.	14.2	14.1	16.7
7th M.D.	14.6	14.6	10.2
Ouachita	15.1	14.8	7.6
Plaquemines	15.6	15.1	6.1
Pointe Coupee	14.7	15.0	5.9
Rapides	14.7	14.7	5.2
Red River	14.0	14.6	14.1
Richland	14.9	15.2	8.5
Sabine	14.1	14.3	5.3
St. Bernard	15.0	15.1	3.4
St. Charles	15.3	15.2	6.0
St. Helena	14.8	15.0	5.2
St. James	15.0	15.0	3.7
St. John the Baptist	13.4	14.0	13.9
St. Landry	14.2	14.6	8.8
St. Martin	14.7	14.9	10.3
St. Mary	15.2	15.2	12.2
St. Tammany	14.1	14.7	9.4
Tangipahoa	14.4	14.7	7.3
Tensas	14.9	14.6	14.7
Terrebonne	14.3	14.9	8.3
Union	14.2	14.0	6.1
Vermilion	14.4	14.6	6.0
Vernon	14.4	14.6	6.4
Washington	13.8	14.2	10.6
Webster	14.3	14.6	9.9
West Baton Rouge	15.3	15.2	6.0
West Carroll	14.2	14.9	12.4
West Feliciana	14.3	15.0	10.3
Winn	13.9	13.7	5.7

Jamar W. Adcock
Chairman

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