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Executive Orders

EXECUTIVE ORDER EWE 87-45

WHEREAS, Governor-Elect Buddy Roemer has requested that the following actions be taken; and

WHEREAS, this administration desires to fully cooperate with the governor-elect;

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

Section 1: Except as hereinafter authorized, the number of full-time equivalent positions may not exceed the total of those persons actually paid for working at the close of business on November 10, 1987. The freeze shall be monitored by all department heads so that the number of full-time equivalent employees as of March 14, 1988, shall be the same as the number as of November 10, 1987. Exempt from this provision are the services provided by the office of corrections services necessary to comply with court orders, employees of the Department of Health and Human Resources necessary for the performance of direct patient care or compliance with court orders, and institutions of higher education only as necessary to comply with court orders.

Section 2: Expenditures for out-of-state travel for attending conferences and conventions are prohibited without the express prior approval of the commissioner of administration, except expenditures for travel to trade shows and other events involving the promotion of Louisiana or Louisiana products, and activities necessary for industrial inducement. Also exempt are expenditures for out-of-state travel for audit and other related personnel engaged in revenue collection efforts on behalf of the state, and expenditures for athletic travel for which institutions of higher education have executed contractual agreements with other colleges and universities necessitating the travel.

Section 3: A freeze on expenditures for new personal and consulting services contracts is hereby imposed, except for those contracts deemed absolutely essential for the protection of the interests of the state by the department secretary, or his equivalent.

Section 4: Expenditures for supplies shall be limited to those deemed necessary by the department secretary, or his equivalent.

Section 5: Expenditures for equipment shall be limited, where possible, to that necessary to protect human life and well-being.

Section 6: All requests for exemptions from this order must be directed through the department secretary, or his equivalent, to the commissioner of administration. In the event of a severe emergency, the department secretary, or his equivalent, may take immediate appropriate action, but such action shall be fully justified in writing to the commissioner of administration within 72 hours.

Section 7: The provisions of this order shall cover all agencies in the executive branch of state government which receive state general fund appropriations in the General Appropriations Bill, and shall be limited to the state general fund portions of their budgets, and to revolving funds.

Section 8: This order shall be effective November 10, 1987.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this the 10th day of November, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 87-46

WHEREAS, the purpose of this order is to direct and ensure that all savings resulting from executive action reducing or revising appropriations shall accrue to and be credited immediately to the state general fund;

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

SECTION 1: Savings or reduction of expenditures in any budget unit resulting from cuts, reductions, eliminations or revisions in appropriations undertaken, ordered or directed heretofore or hereafter in any budget unit shall accrue and revert to the benefit and credit of the state general fund immediately upon such action.

SECTION 2: This order shall not apply to the balances of any fund or account which under law shall not revert to or be credited to the state general fund at the end of the fiscal year. This order shall apply to all funds, accounts or deposits in all budget units, irrespective of the source of the monies therein, at any time during the remainder of the fiscal year immediately upon the realization of such savings or reduction in expenditures.

SECTION 3: The commissioner of administration is hereby empowered and directed to undertake such action as is necessary to accomplish the purposes of this order.

SECTION 4: This order shall supersede and rescind all prior executive orders not consistent herewith.

SECTION 5: This order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed, the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 23rd day of November, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 87-47

WHEREAS, it is necessary and proper to freeze, limit and curtail travel, supplies, major repairs, and equipment expenditures and prevent further contracts, leases and professional, personal and consulting services in order to reduce the amounts of funds available for such purposes and thereby reserving and allo-

cating such funds for basic and essential governmental services for the remainder of the fiscal year; and

WHEREAS, salaries of state employees are a major component of state expenditures, and state employment in both the classified and unclassified service needs to be frozen or limited to a maximum of the number of persons actually employed November 13, 1987 subject only to reduction by normal attrition or further executive order and to prevent the enlargement of numbers of persons in state governmental service; and

WHEREAS, the purpose of this order is to freeze, limit and curtail further expenditures for travel, supplies and equipment and to freeze, limit and curtail further contracts, leases and professional, personal and consulting services and to freeze the number of employees in state government and to provide for exemptions hereto by the commissioner of administration;

NOW THEREFORE I, EDWIN W. EDWARDS, governor of the state of Louisiana, do order and direct:

SECTION 1. Except as otherwise provided and authorized by procedure herein:

a) No expenditures for travel (both in and out of state), supplies, major repairs and equipment occurring hereafter shall be made without prior approval of the commissioner of administration.

b) And, no agreements, leases or professional, personal, and consulting service contracts occurring hereafter or any amendments, modifications or extensions to those already existing shall be made without prior approval of the commissioner of administration.

c) And, no appointment in the classified or unclassified service shall be made, thereby limiting and freezing the levels of employment to a maximum of the number of persons actually employed on November 13, 1987. This maximum level shall be subject only to reduction by normal attrition and/or further executive orders, and no payment shall be made for any appointment to state service occurring on or after the effective date of this executive order.

SECTION 2. The commissioner of administration shall prepare, develop and implement a plan in order to grant exemptions from this order by a case-by-case review or upon blanket exemption, either by classification, department, agency, function, monetary level or such determination as the commissioner of administration may deem necessary and appropriate.

SECTION 3. Requests for exemptions from this order shall be submitted only by a state wide elected official, the secretary of each department or the head of each agency that is not within a department. Each request shall contain a description of the exemption sought along with a complete justification for the recommended action, the estimated fiscal impact and the funding source (general funds, self-generated funds, federal funds or other).

SECTION 4. The commissioner of administration may grant exemptions in such instances where human life or safety would be endangered without such expenditure or to prevent emergencies as a serious disruption of vital services.

SECTION 5. Any position which becomes vacant shall be deleted from the budget of the employing agency. Such positions may only be re-established according to procedures set forth by the commissioner of administration.

SECTION 6. The secretary of each department shall file a report with the commissioner of administration on December 1, 1987 and a monthly report thereafter through the remainder of the fiscal year. The report shall reflect a full accounting of personnel changes within the agency for the period covered. This

report shall include detail, as determined by the commissioner. This report shall include but not be limited to the type and number of personnel transactions that have occurred and their fiscal impact.

SECTION 7. Department heads who do not report to secretaries but who are in the executive branch of government are covered by provisions of this order.

SECTION 8. This order shall supersede and have the effect of rescinding all prior executive orders not consistent herewith.

SECTION 9. This order shall be effective upon signature.

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 23rd day of November, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR:
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 87-48

WHEREAS, some boards, commissions, authorities, task forces and committees have been established by law or executive order with the provision for payment of per diem to the member thereof; and

WHEREAS, continuing to pay per diem causes a drain on the state general fund; and

WHEREAS, the termination of per diem expenditures is necessary to decrease the drain on the state general fund; and

WHEREAS, the purpose of this order is to withhold appropriations and limit expenditures for per diem for members of boards and commissions in the executive branch:

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

SECTION 1: That all expenditures for per diem to members of all boards, commissions, authorities, task forces or committees in the executive branch of government which are made by the General Appropriation Act be and the same are hereby terminated.

SECTION 2: The commissioner of administration is hereby empowered to withhold all appropriations for the per diem expenditures subject to this order and is directed to develop procedures to terminate all such payments.

SECTION 3: This order shall supersede and rescind all prior executive orders not consistent herewith.

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 23rd day of November, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Civil Service Civil Service Commission

At its December 2, 1987 regular meeting, the State Civil Service Commission adopted an emergency rule, according to the provisions of Civil Service Rule 2.10 (f).

The emergency rule is as follows:

6.7 Rate of Pay on Promotion

When an employee is promoted to a position in a higher grade, his pay

(a) shall increase by seven percent if it is a one grade promotion and may increase by 14 percent if it is a two or more grade promotion.

(b) shall increase by whatever amount is necessary to reach the minimum of the promotional range.

Explanation

The purpose of this revision is to apply a more conservative approach to promotional increases. The intent of this rule as originally written was to recognize the different levels of promotions that occur within the system. We were in the position of creating rules to govern the new system before there was data available on which to model the possible impact of the rule as written. The subsequent allocation of positions and the application of the evaluation system itself has revealed that the three grade promotions were much more prevalent than anticipated. We have also considered the current fiscal condition of the state along with the analysis and recommendations of an expert in the field of compensation and various government agency representatives. It has been determined that the rule, as revised is more appropriate in that (1) it still recognizes different rates of increase for more than one grade promotions, (2) it inhibits the adverse impact being created currently with the 21 percent rate and (3) it is considerably less expensive than the current rule.

Rule 6.7(b) is being abolished to prevent those currently on detail with pay established in accordance with the current rule from attaining on promotion, an amount that is not in accordance with the revised rule as proposed.

Persons interested in making comments relative to this declaration may do so by writing to the director of State Civil Service at Box 94111, Baton Rouge, LA 70804-9111.

Herbert L. Sumrall
Director

DECLARATION OF EMERGENCY

Department of Commerce Office of Commerce and Industry

Louisiana Continuing Care Provider
Registration and Disclosure Act

The Department of Commerce, Office of Commerce and Industry, Finance Division is exercising the emergency provisions

of the Administrative Procedure Act, R.S. 49:953B, to implement rules for the Continuing Care Retirement Community Registration Program, to be effective 11/1/87.

The rules will implement R.S. 51:2171 through 2188 and R.S. 36:109(P) authorizing the secretary of The Department of Commerce to establish rules for the Continuing Care Provider Registration and Disclosure Act as established by Act 483 of the 1987 Legislative Session.

These emergency rules will be in effect for a period of 120 days or until new rules are adopted in accordance with the Administrative Procedure Act, whichever occurs first.

Rule 1. Application/Registration Procedure

An application for registration shall be filed with the department by the provider on forms prescribed by the department.

Following are the procedural steps:

1. An application for "registration" must be filed along with the "disclosure statement" and a check for \$1000.

2. Within 10 days of receipt of the application, the department must issue a "notice of filing" acknowledgment to the provider.

3. Within 60 days of the "notice of filing" the department must "register" the provider or notify of rejection.

4. If within 60 days, rejection is not entered, the provider will be considered "registered" unless the provider consents, in writing, to an extension of time.

5. If application is not rejected within the extension period, the provider will be considered "registered."

6. If any of the requirements of R.S. 51:2171 et seq. are not met, the department must notify the provider to correct the application within 30 days.

7. If within 30 days the "corrections" are not received the department may reject the application for "registration."

8. Rejection will not become effective until 20 days after the end of the 30-day correction period.

9. During the 20-day rejection period the provider may "petition for reconsideration" and a hearing within 30 days.

10. The hearing is to be conducted in accordance with the Administrative Procedure Act, and "rejection" will not be effective until the hearing has been conducted.

11. For a provider with an "existing-home" established prior to September 1, 1987, the department may issue a temporary registration after the provider has filed an application for registration. This will enable the provider to enter into agreements with existing or prospective residents until permanent registration.

Rule 2. Registration Requirements

An application for registration of a facility shall be accompanied by each of the following:

1. three copies of the initial disclosure statement;

2. if the facility is a corporation, a copy of its current articles of incorporation, with all amendments thereto, if a partnership, a copy of the partnership agreement;

3. a copy of any sales agreement relating to the sale of a continuing care/life care contract;

4. the facility's current rules and regulations;

5. an irrevocable consent to service of process, and corporate authorization resolution, unless the facility is a Louisiana corporation;

6. other documents or information necessary to establish the legal and economic relationships to be created between

the facility and the purchaser of a continuing care/life care contract;

7. A five-year pro forma financial plan (projections);
8. most recent certified financial statements, and in addition, if the certified financial statements are more than three months old, current uncertified, audited statements;
9. A copy of the following reports required:
 - a. a statement describing and explaining the method by which monthly service fees and other assessments are computed
 - b. an annual report of sales and proceeds
 - c. an occupancy report
10. a statement indicating whether or not the facility has liability insurance, including medical malpractice insurance, the coverage and amounts thereof;
11. a check made payable to the Office of Commerce and Industry in the amount of \$1000.

Rule 3. Initial Disclosure Statement

A. After entering an order registering the provider and prior to the provider's acceptance on behalf of the home of part or all of any application fee or the entrance fee or the execution of the continuing care agreement by the resident, whichever occurs first, the provider shall notify the prospective resident of his right to review the initial disclosure statement. The initial disclosure statement shall be made available to a prospective resident until the first annual disclosure statement is filed.

B. The initial disclosure statement shall be filed in accordance with the format provided by the Office of Commerce and Industry. The following information shall be set forth in the forefront of the initial disclosure statement in not less than 12 point type:

1. A statement that the disclosure statement is required to contain all the material facts pertaining to the continuing care/life care contract offering being made.
2. A statement that no person is authorized to make any promises in connection with the offering other than the information contained in the disclosure statement.
3. A statement that the registration of this facility does not constitute approval, recommendation, or endorsement of the facility by the Department of Commerce.
4. A statement informing the resident/prospective resident of his right to rescind any agreements entered into within 30 days of executions of those agreements.
5. A statement advising the resident/prospective resident of the possible risk involved by entering a continuing care/life care contract and that advice from an independent attorney should be sought.
6. A statement that if a continuing care/life care contract is entered during a period when certified financial statements are not being used, the resident/potential resident will be entitled to damages and right of rescission if material adverse conditions existed at the date of the financial statements and were not disclosed.

Rule 4. Annual Disclosure Statement

The provider shall file with the department annually, within four months following the end of the provider's fiscal year, in the format required by the department, an annual disclosure statement which shall contain a statement setting forth, as of the end of the fiscal year, any material changes in the information required by R.S. 51:2175 and the program rules.

Rule 5. Financial Statements

A. Financial statements required to be filed in connection

with an application for registration shall be prepared in accordance with generally accepted accounting principles. Financial statements shall be certified by an independent certified public accountant, and prepared for the three most recent fiscal years of the provider or such shorter period of time as the provider shall have been in existence. Where practical, the statements should be shown in comparative form.

B. Certified financial statements prepared within 90 days from the last date of the facility fiscal year. If the certified financial statements are more than three months old, also submit current uncertified statements. The certified financial statements required to be filed by a facility shall include each of the following:

1. a balance sheet as of a date within 90 days before the date of the application;
2. an income statement for each of the three fiscal years preceding the date of the balance sheet and for the period, if any, between the close of the last fiscal year and the date of the balance sheet;
3. a statement of changes in retained earnings for each of the periods for which income statements are presented.

C. If the balance sheet referred to in B.1 is not certified, then there shall be filed, in addition, a certified balance sheet as of the end of the facility's last fiscal year, unless such last fiscal year ended within 90 days before the date of the application, in which case there shall be filed a certified balance sheet as of the end of the facility's fiscal year preceding its last fiscal year.

D. The income statement shall be certified up to the date of the last certified balance sheet filed, if any.

E. The auditor's report shall be filed with the statement when a certified financial statement is required. In addition, a manually signed and dated consent approving the use of the CPA firm's name and its opinion shall accompany the registration application.

F. Where an organization owns multiple facilities or where the organization has one or more affiliates, the department may require separate financial statements or other financial information for each facility or affiliate.

G. If the independent certified public accountant has been changed during any of the financial periods for which financial statements are required, the provider shall furnish a notarized statement with a complete explanation of the reason and circumstances involving the change.

H. Updated financial statements are required where financial statements become more than three months old as of the effective date of the registration statement.

I. Where uncertified financial statements are used for an interim period, they should be accompanied by the following disclosure: "These financial statements are prepared without an audit. Purchasers of continuing care/life care contracts should be advised that a certified public accountant has not examined the financial statements and accordingly has expressed no opinion on them."

Rule 6. Financial Projections, Use of Funds

A. If the operation of the home has not begun, a statement of the anticipated source and application of funds used or to be used in the purchase or construction of the home including:

1. an estimate of the cost of purchasing or constructing and equipping the home, including related costs such as financing expenses, legal expenses, land costs, occupancy development costs, and all other similar costs which the provider expects to incur or become obligated for prior to the commencement of

the operation of the home;

2. a description of any mortgage loan or other long term financing intended to be used for the financing of the home, including the terms and conditions and costs of the financing;

3. an estimate of the total entrance fees to be received from the residents at or prior to the commencement of operation of the home;

4. an estimate of the funds, if any, which are anticipated to be necessary to pay for start up losses.

B. A five-year pro forma financial plan including a forecast provided on the same basis that financial statements are presented and which shows the projected annual results of operations and annual cash flow for a period of not less than five years, and a statement of assumptions and principles used to make the forecast, including at least the following:

1. expected cash proceeds from sales of continuing care/life care contracts based upon projected occupancy rates and attrition rates;

2. expected operating expenses;

3. expected cash proceeds from monthly service fees;

4. expected proceeds from other sources such as donations, interest and endowments;

5. amount of reserves expected to be provided for capital replacement, improvements, maintenance, refunds and other expenses.

Rule 7. Disclosure Statement Availability

From the date an annual disclosure statement is filed until the date the next succeeding disclosure form is filed with the department and prior to the provider's acceptance on behalf of the home of any part or all of any application fee or part of the entrance fee or the execution of the continuing care agreement by the resident, whichever first occurs, a copy of the current annual disclosure statement shall be available for inspection by residents or prospective residents.

Rule 8. Amendment of Disclosure Statement

In addition to filing the annual disclosure statement, the provider shall amend its currently filed disclosure statement at any other time an amendment is necessary to prevent any disclosure statement from containing any material misstatement of fact or any omission of a material fact required to be stated therein. Any such amendment or amended disclosure statement shall be filed with the department and shall be subject to all applicable requirements of R.S. 51:2175 and the program rules.

Rule 9. Entrance Fee Escrow for New Construction

A. Before the department can grant registration, for a facility to be constructed or under construction, the provider must establish an escrow account with a bank, trust company, or savings and loan association located in this state. Any entrance fee received by the provider prior to the date the resident is permitted to occupy the living unit in the home must be placed in that escrow account.

B. When funds are received from a resident or prospective resident, the provider shall deliver to the resident a written receipt. The receipt shall show the payor's name and address, the date, the price of the care agreement, and the amount of money paid. A copy of each receipt, together with the funds, shall be deposited with the escrow agent.

C. Checks, drafts, and money orders for deposit from prospective residents shall be made payable only to the escrow agent. At the request of an individual resident or a prospective resident of a facility, the escrow agent shall issue a statement

indicating the status of the resident's portion of the escrow account.

D. All funds deposited in the escrow account shall remain the property of the resident until released to the provider in accordance with R.S. 51:2177 and the rules. Such funds shall not be subject to any liens or charges by the escrow agent or judgments, garnishments, or creditor's claims against the provider or facility, except where required by the terms and conditions of an existing agreement for permanent financing in force on the effective date of the statute. At the request of either the provider or the department, the escrow agent shall issue a statement indicating the status of the escrow account.

E. Funds in escrow shall be released to the provider at the time the department certifies that:

1. aggregate entrance fees received or receivable by the provider pursuant to executed continuing care agreements plus anticipated proceeds of any first mortgage loan or other long term financing commitment plus funds from other sources in the actual possession of the provider are equal to not less than 50 percent of the aggregate cost of construction or purchasing, equipping, and furnishing the home, and 50 percent of the units are sold before ground breaking plus not less than 50 percent of the funds submitted by the provider as part of its application to be necessary to fund start up losses of the home.

2. a commitment is received by the provider for any permanent mortgage loan or other long term financing described in the statement of anticipated source and application of funds submitted as part of the application for registration and any conditions of the commitment prior to disbursement of funds thereunder, other than completion of the construction or closing of the purchase of the home, have been substantially satisfied.

F. If the funds in an escrow account are not released within the time as provided by the continuing care agreement, then fees paid, less any escrow fees shall be returned by the escrow agent to the persons who made the payment to the provider. An entrance fee held in escrow may be returned by the escrow agent at any time to the person or persons who paid the fee to the provider upon receipt by the escrow agent of notice from the provider that the person is entitled to a refund or the entrance fee.

G. In lieu of any escrow which may be required by the department under this Section, a provider shall be entitled to post a letter of credit from a financial institution, negotiable securities, of a bond by a surety authorized to do business in this state and approved by the department in an amount not to exceed the amount required by R.S. 51:2177(E)(1). The bond, letter of credit, or negotiable securities shall be executed in favor of the department on behalf of individuals who may be found entitled to refund of entrance fees from the provider.

Rule 10. Continuing Care Agreements; Requirements and Right to Rescind

A. All continuing care agreements shall:

1. provide for the continuing care of only one resident, or for two persons occupying space designed for double occupancy, under appropriate regulations established by the provider and shall list all properties transferred and their market value at the time of transfer, including donations, subscriptions, fees, and any other amounts paid or payable by, or on behalf of, the resident or residents.

2. specify all services that shall be provided by the provider to each resident, including, in detail, all items which each resident shall receive, if the items will be provided for a desig-

nated time period or for life, and if the services will be available on the premises or at another specified location. The provider shall indicate which services or items are included in the agreement for continuing care and which services or items are made available at or by the facility at extra charge. The items shall include, but are not limited to, food, shelter, personal services, nursing care, medical care, burial, and incidentals.

3. describe the terms and conditions under which an agreement for continuing care may be cancelled by the provider or by a resident and the conditions, if any, under which all or any portion of the entrance fee shall be refunded in the event of cancellation of the agreement by the provider or by the resident, including the effect of any change in the health or financial condition of a person between the date of entering into an agreement for continuing care and the date of initial occupancy of a living unit by that person.

4. describe the health and financial conditions required for a person to be accepted as a resident and to continue as a resident, once accepted, including the effect of any change in the health or financial condition of a person between the date of entering into a continuing care agreement and the date of taking occupancy in a living unit.

5. describe the circumstances under which the resident shall be permitted to remain in the facility in the event of financial difficulties of the resident. The stated policy may not be less than the terms stated in R.S. 51:2179.

6. state the fees that shall be charged if the resident marries while at the designated facility, the terms concerning the entry of a spouse to the facility, and the consequences if the spouse does not meet the requirements for entry.

7. provide that the agreement may be cancelled by giving notice of cancellation of at least 30 days by the provider, the resident, or the person who provided the transfer of all property or funds required for the care of the resident. However, if an agreement is cancelled because there has been a good faith determination that a resident is a danger to himself or others, only such notice as is reasonable under the circumstances shall be required. The agreement shall further provide in clear and understandable language, and in boldfaced type, the terms governing the refund of any portion of the entrance fee, which terms shall include a provision that all refunds be made within 90 days of notification. Any such refund shall be calculated on a pro rata basis with the facility retaining no more than two percent per month of occupancy by the resident and no more than a 10 percent fee for processing. When the contract provides for the facility to retain no more than one percent per month of occupancy by the resident, it may provide that the refund shall be payable upon receipt by the provider of the next entrance fee for any comparable unit upon which there is no prior claim by any resident. However, any prospective resident who cancels the agreement prior to occupancy of the unit shall receive a refund of the entire amount of the entrance fee paid, less payment for specific services rendered and a processing fee not to exceed two percent of the amount paid. The refund shall be paid no later than 60 days after the giving of notice of intention to cancel;

8. state the terms under which an agreement is cancelled by the death of the resident. These terms may contain a provision that, upon the death of a resident, the entrance fee of the resident shall be considered earned and shall become the property of the provider. When the unit is shared, the conditions with respect to the effect of the death or removal of one of the residents shall be included in the agreement;

9. describe the policies which may lead to changes in

monthly recurring and nonrecurring charges or fees for goods and services received. The agreement shall provide for advance notice to the resident, of not less than 30 days, before any change in fees or charges or the scope of care or services may be effective, except for changes required by state or federal assistance programs.

10. provide that monthly charges for all future care cannot be paid in one lump sum except that more than one month maintenance fee may be paid at one time but not more than three months.

11. specify if the facility is, or is affiliated with, a religious, nonprofit, or proprietary organization or management entity, the extent to which the affiliate organizations shall be responsible for the financial and contractual obligations of the provider, and the provisions of the federal Internal Revenue Code, if any, under which the provider or affiliate is exempt from the payment of federal income tax.

12. describe the policy of the provider regarding reserve funding.

B. A resident has the right to rescind a continuing care agreement without penalty or forfeiture within 30 days after executing the agreement. During the 30-day period, the resident's funds shall be retained in a separate escrow account under terms approved by the department. A resident may move into the facility designated in the agreement before the expiration of the 30-day period.

C. The agreement shall include or shall be accompanied by a statement, printed in boldfaced type, which reads: "This facility and all other continuing care facilities in the state of Louisiana are regulated by R.S. 51:2171 et seq. A copy of this law is on file in this facility."

D. Before the transfer of any money or other property to a provider by or on behalf of a prospective resident, the provider shall present a typewritten or printed copy of the agreement to the prospective resident and all other parties to the agreement. The provider shall secure a signed, dated statement from each party to the contract certifying that a copy of the agreement was received.

E. If a resident dies before occupying the facility or, through illness, injury, or incapacity, is precluded from becoming a resident under the terms of the continuing care agreement, the agreement is automatically cancelled, and the resident or his legal representative shall receive a full refund of all moneys paid to the facility, except those costs specifically incurred by the facility at the request of the resident and set forth in writing in a separate addendum signed by both parties to the agreement.

F. No act, agreement, or statement of any resident, or of an individual purchasing care for a resident, under any agreement to furnish care to the resident shall constitute a valid waiver of any provision of R.S. 51:2171 et seq., intended for the benefit or protection of the resident or of the individual purchasing care for the resident.

Rule 11. Dismissal or Discharge of Resident; Refund

No agreement for care shall permit dismissal or discharge of the resident from the facility providing care before the expiration of the agreement without just cause for the removal. If a facility terminates a resident for just cause, the facility shall pay to the resident any refund due in the same manner as if the resident had provided notice pursuant to R.S. 51:2178. The term "just cause" includes, but is not limited to, a good faith determination that a resident is a danger to himself or others while remaining in the facility.

Rule 12. Continuing Care Facilities Residents' Organizations

A resident living in a facility registered under R.S. 51:2171 et seq., has the right of self organization, the right to be represented by an individual, the right to be represented by an individual of his own choosing, and the right to engage in concerted activities to keep informed on the operation of the facility in which he is a resident or for other mutual aid or protection.

Rule 13. Quarterly Meetings Between Residents and the Facility Governing Body

The board of directors or other governing body of a continuing care facility or their designated representative shall hold annual meetings with the residents of the continuing care facility for free discussions of subjects including, but not limited to, income, expenditures, and financial trends and problems as they apply to the facility and discussions of proposed changes in policies, programs, and services. Residents shall be entitled to at least seven days advance notice of each meeting. An agenda and any materials that will be distributed by the governing body at the meetings shall remain available upon request to residents. For the remaining three quarters of any year, the facility administrator or the manager shall schedule and participate in quarterly meetings, on behalf of the board of directors or other governing body, in conformity with the requirements of R.S. 51:2171 et seq.

Rule 14. Availability, Distribution, and Posting of Reports and Records; Requirement of Full Disclosure

A. Each continuing care facility shall maintain as public information, available upon request, records of all reports pertaining to that facility that have been filed with or issued by any governmental agency. A copy of each report shall be retained in records for not less than five years from the date the report is filed or issued.

B. Any records, reports, or documents which by state or federal law or regulation are considered confidential may not be distributed or made available to comply with R.S. 51:2171 et seq., unless and until the confidential status has expired.

C. Every continuing care facility shall display the certificate of registration in a conspicuous place inside the facility.

Rule 15. Advertisements; Requirements

A. The department shall establish by regulation standards to prevent any advertisement offering continuing care agreements which is untrue, deceptive, misleading, or which contains misrepresentations or omissions of material facts. The regulation shall include provisions for enforcement of advertising standards including, but not limited to, cease and desist orders, injunctions, administrative fines, and revocation of registration pursuant to other provisions of R.S. 51:2171 et seq.

B. A provider shall not publish any advertisement offering continuing care agreements subject to the registration requirements of R.S. 51:2171 et seq., unless a true copy of the advertisement is filed with the department contemporaneously with the first publication of the advertisement.

C. Any report, circular, public announcement, certificate, financial statement, or other printed matter or advertising material which is designed or used to solicit or induce persons to enter into any agreement providing for the transfer of property, conditioned upon an agreement to furnish continuing care for life or for a term of years, and which lists or refers to the name of any individual or organization as being interested in, or connected

with, the person, association, or corporation that is to perform the contract, shall clearly state the extent of financial responsibility assumed by that individual or organization for the person, association, or corporation and the fulfillment of its agreements.

D. This rule does not impose liability, civil or criminal, upon a person or publisher who is regularly engaged in the business of publishing a bona fide newspaper or operating a radio or television station and who, acting solely in his official capacity, publishes an advertisement in good faith and without knowledge that the advertisement or publication constitutes a violation of R.S. 51:2171 et seq.

Rule 16. Revocation of Registration

A. The registration of a provider may be revoked, after notice and hearing, and upon written findings of fact by the department that the provider has:

1. willfully violated any provision of R.S. 51:2171 et seq., or any rule, regulation, or order adopted hereunder.

2. failed to file an annual disclosure statement required by R.S. 51:2171 et seq.

3. failed to make available to residents the disclosure statement required by R.S. 51:2171 et seq.

4. delivered to prospective residents a disclosure statement which makes an untrue statement of material fact or omits a material fact and the provider, at the time of the delivery of the disclosure statement, had actual knowledge of the misstatement or omission.

5. failed to comply with the terms of a cease and desist order.

B. If the department finds, after notice and hearing, that the provider has been guilty of a violation for which revocation may be ordered, it may first issue a cease and desist order. If the cease and desist order is or cannot be effective in remedying the violation, the department may, after notice and hearing, order that the registration be revoked.

Rule 17. Cease and Desist Orders and Injunctions

A. If the department determines, after notice and hearing, that any person has violated or is about to violate any provision of R.S. 51:2171 et seq., or of any regulation, rule, or order issued hereunder, the department may issue an order requiring the person to cease and desist from the unlawful practice or to take such affirmative action that in the judgment of the department will carry out the purpose of R.S. 51:2171 et seq.

B. If the department makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing a cease and desist order, it may issue a temporary cease and desist order which shall include in its terms a provision that, upon request, a hearing shall be held within 10 days of such request to determine whether or not the order becomes permanent. Any such temporary cease and desist order shall be served on the person subject to it by certified mail, return receipt requested.

Rule 18. Administrative Fines

If the department finds that one or more grounds exist for the revocation of a certificate of registration issued under R.S. 51:2171 et seq., it may, in lieu of revocation, impose a fine upon the provider in an amount not to exceed \$1,000 for each violation. Procedures for the imposition of fines and appeals of such fines shall be governed by the Administrative Procedure Act.

Kay Jackson
Secretary

DECLARATION OF EMERGENCY

Department of Commerce and Industry Office of Financial Institutions

The Office of Financial Institutions, Department of Commerce and Industry, hereby adopts, as an emergency rule to become effective January 1, 1988, the judicial interest rate which will be applicable for the calendar year 1988. This emergency adoption is pursuant to R.S. 49:953(B) and was made necessary by the narrow time frame established in Act 883 of 1987, amending La. C.C. art. 2924, for determining the judicial interest rate. Act 883 mandates that the commissioner of financial institutions determine the prime rate of interest established by four major banks in New York and California and which are in force on December 1. Act 883 further mandates that the effective judicial interest rate shall be one percentage point "above an average prime rate" which is determined by averaging the prime interest rate of the four banks enumerated in the Act. Because the notice requirements and time limitations set out in R.S. 49:953(A) cannot be complied with because of the mandated December 1 computation date, an emergency exists.

No fiscal impact statement is required because the foregoing rule is being adopted as an emergency rule. R.S. 49:953(E).

The commissioner of financial institutions has directed letters to the governor and the attorney general of Louisiana, informing each of them that an emergency exists and the reason for that finding, thus asking for dispensation from notice or hearing requirements of R.S. 49:953(A).

The text of the rule and the authority for its adoption are stated as follows:

Title 10 BANKS AND SAVINGS AND LOANS

Pursuant to the authority granted by La. Civil Code article 2924(B)(3), as added by Act 883 of 1987, the commissioner of financial institutions has determined the rate of judicial interest for the period beginning January 1, 1988 and ending December 31, 1988 in accordance with the formula mandated by Act 883 of 1987, as follows:

The terms "prime rate" and "reference rate" shall be deemed synonymous for purposes of this rule. Prime rate is the rate of interest established by a bank for its most favored corporate clients in commercial loan transactions.

The "prime rate" or "reference rate" was 8.75 percent on December 1, 1987 for each of the banks enumerated in Subsection (B)(3) of Article 2924 of the Civil Code. The effective date of the prime rate fixing is stated in parentheses following the name of each bank, as follows: Chase Manhattan Bank, N.A. (November 5, 1987); Manufacturers Hanover Trust Company of New York (November 12, 1987); Morgan Guaranty Trust Company of New York (November 5, 1987); and Bank of America National Trust and Savings Association, a wholly owned subsidiary of BankAmerica Corporation, a holding company (November 5, 1987).

Act 883 of 1987 mandates that the rate of judicial interest shall be "one percentage point above an average prime rate" and that "[t]he average prime rate shall be computed by taking the average of the prime rates established by [the banking associations listed in the preceding paragraph] for their most favored corporate clients.

The effective judicial interest rate for the calendar year beginning on January 1, 1988 shall be 9.75 percent.

Fred C. Dent, Jr.
Commissioner

DECLARATION OF EMERGENCY

Department of Commerce Racing Commission

Title 35 HORSE RACING Part I: General Provisions

Chapter 15. Permitted Medications

§1507. Bleeder Medication

A. - D. . . .

E. When a horse is placed on the bleeder's list for the first time, it shall be eligible to enter whenever necessary in order to run on and after the fifteenth day following the date he bled and only after a recorded workout. Should a horse bleed a second time within a year, it shall be placed on the bleeder's list for 90 calendar days from the date of its second bleeding. When a horse bleeds a third time within a year, it shall be placed on the bleeder's list for 180 days from the date of its third bleeding. Should a horse bleed a fourth time, or anytime thereafter, it shall be placed on the bleeder's list for 365 days from the date of such bleeding.

F. - H. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission L.R. 6:174 (May, 1980), amended L.R. 6:543 (September, 1980), L.R. 9:547 (August, 1983).

Albert M. Stall
Chairman

DECLARATION OF EMERGENCY

Department of Commerce Racing Commission

PROPOSED FOR ADOPTION

Title 35 HORSE RACING Part I. General Provisions

Chapter 13. Health Rules

§1304. Coggins Test

No horse shall be allowed to race in Louisiana unless it has had a Coggins test taken within 12 months of the date of the race in question, with a negative result. Record of the negative test shall be attached to registration papers of the horse, or such results shall be recorded on said registration papers by an employee of the commission, prior to the running of the race. The trainer of the horse is responsible for insuring that a negative

Coggins test result is in the racing secretary's office as required by this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 142.

John P. Davis, DVM
Secretary

DECLARATION OF EMERGENCY

Department of Commerce Racing Commission

Title 35 HORSE RACING Part XV: Off-Track Wagering

Chapter 123. General Rules

§12336. Off-Track Breakage

When actual statistics are unavailable to determine breakage from wagering at an off-track wagering facility, the breakage to which an off-track wagering facility is entitled by law shall be in an amount proportionate to the amount wagered at such off-track wagering facility to the total handle at the host track, including the amount wagered at such off-track wagering facility. When statistics are available, the amount of such breakage shall be as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

Albert M. Stall
Chairman

DECLARATION OF EMERGENCY

Department of Commerce Racing Commission

PROPOSED FOR ADOPTION

Title 35 HORSE RACING Part XV: Off-track Wagering

Chapter 121. Definitions

§12101. Definitions

Decoder means a device and/or means to convert encrypted audio-visual signals and/or data into a form recognizable as the original content of the signals.

Employee of an off-track wagering facility means an employee, agent and/or other person(s) acting for and on behalf of the licensee when present on or about or in furtherance of the operation of the off-track wagering facility.

Encryption, encrypted, encoded means the scrambling or other manipulation of the audio-visual signals to mask the original video content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal.

Host or host association: the racing association that actually conducts horse racing, and from whose premises simulcast races originate.

Licensee of an off-track wagering facility means the entity or racing association owning and/or conducting an off-track wagering facility, including its officers.

Off-track wagering facility: the physical premises and/or business which conducts and offers pari-mutuel wagering to the public on live televised horse races which are held at any premises of a racing association licensed by the commission.

Simulcast or simulcasting when used with this Part, means the transmission of broadcast-quality television audio and visual signals from a pari-mutuel facility to a licensed and authorized off-track wagering facility simultaneously with the running or transmitting of horse racing events at the pari-mutuel facility, and includes the transmission of pari-mutuel wagering odds and other information and programming as is customarily displayed to patrons at the host association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

Chapter 123. General Rules

§12301. Authority of Commission

The licensee and the employees of an off-track wagering facility must be licensed by the commission, and shall be subject to the laws of Louisiana and the rules of racing as promulgated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12303. Proprietary Rights

Except as otherwise provided and/or as expressly provided herein, nothing contained in the rules governing off-track wagering shall in any way affect or be construed to expand, reduce, limit or modify the proprietary rights of a licensee of an off-track wagering facility authorized to operate and/or conduct off-track wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12305. Impermissible Conduct

At any off-track wagering facility, no person shall:

- A. use improper, profane or indecent language to any racing official;
- B. in any manner or at any time, disturb the peace or make himself or herself obnoxious to others;
- C. make a handbook or foreign book, or solicit for or bet with a handbook or foreign book.

If any licensee or employee of an off-track wagering facility shall solicit bets or wagers from a customer, invitee or other member of the public other than through the pari-mutuel wagering system, any or all of them may have their license(s) suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12307. Complaints Against Officials

Complaints against a racing official at an off-track wagering facility shall be made to the commission in writing, at its offices, and be signed by the complainant. Complaints against a steward or such other person designated by the commission shall be made in writing to the commission and signed by the complainant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12309. Strikes

Any person, licensed by the commission, causing, creating or lending to the incitement of a strike, or who, through compulsion, harasses or embarrasses the commission, off-track wagering facility licensee or any agency connected with racing shall be cited to appear before the commission to show cause why his or her license should not be suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12311. Minors

No person under the age of 18 shall be admitted to any off-track wagering facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:214(H) and R.S. 4:211-222.

§12313. Ejections

Any person may be excluded or ejected from an off-track wagering facility by the licensee if he or she is included in any category of persons provided in LAC 35:I.1801, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:191-197 and R.S. 4:211-222.

§12315. Employee List; Identification Badges

A licensee of an off-track wagering facility shall furnish to and keep current with the commission, a list of the names of employees at its off-track wagering facility and their specific duties. Each employee of an off-track wagering facility shall possess and display an identification badge on his or her outer garments during the entire period of his or her daily employment at the off-track wagering facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12317. Facility Racing Officials

The following racing officials employed by an off-track wagering facility shall be approved in writing by the commission: private police or security agencies; mutuel managers, calculators and supervisors; and any such other persons as the commission may designate. Should any change of these officials occur or be anticipated, the off-track wagering facility must get prior approval from the commission at least 10 days before such change, except as provided in LAC 35:I.1907. The off-track wagering facility must submit in writing the time and reason for the change and furnish a resumé of the replacement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12319. Minors as Employees

No person under the age of 18 years shall be employed in or on any off-track wagering facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:214(H) and R.S. 4:211-222.

§12321. Access by Commissioners

Members of the commission and its designated representatives shall have the right to full and complete entry to any and all areas of an off-track wagering facility. All off-track wagering facilities shall recognize buttons of the National Association of State Racing Commissioners and commission parking permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12323. Non-Pari-Mutuel Wagering

Wagering within the confines of an off-track wagering facility other than through pari-mutuel machines is strictly prohibited. Any person making a handbook or wagering with a handbook, or soliciting bets to be made on races received at the off-track wagering facilities or on races elsewhere, shall be ejected from an off-track wagering facility and denied any further admission. No gaming device, other than that permitted by law, shall be allowed within an off-track wagering facility. Cards, dice and petty games of chance are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12325. Telephones and Telegraphs

Off-track wagering facilities may be allowed telephones for the transaction of ordinary business, and may also allow telegraph wires for the benefit of the press. However, no information regarding the results of any race shall be transmitted until such race results are official, nor shall any message transmitting money, or other things of value, or directing the placing of any wager, be sent over the telegraph wires. Nor shall any message be sent in any type of code or any form other than in plain and intelligible English, under penalty of license revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12327. Prohibited Transmission Equipment

Possession or control by any person on the premises of any off-track wagering facility of electronic or communications equipment or device capable of transmitting or communicating 1) the results of any race, 2) any information with respect to odds and/or track conditions in connection with a race, 3) any information about jockeys or equipment to be used in a race, and/or any other information concerning a race, to another person, firm or corporation located outside of the licensed area of an off-track wagering facility is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12329. Simulcast Video Transmission

A. Every simulcast shall be encrypted using a time displacement decoding algorithm encryption system.

B. Not less than 30 minutes prior to the commencement of the transmission of each racing program, the host association shall initiate a test program of its transmitter, encryption, decoding and data communication to assure proper operation of the system.

C. Every simulcast shall contain a digital display of the actual time of day, the name of the race track from where it emanates, the number of the race being displayed, and the sequential fractional time of the race as the race is being run.

D. The host association shall retain a video record of all simulcasts, in decoded form, and shall provide a copy of such record on girth a 1/2 or 3/4" video cassette when requested by the commission.

E. Each host association is responsible for the contents of its simulcast and shall use all responsible efforts to present a simulcast which offers viewers an exemplary depiction of its racing program, a periodic display of wagering information and continuity programming between horse racing events.

F. The transmission of data between the totalizator system at the host association and the remote terminals at the off-track wagering facility shall be independent of the simulcast transmis-

sion. A separate point-to-point leased data communications line, using either analog or digital transmission methods, shall be required between the host association and each off-track wagering facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12331. Simulcast Audio Transmission

Each off-track wagering facility shall have the capability to deliver the simultaneous audio transmission of a race to the facility in the event that the simulcast of the racing program is interrupted. The transmission of only the audio description of the racing program to the off-track wagering facility must be approved by the commission or its designee, except when prior approval is not possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12333. Security Controls

Each host association and off-track wagering facility shall maintain such security controls over video and audio simulcasts as directed by the commission or its authorized agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12334. Licensee's Authority to Make Rules

Consistent with law and this Part, a licensee shall have the authority to adopt rules and regulations governing its methods of paying pari-mutuel ticket holders at its off-track wagering facility. Rules and regulations adopted by a licensee of an off-track wagering facility shall be prominently displayed in such facility after approval thereof by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12335. Wagering Pools

The wagering pools offered by an off-track wagering facility licensee shall be combined with those wagers placed at the facility of the host association providing the racing program so as to produce common pari-mutuel betting pools for the calculation of odds and the determination of payout from such pools, which payout shall be the same for all winning tickets irrespective of where the wager is placed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12337. Totalizator Equipment

Each off-track wagering facility shall use electronic totalizator equipment. The totalizator shall calculate and display the total amounts wagered on each betting interest each 60 seconds prior to the start of the race. The totalizator shall be designed so that the ticket issuing machine shall be automatically locked at a time prior to the start of the race to be determined by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12339. Close of Wagering

The locking of all ticket issuing machines shall be noted by the ringing of the off-bell at the off-track wagering facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12341. Pari-Mutuel Tickets

Pari-mutuel tickets utilized at an off-track wagering facility shall use a numerical designation for each betting interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12343. Concessionaires and Caterers

Each licensee of an off-track wagering facility shall submit in writing to the commission for approval, the names of persons, corporations or other legal entities who will operate the concessionaires and/or catering facilities (as defined in LAC 35:III.5743) within the confines of the off-track wagering facility for the duration of its operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12345. Concession Services

The concession and catering operations shall be conducted so that all persons attending off-track wagering facilities shall be satisfactorily served. Food, beverages (both alcoholic and non-alcoholic), tobacco and other generally related items may be available for sale to the patrons of the various facilities on each day that racing is televised. Concessionaires serving liquid refreshments shall not permit the surrender of glass containers to patrons except in designated areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12347. Cleanliness and Inspection

Off-track wagering facility premises shall be kept in clean condition, in good repair, well lighted, ventilated, heated and/or air conditioned (as the case may be). The quality, quantity and price of all items of food, liquor, beer and other items sold shall be subject to inspection by the commission or any person designated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12349. Sanitation and Health Rules

All off-track wagering facilities are subject to sanitation and health rules as provided by law and in LAC 35:III.5757 and 5759.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12351. Method of Accounting

Each off-track wagering facility shall use generally accepted accounting principles or procedures determined by the commission so as to record and summarize financial information in order to produce financial statements and reports and to provide adequate internal fiscal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12353. Wagering Distribution Report

Each licensee of an off-track wagering facility shall furnish to the commission a report of its wagering distributions within 45 days of the end of each fiscal quarter of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12355. Race Meeting Report

Each licensee of an off-track wagering facility shall, in conjunction with the host association, provide the commission with an audited report of its pari-mutuel operations not more than 90 days following the conclusion of each race meeting conducted by a host association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12357. Other Reports

The licensee of an off-track wagering facility shall provide to the commission written reports as may be required by or requested by the commission from time to time and may include, by way of illustration and without limitation, the following:

A. copies of all written contracts;

B. a list of directors and officers, compensation paid to each, and/or a report of any changes thereof;

C. a statement listing all unclaimed ticket fund accruals for the preceding month and/or to date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12359. Books and Records

The commission may conduct such investigations it deems necessary in order to effectively carry out the purposes and objectives of off-track wagering as provided by law. Books and records of an off-track wagering facility shall be maintained by the licensee of an off-track wagering facility as ordered by the commission, and they shall not be destroyed, cause to be destroyed, or abandoned by the licensee of an off-track wagering facility without the prior approval of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12361. Inspection and Delivery

The commission may inspect the records of a licensee and its off-track wagering facility at any time at the offices of the off-track wagering facility. The licensee off-track wagering facility shall, upon written notice, deliver promptly to the commission any books, records, papers, etc. which the commission shall request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12363. Remedies

A person aggrieved by any action taken against him by a licensee of an off-track wagering facility or its employees shall exhaust all administrative remedies provided him before the commission prior to instituting any legal proceedings seeking judicial relief, as provided in R.S. 4:191-197.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:191-197 and R.S. 4:211-222.

Chapter 125. Licensing

§12501. Licensing

Licensing of off-track wagering facilities in parishes with its parish seat within 55 miles of an existing pari-mutuel facility shall be governed by LAC 35:XV.12503-12507.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12503. Applications

License applications authorized by this Part shall be submitted by eligible applicants and shall not be considered by the commission unless filed no later than 20 days before the next regular or special meeting of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12505. Application Submission

The commission shall review and consider such applications during a regular or special meeting and shall consider each application separately based on its completeness of information and its compliance with the provisions of R.S. 4:214.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12507. License Application Stages

License applications shall be in two stages.

A.1. A preliminary application for authorization to establish an off-track wagering facility ("Preliminary Application") in a parish shall include the names and addresses of all eligible applicants for a license in the parish, if known, or a certified letter from such other eligible applicant(s) not wishing to make an application to establish an off-track wagering facility.

2. The preliminary application shall not include the requirements of R.S. 4:214(A)(3-7), (B), (C), (E), (F), (G) and R.S. 4:215(B)(2).

3. Upon approval of the preliminary application, the commission shall immediately request the governing body of the parish where the off-track wagering facility will be located to authorize and include a referendum to be on the ballot of its next regularly scheduled election for the purpose of satisfying the requirements of R.S. 4:214(A)(2).

B. The final application for authorization to establish an off-track wagering facility ("final application") may not be made until official notice is received from the parish in which the referendum election was held that the voters approved the establishment of an off-track wagering facility in the parish. The provisions of this Section requiring notice shall not apply to any facilities exempted from the referendum provisions contained in R.S. 4:214(D).

C. The final application shall be submitted in the same manner as a preliminary application and shall include:

1. the criteria required by R.S. 4:159 and required under R.S. 4:214(A);

2. the written consent of other primary licensee(s) whose facility(s) are within the 55-mile radius defined in R.S. 4:214(A)(3);

3. a certified copy of the final approval of the citing requirements of the off-track wagering facility from the local governing authority as required by R.S. 4:214(A)(5);

4. a description of the exact location including an architect's rendering a floor plan sufficient to determine compliance with R.S. 4:214(A)(7);

5. a certified check in the sum of \$1,000 as required by R.S. 4:214(C);

6. a confirmation and copy of any contracts entered into under the provisions of R.S. 4:214(F), together with identification of all parties to such contracts;

7. a certified copy of all contracts with host tracks as required by R.S. 4:214(G);

8. a certified copy of all contracts between all applicants for license to establish an off-track wagering facility, as required by R.S. 4:215(B) (2) or R.S. 4:215(C) (4), whichever is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12509. License Procedures

Licensing procedures for off-track wagering facilities in parishes with its parish seat more than 55 miles from a presently existing pari-mutuel facility shall be governed by LAC 35:XV.12511-12515.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12511. License for Facility Beyond 55-Mile Limit

Any eligible applicant under R.S. 4:215 making an application for a license to establish an off-track wagering facility in a parish whose parish seat is more than 55 miles from any presently existing pari-mutuel facility shall not be considered by the commission unless filed no later than 20 days before the next regularly scheduled commission meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12513. Hearing Notice

At least 15 days prior to the meeting at which the commission shall consider such application, the commission shall notify, by certified mail, all other applicants eligible under the provisions of R.S. 4:215 of the filing of such application and the date on which it shall be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12515. Review and Completeness of Information

The commission shall review and consider such applications during a regular or special meeting and shall consider each application separately based upon its completeness of information and compliance with the provisions of R.S. 4:214.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12517. Notification of Requirements

Thirty days after the notification required by R.S. 4:215(C) (2), the commission shall notify each applicant of all the requirements of R.S. 4:215(C) (3) and such other requirements as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12519. Eligibility; Joint Application

The eligible applicants making an affirmative response to LAC 35:XV.12511 with 30 days notice shall each then be responsible for filing a joint final application as required by R.S. 4:214.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

John P. Davis, DVM
Secretary

DECLARATION OF EMERGENCY

**Department of Commerce
Racing Commission**

**Title 35
HORSE RACING**

Part XI: Claiming Rule and Engagements

Chapter 99. Claiming Rule

§9905. Timing of Entering Next Claiming Race

Except as otherwise provided herein, a claimed horse shall not enter in starter, optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the

horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the thirty-first day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 142 and 148.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, amended L.R. 2:445 (December, 1976), repromulgated L.R. 3:41 (January, 1977), L.R. 4:285 (August, 1978).

Albert M. Stall
Chairman

DECLARATION OF EMERGENCY

**Department of Commerce
Racing Commission**

PROPOSED FOR AMENDMENT

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

Chapter 112. Twin Trifecta

§11201. Twin Trifecta

A. - H. ...

I. After the official declaration of the first three horses to finish in the first race of the twin trifecta, each bettor holding a ticket combining the first three horses in the exact order of finish must, prior to the running of the second twin trifecta race, exchange such winning tickets for both the monetary value established by the mutuel department and a twin trifecta exchange ticket at designated windows and at such time shall select the first three horses to finish in the second race of the twin trifecta in the exact order of finish as officially posted. No further money shall be required of the holder of winning tickets in order to make the exchange. When the official finish of the first twin trifecta race requires application of paragraph H to determine the winning combination, no exchange tickets shall be issued on the second twin trifecta race, and the second race pool shall be treated in accordance with Paragraph N.

J. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission L.R. 12:419 (July, 1986).

John P. Davis, DVM
Secretary

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Salary of the Appointed
Superintendent of Education

The State Board of Elementary and Secondary Education, at its meeting of November 19, 1987, exercised those

powers conferred by the emergency provisions of the Administrative Procedure Act, R. S. 49:953B and approved a maximum salary of \$100,000 plus fringe benefits for the appointed state superintendent of education.

This emergency adoption is necessary in order that the salary will be in place for the selection process for the appointed superintendent of education. Effective date of this emergency rule is November 20, 1987.

Dr. James Meza, Jr.
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

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

It was necessary to adopt this as an emergency rule as federal regulations as published in the *Federal Register*, Vol. 52, No. 188, September 29, 1987 mandate these provisions with implementation dates that could not be met under the normal rulemaking procedure. The Financial Assistance Manual (FAM-4) will be revised to reflect these provisions.

RULE

I. Third Party Payments

Effective April 1, 1987, assistance payable for living expenses by Public Assistance (PA) or local General Assistance (GA) programs, or other basic assistance programs comparable to GA as determined by the Secretary of USDA shall be, with certain exceptions, considered income to a household if diverted to a third party on behalf of the household.

General Assistance (GA) is defined as cash or another form of assistance excluding in-kind assistance, financed by state or local funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.

A PA or GA payment which is not made directly to the household, but paid to a third party on behalf of the household to pay a household expense, shall be considered an excludable vendor payment and not counted as income to the household if such PA or GA payment is for:

1. medical assistance;
2. child care assistance;
3. energy assistance, or

4. housing assistance payments made to a third party on behalf of a household residing in temporary housing, if the temporary housing unit provided for the household as a result of such assistance lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption, provided that such vendor payments shall be excluded under this provision if paid to the housing provider during the period beginning October 20, 1987 and ending September 30, 1989.

Assistance financed by State or local funds which is provided over and above the normal PA or GA grant or payment, or is not normally provided as part of such grant or payment would be considered emergency or special assistance and excluded as income if provided to a third party on behalf of the household.

II. Loss-of-Benefits Penalty

This provision imposes a loss-of-benefits penalty on those food stamp recipients who fraudulently fail to report income. Effective September 5, 1987, when determining the amount of benefits the household should have received, the Office of Family Security shall not apply the 20 percent earned income which the household intentionally failed to report. By doing this, the household that benefited from the fraudulent act is penalized since the amount it has to repay in overissuance will be increased. This provision is to be applied to allotments issued for October, 1987 and all allotments issued for subsequent months.

III. Expedited Service

Effective December 1, 1987, two more types of households will be entitled to receive benefits under the Food Stamp Program's expedited service procedure. The two types of households are as follows:

1. eligible households in which all members are homeless individuals, or
2. eligible households whose combined gross income and liquid resources are less than the household's monthly rent or mortgage and utilities.

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

DECLARATION OF EMERGENCY

Department of Urban and Community Affairs Office of the Secretary

In accordance with Public Law 99-500 (approved October 18, 1986) and according to the requirements cited in the *Federal Register*, Vol. 51, No. 242, dated Wednesday December 17, 1986 and as published in the *Louisiana Register*, Vol. 13, No. 4, April 20, 1987, the Louisiana Department of Urban and Community Affairs is presently administering the first phase of the Emergency Shelter Grants Program.

Now, in accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953B the Louisiana Department of Urban and Community Affairs, pursuant to the authority granted to the department under the Louisiana Legislative Act No. 505 of the 1987 Regular Session (effective July 9, 1987), is hereby giving notice of intent to administer the second phase of the Emergency Shelter Grants Program according to the requirements cited in the *Federal Register*, Vol. 52, No. 172, dated Friday, September 4, 1987. This program authorizes the Department of Urban and Community Affairs to make grants available to Louisiana units of local government under the Stewart B. McKinney Homeless Assistance Act, Title IV - Housing Assistance, Subtitle B - Emergency Shelter Grants Program. The purpose of the program is for the rehabilitation or conversion of buildings for use as emergency shelters for the homeless, and for the payment of certain operating and social service expenses in connection with that emergency shelter.

In addendum to the requirements cited in the *Federal Register*, Vols. 51, No. 242, dated Wednesday, December 17, 1986 and 52, No. 172 dated Friday, September 4, 1987, and in order to ensure that grants will be awarded to Louisiana areas of greatest need and with the highest concentration of homeless, the Department of Urban and Community Affairs will receive and review applications from all Louisiana units of local general government that meet the following requirements:

1. a minimum population of 50,000 based on 1980 census data;

2. a minimum unemployment rate of 7.5 percent with a minimum of 1000 individuals classified as unemployed based on Louisiana Department of Labor data for July, 1987.

Funds to be provided to the state of Louisiana by HUD for distribution in the state is \$522,000 and all units of local general government that meet the above cited requirements may apply. A maximum of six separate grants will be made available for a minimum of \$45,000 and a maximum of \$150,000 each based on the ranking of each grant application. Upon approval of the Department of Urban and Community Affairs' Application for Funding by the Department of Housing and Urban Development, units of local general government meeting the above criteria will be notified by a registered letter of application requirements and deadlines.

For more information, contact Colby S. LaPlace, Assistant Secretary, Department of Urban and Community Affairs, (504) 342-9790.

Elaine Boyle Patin
Secretary

Rules

RULE

Department of Agriculture and Forestry Dairy Division

The Louisiana Department of Agriculture and Forestry, Dairy Division, repeals prior rule under Title 7, Chapter 53, Section 5305, entitled "Other Securities in Lieu of Surety Bond," as this prior rule would be in conflict with the amendment to Title 7, Chapter 53, Section 5303, which the commissioner has amended as follows:

Title 7

AGRICULTURE AND ANIMALS Part VII. Dealers in Farm Products

Chapter 53. Milk Buyers

§5303. Bonds and Other Securities

A. Any person, firm or corporation, who shall engage in the business of purchasing milk from producers or cooperative associations for the purpose of manufacturing, pasteurizing or distributing milk or milk products shall post, with the commissioner, a surety bond signed by a surety company authorized to do business in Louisiana, or other security, in a form and substance acceptable to and approved by the commissioner. Said other security may include, but not be limited to, the following: (1) a certified check; or (2) negotiable bonds or securities; or (3) a first mortgage on real estate and/or plant equipment; or (4) irrevocable letter of credit; or (5) certificate of deposit.

B. The amount of such bond or other security shall be computed by adding the total payments made to producers and cooperative associations for milk during the preceding six months, dividing by the number of days in the period and then multiplying the results by twice the number of days in the normal or customary pay period. The bond or other securities shall be sufficient to cover a minimum of seven days' purchase from producers and cooperative associations and the maximum amount

required shall not be more than an amount to cover 25 days' purchases from producers and cooperative associations. The correct amount of bond or other security shall be computed semi-annually or annually, at the discretion of the commissioner, and the amount shall be adjusted accordingly.

§5305. Other Securities in Lieu of Surety Bond REPEALED.

Bob Odom
Commissioner

RULE

Department of Commerce Office of Financial Institutions

Title 10 Banks and Savings and Loans Part I. Banks

Pursuant to the authority granted to the commissioner of financial institutions by R.S. 6:121(B)(1) and 242(A)(15), the commissioner amends Subchapter B of Chapter 19 of Part I of Title 10 comprising Sections 1921 through 1929, concerning mortgage corporation subsidiaries of bank holding companies and state banks.

Title 10

BANKS AND SAVINGS AND LOANS Part I: Banks

Chapter 19. Related Organizations and Services

Subchapter B. Subsidiary Mortgage Corporation

§1921. General; Considerations For Approval

A. A state bank or a bank holding company may establish or acquire a subsidiary mortgage corporation upon the prior written approval of the commissioner of financial institutions and subject to the provisions of this rule. The ownership of a subsidiary mortgage corporation shall be deemed to be incidental to the exercise of powers enumerated in R.S. 6:241 and 242. Each location of the subsidiary mortgage corporation must obtain the prior written approval of the commissioner prior to its establishment.

B. To determine whether or not he shall approve the formation or acquisition of a subsidiary mortgage corporation, or the opening of an additional location, the commissioner shall consider the following:

1. the financial condition of the parent state bank or the state bank subsidiary of the parent holding company;
2. the economic impact on the parent of the operation of the proposed subsidiary mortgage corporation;
3. the proposed method of funding the operations of the subsidiary mortgage corporation;
4. the needs of the community to be served by the subsidiary mortgage corporation.

§1922. Powers

A subsidiary mortgage corporation may originate first mortgage loans, make first mortgage loans, service first mortgage loans, act as an agent in the warehousing and servicing of first mortgage loans, and, in general, engage in activities permitted mortgage company subsidiaries of national banks.

§1923. Regulation by Commissioner

Each subsidiary mortgage corporation shall be subject to examination by the commissioner. If upon examination, the

commissioner shall ascertain that the subsidiary is created or operated in violation of law or regulation, or that the manner of operation is detrimental to the business of the parent bank or its depositors, he may order the subsidiary to cease and desist from such violation or practice. In addition, if the mortgage corporation is a subsidiary of a state bank or a holding company owning a state bank, he may order the bank or holding company to divest itself of the subsidiary mortgage corporation. If the mortgage corporation is a subsidiary of a holding company that owns only national banks, he shall report his findings to the Comptroller of the Currency and the appropriate Federal Reserve Bank.

§1924. Separate Records and Funds

The books and records of the mortgage corporation subsidiary shall be kept separate and distinct from those of the parent or other subsidiaries and funds of the parent or other subsidiaries shall not be commingled with those of the subsidiary mortgage corporation.

§1925. Prohibited Stock Ownership

Under no circumstance shall the parent of the subsidiary mortgage corporation own any assessable stock of the subsidiary mortgage corporation.

§1926. Transactions Between Parent and Subsidiary

Transactions between a parent state bank or subsidiary state bank of a parent bank holding company and the subsidiary mortgage corporation shall, with respect to the state bank, be governed by all laws and regulations applicable to transactions between the state bank and any other borrower, customer or depositor of the state bank, including but not limited to provisions of law governing the state bank's lending limit.

§1927. Branching

An approved office of the subsidiary mortgage corporation shall not be considered a branch of a parent bank if no banking functions other than those listed in Paragraph 2 are performed by the subsidiary mortgage corporation at that location.

§1928. Automated Teller Machines Prohibited

No automated teller machine or similar electronic financial terminal whether owned by a parent bank or any other entity shall be located on the premises of any office of the subsidiary mortgage corporation. This prohibition shall not apply if the subsidiary mortgage corporation is located on the premises of a duly approved branch or main office of a parent bank.

§1929. Name

The name of the subsidiary mortgage corporation shall not contain the word "bank" nor shall the subsidiary's operations, logo, advertising or marketing suggest that the subsidiary is an agent of the parent bank or bank holding company or that the parent is responsible for the liabilities of the subsidiary.

Fred C. Dent
Commissioner

RULE

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

**Title 25
CULTURAL RESOURCES
Part I. Office of Cultural Development**

In accordance with Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act, the Division of the Arts

announces the adoption of a revised and amended LAC 25:I. Chapter 3 "Guide to Arts Programs." Notice of intent to adopt the rule was published in the October issue of the *Louisiana Register*.

The rule, published pursuant to authority established in R.S. 20: 894, sets out the rules governing the submission of applications for arts grants in programs administered by the division and the administration of such grants.

The deadline for applications for the 1988-89 grant year is 4:30 p.m., March 1, 1988.

Copies of the rule are available at the offices of the Division of the Arts, Building C, 666 North Foster Drive, Baton Rouge, LA. Mail requests for copies should be sent to the Division at Box 44247, Baton Rouge LA 70804. Telephone requests should go to (504) 925-3930.

Derek E. Gordon
Director

RULE

**Department of Education
Proprietary School Commission**

Add Title VIII to the Advisory Commission on Proprietary Schools, Louisiana State Department of Education, Rules and Regulations, Bulletin 1443:

When an institution closes, and is domiciled within the state of Louisiana, the complete student records of the school will be deposited with the commission. The records will be prepared in the following manner:

- A. They shall be filed in alphabetical order.
- B. Each container will be clearly marked "OFFICIAL RECORDS" and will show the alphabetical order:
 - 1. Official Records June 30 to December 31, 19____
 - 2. Official Records AA to BC
- C. The containers shall be sealed to prevent loss or damage and marked in succession.

Andrew H. Gasperecz
Executive Secretary

RULE

**Department of Education
Proprietary School Commission**

Add to Title V, Section 1, Subsection 6 (a), to the Advisory Commission on Proprietary Schools, Louisiana State Department of Education, Rules and Regulations, Bulletin 1443:

Refunds shall be made within 30 days.

Andrew H. Gasperecz
Executive Secretary

RULE

**Department of Education
Proprietary School Commission**

Add Title III, Section 3 and Title V, PSC-10 Exemption from Surety Bond form Appendix J, to the Advisory Commis-

sion on Proprietary Schools, Louisiana State Department of Education, Rules and Regulations, Bulletin 1443:

Schools that do not require students to pay tuition for course of study more than one month in advance, have been in continuous operation for five years, and have met all the requirements of the commission may apply for surety bond exemption. Surety bond exemption is governed by R.S. 17:3141.5 G and is to be in the form set in Appendix J (PSC-10).

PSC-10

APPENDIX J

EXEMPTION FROM SURETY BOND

(La. R.S. 17:3141.5 G)

STATE OF LOUISIANA

DEPARTMENT OF EDUCATION

PROPRIETARY SCHOOL COMMISSION

P. O. BOX 94064, BATON ROUGE, LA 70804-9064

KNOW ALL MEN BY THESE PRESENTS:

That we, _____
of the City of _____, State of _____.

- (1) do not require students to pay tuition for course of study more than one month in advance.
- (2) the school has been in continuous operation for at least five (5) years, and
- (3) the school has met all the requirements of the Louisiana Proprietary School Commission.

** EVIDENCE ATTACHED SHOWS THAT WE DO NOT REQUIRE STUDENTS TO PAY TUITION FOR COURSE OF STUDY MORE THAN ONE MONTH IN ADVANCE.

Name of Institution: _____

Signature of Owner or Authorized Official: _____

Title: _____

Address: _____

Notary Public

Signature and Seal

APPROVED THIS _____ DAY OF _____, 19 ____
DEPARTMENT OF EDUCATION, PROPRIETARY SCHOOL COMMISSION

BY: _____

** ATTACH A COPY OF ENROLLMENT AGREEMENT AND/OR STUDENT CONTRACT

Andrew H. Gasperecz
Executive Secretary

RULE

**Department of Education
Proprietary School Commission**

Add to Title V, Section 1, Subsection (8), to the Advisory Commission on Proprietary Schools, Louisiana State Department of Education, Rules and Regulations, Bulletin 1443:

Student Tuition Refunds on School
Closures and Claims Against Surety

A. When an institution closes and this prevents the student from completing the course being pursued, all tuition and fees paid to the institution by the student are refundable provided there is sufficient surety bond coverage. When the amount of the bond is not sufficient to pay a total refund to each student, the amount of each student is computed on a percentage on the

dollar amount of the total paid by each student.

B. The commission shall obtain a list of the students enrolled during the term of the surety bond along with their verification of copies of cancelled checks and/or receipts paid to the institution.

C. The commission shall notify the state attorney general to make a bond claim against the surety.

D. The commission shall forward all student claims to the state attorney general for processing and payment of student refunds.

Andrew H. Gasperecz
Executive Secretary

RULE

**Department of Environmental Quality
Office of Air Quality**

Under the authority of the Environmental Quality Act, R.S. 30:1051 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary is readopting the Louisiana Air Quality Regulations to accomplish the following objectives:

- (1) to renumber the regulations so they can be incorporated in the Louisiana Administrative Code;
- (2) to consolidate the regulations by removing much of the repetition prevalent in the current version and thus simplifying their use and;
- (3) to make the process of codification of the regulations easier.

Martha A. Madden
Secretary

RULE

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

**Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq. and in accordance with the provisions in the Administrative Procedure Act R.S. 49:950 et seq., the Secretary of the Department of Environmental Quality adopted revisions to the Louisiana Solid Waste Rules and Regulations (LSWRR). The effective date of these regulations will be January 20, 1988.

The amendments to the LSWRR provide definitions for the terms "residential waste" and "commercial waste." The revisions also add specific language to the permitting requirements and to the standards regarding the operation of solid waste facilities receiving commercial waste and residential waste by personnel certified by the Louisiana Solid Waste Certification Program.

The secretary initiated rulemaking procedures to adopt this rule on October 20, 1987. Prior to final adoption by the secretary, this rule was forwarded to the Joint Committees on Natural Resources.

Persons requesting further information concerning the rule may contact Joan Lee, Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, Box 44307, Baton Rouge, LA 70804.

Chapter 5 (Previous Section 3.0)

Commercial Solid Waste means garbage, trash and refuse generated by businesses involved in the exchange or distribution of goods or commodities, but does not include or mean recognizable industrial byproducts.

Residential Solid Waste means garbage, trash and refuse generated by occupants of single or multi-unit development or as a result of community activities.

§1107 c.4.a.ii (Previous Section 6.4.3.D.1.b.)

Key personnel, by general job classification, planned to operate the facility and list of operators certified by the Louisiana Solid Waste Operator Certification and Training Program (R.S. 37:3151 et seq.).

§1305.B.3.c (Previous Section 7.3.2.C.3)

Disposal facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed as required by the rules and procedure for the Solid Waste Operator Certification and Training Program.

Martha A. Madden,
Secretary

RULE

**Department of Environmental Quality
Office of Water Resources**

**Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq., and in particular Section 1094 (A)(4) and (B)(6) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Environmental Quality, Martha A. Madden, adopted the rules and regulations for the Municipal Facilities Revolving Loan Fund LAC 33:IX. Chapter 21 on December 10, 1987. The effective date of these regulations will be upon publication in the December 20, 1987, *Louisiana Register*.

The secretary initiated rulemaking procedures to adopt this rule on October 20, 1987, with the publication of the Notice of Intent in the *Louisiana Register*. Prior to the final adoption by the secretary, this rule was forwarded to, and found acceptable by, the Joint Committees on Natural Resources.

Persons requesting copies and/or further information concerning the rule may contact Laurie Masichuk, Department of Environmental Quality, Municipal Facilities Division, 11720 Airline Highway, Baton Rouge, LA 70817, (504) 295-8900.

Martha A. Madden
Secretary

RULE

**Office of the Governor
Division of Administration
Property Assistance Agency**

The Division of Administration, Louisiana Property Assistance Agency has adopted the following changes to the fleet

management rule to be effective December 20, 1987, pursuant to the notice of intent published in Volume 13, Number 8 of the *Louisiana Register*, August 20, 1987 and LAC 34:XI.103.

The following subparagraphs should be added to Chapter 1 of the General Provisions:

**Title 34
GOVERNMENT CONTRACTS
PROCUREMENT AND PROPERTY CONTROL
Part XI. Fleet Management**

Chapter 1. General Provisions

§103. Functions of the Fleet Management Program (amended)

B.4.b. No state employee of any agency may be assigned to operate a pool fleet vehicle or a personally assigned vehicle without the respective agency having on file a completed, signed and checked Louisiana State Employee Driver Safety Program Authorization/History Form (Form DA 2054). The agency transportation coordinator shall be responsible for maintaining a file on all signed and completed DOA Forms (Form DA 2054).

B.4.c. No state vehicle owned or leased shall be used by a public or private individual for other than performing official state business. The personal use of a state owned or leased vehicle is prohibited with the exception of home storage commute miles if approved by the commissioner of administration via the DOA Form MV-2.

B.6.f. When fuel is not available from a state operated facility, self-service facilities shall be used for all purchases of fuel for state owned or leased vehicles when utilizing commercial stations.

Louis W. Amedee
Director

RULE

**Office of the Governor
Office of Elderly Affairs**

**Title 4
ADMINISTRATION**

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1229. Long Term Care Ombudsman Program (amend)

D. Program Structure

1. State Level

The Governor's Office of Elderly Affairs has, and shall maintain, a full-time long term care ombudsman. Other staff may be added as necessary to implement the program. Specific program functions may be contracted.

2. Planning and Service Area Level

a. Every area agency on aging which has a nursing home within its boundaries shall establish and operate a LTCOP. The service may be operated directly by the area agency or may be contracted to a qualified provider or providers. At a minimum, such program shall:

i. employ a paid staff person who is a certified ombudsman and serves as an ombudsman coordinator on at least a part-time basis;

ii. provide two hours of visitation by a certified ombudsman per week per nursing home;

iii. investigate, record, and resolve complaints;

- iv. record and report complaint information;
- v. advertise the existence and function of the area agency and state LTCOP; and
- vi. advise the public about, or arrange for the availability of, current state, local, and federal inspection reports, statements of deficiency, and plans for correction for individual long term care facilities in the service area.

b. The LTCOP must be free from any conflicts of interest which might compromise the program's efforts to impartially investigate and resolve complaints.

c. The minimum amount of funds to be allocated for the ombudsman program in each PSA shall be determined by the Governor's Office of Elderly Affairs.

d. Program personnel at the area agency level are:

- i. "Ombudsman Coordinator"
- ii. "Ombudsman"
- iii. "Ombudsman Participant"

e. No person shall use the title Ombudsman or Ombudsman Coordinator unless he has completed and maintained certification.

f. No person shall use the title Ombudsman Participant unless he has completed orientation training and fulfills the responsibilities in Subparagraph (b) of Paragraph 4 of Subsection E of this Section.

* * *

F. Ombudsman Certification

c. Certification must be renewed annually. Renewal is based on successful completion of at least 15 contact hours of in-service training each year and on adherence to ombudsman policies and procedures. At least eight hours of this training must be sponsored by the State Ombudsman Program. The remainder may be earned by attending any relevant training, subject to the conditions described below.

d. Training programs not sponsored by the state ombudsman will be eligible for in-service credit provided that:

- i. the topic is related to ombudsman work;
- ii. the course or training is approved in advance by the State Ombudsman; and
- iii. the course or training must be at least one hour in length.

e. In order to receive credit for such courses an ombudsman may either attend a program which has already been approved by the state ombudsman or must submit in advance a written request for approval of a particular program. Requests for approval must include:

- i. brief description of training;
- ii. who is conducting or sponsoring the training;
- iii. when and where it is being held; and
- iv. who the trainers/speaker is (if available).

f. Ombudsmen must provide evidence of attendance at any outside training and may be required to submit a written report of the training.

g. Recertification will be done on a calendar year basis. Newly certified ombudsmen will have their in-service hours prorated as follows for the first year or partial year:

Month of Certification	Hours of In-service
January - February	15
March - April	12
May - June	9
July - August	6
September - October	3
November - December	0

h. It is the responsibility of each AAA that administers an ombudsman program to monitor at least the following activities to assure eligibility for recertification:

- i. number of visits per month;
- ii. number of hours per month;
- iii. number of cases handled per month; and
- iv. number of in-service hours completed per quarter.

Sandra C. Adams
Director

RULE

Office of the Governor Department of Veterans Affairs

The Louisiana Department of Veterans Affairs hereby amends LAC 4:VII.917 as follows:

Title 4 ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans Affairs

Subchapter B. State Aid Program

§917. Eligibility

A. Application must be made through the Parish Veterans Service Office. In order to be eligible, the following criteria must be met.

B. A member of the Armed Forces of the United States of America must have been killed in action or died in active service from other causes or veterans who died as a result of service in World War I, World War II, the Korean Conflict or Vietnam Era who were in active services, as to World War I, between April 6, 1917 and November 11, 1918, inclusive, and in World War II, between December 7, 1941 and June 30, 1946, inclusive, and as to the Korean Conflict, between June 27, 1950 and January 31, 1955, inclusive, and as to the Vietnam Era between July 1, 1958 and May 7, 1975, inclusive.

G. The surviving spouse has no age limit but must use the benefit within 10 years of the date eligibility is established. Remarriage is a bar to this benefit. Divorce after remarriage does not re-establish eligibility. Program termination for remarried surviving spouse will be the end of the semester in which the marriage takes place.

Cleo C. Yarbrough
Executive Director

RULE

Department of Health and Human Resources Board of Physical Therapy Examiners

The Louisiana State Board of Physical Therapy Examiners hereby repeals all previous rules and regulations dealing with the practice of Physical Therapy. As per R.S. 37:2401 thru 37:2418, amended by Act 208, Regular Session, 1987 Legislature, the board hereby adopts the following rules and regulations governing the licensing of physical therapists to engage in the practice of physical therapy in the state of Louisiana.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIV: Louisiana State Board of Physical
Therapy Examiners
Subpart 1. Licensing and Certification

Chapter 1. Physical Therapists
Subchapter A. General Provisions
§103. Definitions

As used in this Chapter, the following terms and phrases, which have not already been defined in the Practice Act R.S. 37:2401-2418, shall have the meanings specified.

Applicant means a person who has applied to the board for a license or permit to engage in the practice of physical therapy in the state of Louisiana.

Application means a written request directed to and received by the board, upon forms supplied by the board, for a license or permit to practice physical therapy in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Good Moral Character as applied to an applicant, means that the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:2413 for the suspension or revocation of physical therapy licensure: the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license or permit required by this Chapter.

License means the lawful authority of a physical therapist to engage in the practice of physical therapy in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Temporary Permit means the lawful authority of a physical therapist to engage in the practice of physical therapy in the state of Louisiana for a designated, temporary period of time subject to restrictions and conditions specified by the board, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration, and implies no right or entitlement to a license or to renewal of the permit.

State means any state of the United States, the District of Columbia and Puerto Rico.

Subchapter B. Graduates of American Physical Therapy Schools and Colleges
§105. Scope of Subchapter

The rules of this Subchapter govern the licensing of physical therapists who are graduates of physical therapy schools located within any state.

§107. Qualifications for License

A. To be eligible for a license, an applicant shall:

1. be at least 21 years of age;
2. be of good moral character as defined by the previous Subchapter;

3. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Natural-

ization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8C.F.R.)

4. possess a degree or certification in physical therapy duly issued and conferred by a physical therapy school or program approved by the board; and

5. have taken the licensing examination administered by the board and achieved an average specified as the minimum passing score of 75, subject to the exception provided for certain applicants for licensure by reciprocity provided in §121; provided, however, that an applicant who has failed the examination three times, wherever or whenever administered or taken, shall not thereafter be eligible for licensure in Louisiana.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

§ 109. Procedural Requirements

In addition to the substantive qualifications specified in §107, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §123 to §129 of this Chapter, and if applicable, the procedures and requirements for examination administered by the board provided by §131 to §149 of this Chapter.

§111. Approved Physical Therapy Schools

A. Graduation from an approved school is among the qualifications requisite to physical therapy licensure as provided by §107.A.4 (American graduates) and §121 (reciprocity applicants). This qualification will be deemed to be satisfied if the physical therapy school from which the applicant graduated was approved by the board as of the date the applicant's degree was issued.

B. A physical therapy school located in any state which is currently accredited by an accrediting agency recognized by the Council on Post-secondary Accreditation or the United States Commission of Education, or their successors to accredit P.T. programs, shall be concurrently considered approved by the board.

C. A listing of approved schools of physical therapy is set forth in an appendix to this Chapter and shall from time to time be amended and supplemented by the board consistently with the provisions of this Subchapter.

Subchapter C. Graduates of Foreign Physical Therapy Schools

§113. Scope of Subchapter: Definition

A. The rules of this Subchapter specify additional qualifications, requirements and procedures for the licensing of physical therapists who are graduates of foreign physical therapy schools.

B. As used in this Subchapter, the term foreign graduate means graduate of a physical therapy school not located in any state.

§115. Qualifications For License

A. To be eligible for a license, a foreign graduate applicant shall:

1. possess all of the substantive qualifications for license specified by §107 of this Chapter, save for §107.A.4;

2. have successfully completed didactic and clinical courses in physical therapy with such concentration and hours in such courses as the board, upon evaluation of the applicant's transcript by an approved credentials evaluation service, may

deem necessary or sufficient;

3. have completed at least 12 months (with a minimum of 1600 patient care hours) of postgraduate clinical training in Louisiana under the direction and supervision of the physical therapists authorized by the board.

B. The burden of satisfying the board as to the qualifications and eligibility of the foreign graduate applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

§117. Procedural Requirements

In addition to the substantive qualifications specified in §115, to be eligible for a license, a foreign graduate applicant shall satisfy the procedures and requirements for application provided by §123 to §129 of this Chapter; if applicable, the procedures and requirements for examination administered by the board provided in §131 to §149 of this Chapter; and shall provide a certified copy of his physical therapy school transcript reflecting the courses and hours taken and grades achieved.

Subchapter D. Licensure by Reciprocity

§119. Definition

As used in this Subchapter, licensure by reciprocity means the issuance of a license on the basis of licensure by another state pursuant to written examination.

§121. Qualifications for Licensure by Reciprocity

An applicant who possesses and meets all of the qualifications and requirements specified by §107 to §109 of this Chapter, save for successfully passing the examination administered by the board, as otherwise required by §107.A.5, shall nonetheless be eligible for licensing if such applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license issued by another state which accords similar privileges of licensure without examination to Louisiana licensees.

Subchapter E. Application

§123. Purpose and Scope

The rules of this Subchapter govern the procedures and requirements applicable to the application to the board for licensing as a physical therapist in the state of Louisiana.

§125. Application Procedure

A. Application for unrestricted licensing shall be made upon forms supplied by the board.

B. If application is made for licensing on the basis of examination to be administered by the board, completed applications must be received by the board no later than 45 days prior to the examination for which the applicant desires to sit.

C. Application for licensing by reciprocity under Subchapter D may be made at any time.

D. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the secretary-treasurer of the board. Application forms will be mailed by the board within five working days of the board's receipt of request therefor.

E. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board as specified by the secretary, that the applicant possesses the qualifications set forth in this Chapter;

2. two recent photographs of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

F. The board may refuse to consider any application

which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

G. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 5 of these rules.

H. Upon submission of or concurrently with submission of a completed application, an applicant shall, by appointment, make a personal appearance before a member of the board, or its designee, as a condition to the board's consideration of such application.

§127. Additional Requirements for Foreign Graduates

A. Any diploma or other document required to be submitted to the board by a foreign graduate applicant which is not in the English language must be accompanied by a certified translation thereof into English.

B. As a condition to the board's consideration of a foreign graduate application, the board must receive an evaluation of the applicant's transcript from an approved credentials evaluation agency. A foreign graduate applicant shall, accordingly, prior to or concurrently with submission of application to the board, deliver, or cause to be delivered a certified copy of this physical therapy school transcript to a board-approved credentials evaluation agency. The names and addresses of approved agencies may be obtained upon inquiry to the board office.

C. In addition to the procedures and requirements set forth in §125, upon submission of a completed application, a foreign graduate applicant shall, by appointment, make a personal appearance before a member of the board or its designee as a condition to the board's consideration of such application.

§129. Effect of Application

A. The submission of an application for licensing to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license permit, certificate or registration, each person, firm, corporation, clinic, office or institution by whom or with whom the applicant has been employed in the practice of physical therapy, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment, and each professional organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an applicant for licensing to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensing to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports or recommendation pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and con-

sent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporation, associations or governmental entities pursuant to Subsections A or B of this Section to any person, firm, corporation, association or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the physical therapy licensing authority of any state; the Federation of State Boards of Physical Therapy, the Federation of State Medical Boards of the United States, the American Physical Therapy Association and any component state and country or parish medical society; federal, state, county, or parish and municipal health and law enforcement agencies, including the Louisiana Department of Health and Human Resources; and the Armed Services.

Subchapter F. Examination

§131. Designation of Examination

The examination administered by the board pursuant to R.S. 37:2409 is the Professional Examination Service (PES) Examination developed by PES and the American Physical Therapy Association.

§133. Eligibility for Examination

To be eligible for examination by the board, an applicant shall possess all qualifications for licensure prescribed by §107.A provided, however, that an applicant who has completed, or prior to examination will complete, his physical therapy education but who does not yet possess a degree as required by §107.A.4, shall be deemed eligible for examination upon submission to the board of a letter subscribed by the dean of an approved physical therapy school certifying that the applicant is in his last semester or term of, or has completed his academic physical therapy education at such school or college, that the applicant is a candidate for a degree in physical therapy at the next scheduled convocation of such school or college, and specifying the date on which such degree will be awarded.

§135. Dates, Places of Examination

In accordance with uniform testing dates specified by PES, applicants shall be advised of the specific dates, times, and locations of the next scheduled examination upon application to the board and may obtain such information upon inquiry to the office of the secretary.

§137. Administration of Examination

A. The board's licensing examination is administered by a chief proctor, appointed by the board, and several assistant proctors. The chief proctor is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination, to establish and require examinees to observe an appropriate seating arrangement, to provide appropriate instructions for taking the examinations, to fix and signal the time for beginning and ending the several sections of the examination, to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees of the examination process, and to take all necessary and appropriate actions to secure the integrity of the examination and the examination process, including, without limitation, excusing an applicant from the examination or changing an applicant's seating location at any time during the examination.

B. An applicant who appears for examination shall:

1. present to the chief proctor or his designated assistant proctor proof of registration for the examination and positive personal photographic and other identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the chief proctor or any assistant proctor.

§139. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §143 of this Subchapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the chief proctor or an assistant proctor;

2. removing from the examination room or rooms any of the examination materials;

3. reproducing or reconstructing, by copying, duplication, written notes or electronic recording, any portion of the licensing examination;

4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of a future, current, or previously administered licensing examination;

5. communicating in any manner with any other examinee or any other person during the administration of the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed or recorded materials or data of any kind;

8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and in one's name; or

10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

§141. Finding of Subversion

A. When, during the administration of examination, the chief proctor or any assistant proctor has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to process, the chief proctor shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board.

B. In the event of suspected conduct described by §139.B.5 or 6, the subject applicant-examinee shall be permitted to complete the examination to a location precluding such conduct.

C. When the board, upon information provided by the chief proctor, an assistant proctor, an applicant-examinee or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §143 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:955-958 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's findings of fact, its conclusions of law un-

der these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

§143. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct, which subverts or undermines the integrity of the examination process may be permanently disqualified from taking the examination and for physical therapy licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by Subsections A and B of this Section, as to an applicant-examinee found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examining process, the board may:

1. revoke, suspend, or impose probationary conditions on any license or permit issued to such applicant;
2. disqualify the applicant, permanently or for a specified period of time from eligibility for licensure in the state of Louisiana; or
3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

§145. Passing Score

An applicant will be deemed to have successfully passed the examination if he attains a converted score of at least 75.

§147. Restriction, Limitation on Examinations

A. A passing score must be attained by an applicant upon passing of all sections of the examination taken during a single administration of the entire examination.

B. An applicant having failed to attain a passing score upon taking the examination three times shall not thereafter be considered for licensing in Louisiana.

§149. Lost, Stolen, or Destroyed Examinations

A. The submission of an application for examination by the board shall constitute and operate as an acknowledgement and agreement by the applicant that the liability of the board, its members, committees, employees and agents, and the state of Louisiana to the applicant for the loss, theft or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of scores thereon by the Professional Examination Services, other than by intentional act, shall be limited exclusively to the refund of fees paid for examination by the applicant.

B. In the event that all or part of the examination taken by an applicant is lost, stolen, or destroyed prior to reporting of the applicant's scores thereon, such applicant shall be permitted by the board to sit for and take such section of the examination at either of the next two successively scheduled administrations of the examination, and such scores or averages as the applicant attains or such sections shall be averaged with the sections on which scores were previously reported in computing the applicant's score, which shall be accepted by the board.

Subchapter G. Temporary Permits

§151. Temporary Permits in General

A. With respect to applicants who do not meet or possess all of the qualifications and requirements for licensing, the board may, in its discretion, issue such temporary permits as are, in its judgment, necessary or appropriate to its responsibilities under law.

B. A temporary permit entitles the holder to engage in the practice of physical therapy in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to licensing or renewal of the permit after its expiration.

§153. Permit Pending Examination

A. An applicant who possesses all of the qualifications for licensing prescribed by §107.A of this Chapter, save for §107.A.5, and who has applied to the board and completed all requirements for examination shall be issued a temporary permit to be effective pending the applicant's taking of the next scheduled physical therapy licensing examination and the reporting of the applicant's scores thereon to the board.

B. A physical therapist holding a temporary permit issued under this Section may practice physical therapy only under the periodic supervision of the physical therapists authorized by the board, who shall provide such supervision of and instruction to the permit holder as is adequate to ensure the safety and welfare of patients.

C. A temporary permit issued under this Section shall expire, and thereby become null, void and to no effect, on the earliest of any date that:

1. the board gives written notice to the permit holder that he has failed to achieve a passing score on the licensing examination; provided, however, that if, within 10 days of such notice a permittee eligible therefor applies under §155.A hereof, the expiring permit shall be deemed to continue in effect until the board gives notice of its action on the application under §155.A;

2. the board gives written notice to the permit holder pursuant to §141.C that it has probable cause to believe that he has engaged or attempted to engage in conduct which subverted or undermined the integrity of the examination process or;

3. the holder of a permit issued under this Section fails to appear for and take the licensing examination for which he has registered.

§155. Permit Pending Reexamination

A. An applicant who possesses all of the qualifications for licensing prescribed by §107.A of this Chapter, save for §107.A.5, who has once failed the licensing examination administered by the board, and who has applied to the board and completed all requirements for examination at the next scheduled date thereof shall be issued a temporary permit to be effective pending the applicant's taking of the next scheduled physical therapy licensing examination and the reporting of the applicant's scores thereon to the board.

B. A physical therapist holding a temporary permit issued under this Section may practice physical therapy as in §153.B.

C. A temporary permit issued under this Section shall expire and thereby become null, void, and to no effect on the earliest of any date that:

1. the board gives written notice to the permit holder that he has failed to achieve a passing score on his second taking of the licensing examination;

2. the board gives written notice to the permit holder pursuant to §141.C that it has probable cause to believe that he has engaged or attempted to engage in conduct which subverted or undermined the integrity of the examination process; or

3. the holder of a permit issued under this Section fails to appear for and take the licensing examination for which he has registered.

§157. Foreign Graduate Temporary Permit

A. A foreign graduate who possesses all of the qualifications for licensing prescribed by §115 of this Chapter, save for

§115.A.4, shall be issued a temporary permit to engage in supervised clinical physical therapy training under the requirements of §153.B for the purpose of fulfilling in whole or part the requirement of §115.A.4.

B. The holder of a permit issued under this Section shall not engage in the practice of physical therapy in any respect in the state of Louisiana or receive physical therapy education training involving clinical practice other than within the course and scope of the employment or association for which he is approved by the board.

C. A temporary permit issued under this Section shall expire, and thereby become null and void and to no effect, on the date specified by such permit.

Subchapter H. License and Permit Issuance, Termination, Renewal, Reinstatement

§159. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§107-109, §§115-117, or §121 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of physical therapy in the state of Louisiana.

B. A license issued under §107 of this Chapter shall be issued by the board within 30 days following the reporting of the applicant's licensing examination score to the board. A license issued under any other Section of this Chapter shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

§161. Expiration of Licenses and Permits

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall expire, and thereby become null, void, and to no effect, on the last day of the year in which such license or permit was issued.

B. The timely submission of an application for renewal of a license, but not a permit, as provided by §163 of this Chapter, shall operate to continue the expiring license in full force and effect pending issuance of the renewal license.

C. Permits are not subject to renewal.

§163. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 5 of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter on or before the first day of December of each year. Such forms shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

§165. Reinstatement of License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable physicians, dentists, podiatrists, or physical therapists who have knowledge of the former licensee's most recent professional activities, together with the applicable renewal and reinstatement fees.

Subchapter I. Committees

§167. Purpose

The board may appoint committees to assist in the review

of applicants' qualifications for licensure under this Chapter, in administration of the physical therapy licensing examination, in interpretation of board rules and regulations, in the delivery of temporary permits, in liaison with other licensed physical therapists in the state of Louisiana, and other purposes deemed necessary by the board.

Subpart 3. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§301. Scope of Chapter

The rules of this Chapter govern the practice of physical therapy in the state of Louisiana.

§303. Definitions

As used in this Chapter, the following terms and phrases shall have the meanings specified:

Board means the Louisiana State Board of Physical Therapy Examiners

License means the lawful authority of a physical therapist to engage in the practice of physical therapy in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board. A temporary permit is not a license.

Licensed Physical Therapist or P.T. means a physical therapist possessing a license issued by the board under Chapter 1 of these rules.

Person means and includes a natural person, partnership, corporation, association, or other entity having legal existence, unless the context requires a more limited meaning.

Prescription means a request for diagnostic or therapeutic physical therapy procedure or regime subscribed by an individual lawfully authorized to make or give such order or directive.

Referral means a request for physical therapy evaluation or treatment made by an individual lawfully authorized to make such request.

State means any state of the United States, the District of Columbia, and Puerto Rico.

§305. Special Definition: Physical Therapy

A. As used in the definition of "physical therapy" set forth in the Physical Therapy Practice Act, and as used in this Chapter, the following terms shall have the meanings specified:

Passive Manipulation means manipulation or movement of musculature or joints other than by the spontaneous function of the body or active effort on the part of the patient.

Physical Therapy Evaluation means the evaluation of a patient by the use of physical and mental findings, objective tests and measurements, patient history, and their interpretation, to determine musculoskeletal and biomechanical limitations, to determine his suitability for and the potential efficiency of physical therapy and the establishment or modification of treatment goals and a physical therapy treatment program.

Periodic Supervision as related to temporary permit holders shall mean 1) daily direct verbal communication between the supervising physical therapists and permit holders 2) direct patient care observation no less than five hours per forty hour week.

Consultative Services means providing information, advice, or recommendations with respect to physical therapy, but does not include the administration of physical therapy treatment, and therefore, can be performed without referral or prescription.

Supervision as used with respect to physical therapy supportive personnel, means responsible, continuous, on-premises superintendence of procedures, functions and practice by a licensed physical therapist.

Licensed in the State means possessing a current license to practice duly issued by an agency of the state of Louisiana.

B. It is the responsibility of the Louisiana State Board of Physical Therapy Examiners to determine which procedures and functions a physical therapist is competent to perform based upon the physical therapist's education and training, pursuant to the definition of physical therapy in §2401 (1) of the Physical Therapy Practice Act.

C. Minimal Standards of acceptable and prevailing physical therapy practice shall include but not be limited to the APTA (American Physical Therapy Association) *Code of Ethics, Guide for Professional Conduct, and Standards of Practice*.

Subchapter B. Prohibitions

§307. Unauthorized Practice

A. No person shall engage in the practice of physical therapy in the state of Louisiana unless he has in his possession a current license or temporary permit duly issued by the board under Chapter 1 of these rules.

B. No person shall hold himself out to the public, an individual patient, a physician, dentist, or podiatrist, or to any insurer or indemnity company or association or governmental authority as a physical therapist or physiotherapist, nor shall any person directly or indirectly identify or designate himself or itself as a physical therapist, physiotherapist, registered physical therapist, or licensed physical therapist, nor use in connection with his or its name the letters P.T., L.P.T., or R.P.T. or any other words, letters, abbreviations, insignias, or sign tending to indicate or imply that the person constitutes physical therapy, unless such person possesses a current license or temporary permit duly issued by the board under Chapter 1 of these rules.

§309. Exemptions

A. The prohibitions of §307 of this Chapter shall not apply to a person employed by any department, agency, or bureau of the United States Government when acting within the course and scope of such employment.

B. The prohibitions of §307.A of this Chapter shall not prohibit a person from acting under and within the scope of a license issued by an agency of the state of Louisiana.

§311. Prohibitions: Licensed Physical Therapists

A. A licensed physical therapist shall not:

1. administer or implement any physical therapy therapeutic measures, procedures, or regimes except upon the prescription or referral of a physician, dentist, or podiatrist licensed in this state;

2. administer or use roentgen rays, radium, isotopes, or ionizing radiation;

3. perform any procedure or function for which he is by virtue of education or training, not competent to perform.

4. undertake to concurrently supervise more than three unlicensed direct patient care supportive personnel, so that the ratio of supportive personnel to supervising licensed physical therapists is not in excess of three-to-one.

§313. Prohibitions: Temporary Permits

A. An individual holding a temporary permit issued by the board pursuant to §§151-157 of these rules shall not engage in the practice of physical therapy in the state of Louisiana other than within the scope, and consistent with the terms, conditions and restrictions, of such permit.

B. An individual holding temporary permit issued by the board under §§153-155 of these rules shall engage in the practice of physical therapy in the state of Louisiana only under the direction and supervision of a licensed physical therapist, which direction and supervision shall be subject to the restrictions and

requirements prescribed by §317 of this Chapter.

C. An individual holding a temporary permit issued by the board under §157 of these rules shall engage in the practice of physical therapy in the state of Louisiana only under the direction and supervision of, and within the course and scope of employment with, a person licensed to practice physical therapy in this state. Such direction, supervision, and employment shall be subject to the restrictions and requirements prescribed by §319 of this Chapter.

Subchapter C. Supervised Practice

§315. Scope of Chapter

The rules of this Subchapter prescribe certain restrictions on and requirements for supervision of physical therapists holding temporary permits issued by the board. For purposes of this Subchapter, a physical therapist holding temporary permits issued by the board is sometimes referred to as a "permittee."

§317. Qualifications for License

A. A physical therapist holding a temporary permit shall engage in the practice of physical therapy only as an employee of a licensed physical therapist or a partnership of licensed physical therapists, or an employee of an individual or entity employing at least one licensed physical therapist who assumes responsibility for the supervision of such permittee.

B. A licensed physical therapist who undertakes to supervise a physical therapist holding a temporary permit under §153 or §155 of these rules shall:

1. undertake to concurrently supervise not more than two permittees;

2. assign to a permittee only such physical therapy measures, treatments, procedures, and functions as such licensed physical therapist has documented that the permittee, by education and training, is capable of performing safely and effectively;

3. be readily available at all times to provide advice, to the permittee and to the patient during physical therapy treatment given by a permittee; and

4. provide and perform periodic review of the status of every patient administered to by a permittee and make modifications and adjustments in the patient's physical therapy treatment plan, including those portions of the treatment plan assigned to the permittee.

§319. Supervision of Foreign Graduates

A. A foreign graduate holding a temporary permit issued under §157 of these rules shall participate in clinical physical therapy education and training only as an employee of a licensed physical therapist or a partnership of licensed physical therapists, or as an employee of an individual or entity employing at least one licensed physical therapist who assumes responsibility for the education, training, and supervision of such permittee.

B. A licensed physical therapist who undertakes to educate, train, and supervise a foreign graduate holding a temporary permit under §157 of these rules shall be subject to the requirements and prohibitions specified by §317 of this Subchapter, and, in addition, shall:

1. have possessed a license issued by the board under Chapter 1 of these rules for a period of not less than two years prior to undertaking the education, training and supervision of a permittee under this Section;

2. have not been subject, within a period of five years prior to undertaking such responsibility, to administrative action by the board resulting in the suspension or revocation of, or the imposition of probationary conditions on, his physical therapy licensure, and

3. provide the board with written certification, following the conclusion of a foreign graduate's clinical training as required by §115.A.4, that the permittee has accumulated not less than 1600 hours of actual clinical experience in the practice of physical therapy under the supervision of the licensed physical therapist.

Subchapter D. Grounds for Administrative Action

§321. Causes for Administrative Action

The board may refuse to issue a license or temporary permit, or suspend, revoke, or impose probationary conditions and restrictions on the license or temporary permit of a person on a finding of any of the causes provided by Section 2413A of the Physical Therapy Practice Act 37:2413A.

§323. Causes for Action; Definition

A. A person who "attempts to use or attains a license by fraud or misrepresentations," as used in Section 2413A (2) of the Physical Therapy Practice Act, means and includes a person who:

1. makes any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to an application for a license or temporary permit under Chapter 1 of these rules; or

2. makes any representation, or fails to make a representation or engages in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license or permit required by Chapter 1 of these rules.

B. As used in Section 2413A (4) of the Physical Therapy Practice Act, a "felony" means a crime defined as such under the laws of the United States, or of any state. The term "convicted," as applied to a licensed physical therapist, the holder of a temporary permit or an applicant for such license or permit, means that a judgment has been entered against such person by a court of competent jurisdiction on the basis of a finding or verdict of guilty or a plea of guilty or nolo contendere. Such a judgment provides cause for administrative action by the board so long as it has not been reversed by an appellate court of competent jurisdiction and notwithstanding the fact that an appeal or other application for relief from such judgment is pending.

C. As used in Section 2413A (5) of the Physical Therapy Practice Act, "habitually intemperate" means:

1. repeated excessive use or abuse of alcohol; or
 2. the ingestion, self-administration, or other use of legally controlled substances or other medications affecting the central nervous system other than pursuant to and in accordance with a lawful prescription.

D. As used in Section 2413A (5) of the Physical Therapy Practice Act, the phrase "addicted to the use of habit forming drugs" means physiological dependence on any legally controlled substance or any other medication with a potential for inducing physiological or psychological dependence or tolerance.

E. As used in Section 2413A (7) of the Physical Therapy Practice Act, the term "unprofessional conduct" means:

1. departure from, or failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice in the state of Louisiana, regardless of whether actual injury to a patient results therefrom;

2. conviction of any crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or related to the practice of physical therapy;

3. making or participating in any communication, advertisement, or solicitation which is false, fraudulent, deceptive, misleading or unfair, or which contains a false, fraudulent, deceptive, misleading or unfair statement or claim;

4. disclosure to a third-party not involved in a patient's care, without such patient's prior written consent, of information or records relating to the physical therapist- patient relationship, except when such disclosure is otherwise required or permitted by law;

5. initiation or continuation of physical therapy services that are contraindicated or cannot reasonably result in a beneficial outcome; or

6. abuse or exploitation of the physical therapist-patient relationship for the purpose of securing personal compensation, gratification, or benefit unrelated to the provision of physical therapy services.

Subpart 5. Fees

Chapter 5. Fees

§501. General

A. The board may collect the following fees:

License Conversion Fee\$150
Examination Fee165
Reciprocity Fee150
Re-examination Fee75
Re-instatement Fee150
Renewal of License Fee75
Verification of Licensure Fee	
Out-of-State25
Duplicate Wall License Fee30
Duplicate Billfold License Fee10

B. Fees provided in this Section shall be paid to the secretary-treasurer of the board by January 1 of each year.

C. If renewal fees are not paid by February 1 of each year, a license will lapse and a re-instatement fee will be charged.

Becky Legé, R.P.T.
 Acting Chairman

RULE

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

The Department of Health and Human Resources, Office of Family Security, has adopted a 3.7 percent increase in the Aid to Families with Dependent Children (AFDC).

Revised Statute 46:447 of the 1978 Legislature requires that the Office of Family Security establish AFDC and GA Need Standards and that those standards be adjusted each year effective January 1, to reflect the cost of living increase as reported in the Department of Labor's Consumer Price Index.

The current need standards are shown below along with the new AFDC and GA Need Standards based on a 3.7 percent increase in the cost of living:

Size of Household	Non-Urban		Urban-Orleans, Jefferson, East Baton Rouge and St. Bernard	
	Current Need Standard	Increased Need Standard	Current Need Standard	Increased Need Standard
1	\$ 210	\$ 217	\$ 228	\$ 236
2	392	406	438	454
3	556	576	610	632
4	693	718	750	777
5	824	854	886	918

Size of Household	Non-Urban		Urban-Orleans, Jefferson, East Baton Rouge and St. Bernard	
	Current Need Standard	Increased Need Standard	Current Need Standard	Increased Need Standard
6	947	982	1,009	1,046
7	1,070	1,109	1,128	1,169
8	1,189	1,232	1,248	1,294
9	1,302	1,350	1,363	1,413
10	1,419	1,471	1,478	1,532
11	1,544	1,601	1,604	1,663
12	1,670	1,731	1,732	1,796
13	1,807	1,873	1,858	1,926
14	1,939	2,010	1,988	2,061
15	2,072	2,148	2,123	2,201
16	2,204	2,285	2,265	2,348
17	2,340	2,426	2,376	2,463
18	2,472	2,563	2,526	2,619

To determine the need standard amount for households exceeding 18 persons, the need standard amount for the number in excess of 18 shall be added to the need standard amount for 18 persons.

GA NEED STANDARD

This is not applicable since the GA program was discontinued as of 7/1/86.

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

RULE

Department of Public Safety and Corrections Board of Private Security Examiners

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIX. Private Security Examiners

Chapter 1. Organization and General Provisions

§101. Organization and General Provisions

A. The name of the board is the Louisiana State Board of Private Security Examiners, hereinafter referred to as the board.

B. The board is domiciled in Baton Rouge, Louisiana and the office is located at 5235 Florida Boulevard, Suite H, Baton Rouge, Louisiana, 70896-6707.

C. The board shall meet quarterly at a location within the state as designated by the board. A special meeting may be held at such time and place on the call of the chairperson or by request of any four members.

D. The chairperson shall exercise general supervision of the board's affairs, shall preside at all meetings when present, shall appoint any committees within the board and shall perform all other duties pertaining to the office as deemed necessary and appropriate.

E. The vice-chairperson shall perform the duties of the chairperson in his absence or other duties assigned by the chairperson.

F. The executive secretary shall be the chief administrative officer of the board and serves at the pleasure of the board. The executive secretary shall act as its recording and corresponding secretary and shall have custody of the records of the board; cause written minutes of every meeting to be kept and open to inspection to the public; keep the board's seal and affix it to such instruments and matters that require attest and approval of the

board; act as treasurer and receive and deposit all funds; attest all itemized vouchers for payment of expenses of the board; make such reports for payment of expenses of the board; make such reports to the governor and legislature as provided for by law or as requested by same; and keep the records and books of account of the board's financial affairs and any other duties as directed by the board.

G. The executive secretary shall arrange the order of business of all meetings and shall, at least 10 calendar days prior, notify all persons who are to appear at such meeting.

H. Meetings shall be announced and held in accordance with the Administrative Procedure Act commonly referred to as the Public Meeting Law. The executive secretary shall give written notice of all interested members of the public who make a written request for such notice. Said minutes of meetings will be made available upon written request to the board and a monetary fee will be assessed in accordance with Division of Administration rules and regulations governing public records to any individual or company requesting said minutes.

I. The official seal of the board consists of the Louisiana State Seal with a pelican in the middle.

J. Standing committees of the board are:

1. General Committee - duties to include special projects as authorized by the chairperson.

2. Finance Committee - duties include periodic review of the budget; recommendations regarding the establishment of fees charged by the board; recommendations to the board regarding all expenditures requested by the Administrator in excess of \$500.

3. Ethics Committee - duties to include review of allegations and recommendations to the board regarding any alleged misconduct, incompetence or neglect of duty by board members.

K. The chairperson shall appoint board members to committees as needed to fulfill the duties of the board. Majority of the committee members must be present at the time of appointment. Committee Members will be responsible for making recommendations to all board members.

L. The executive secretary may spend up to \$500 for board purchases without prior approval by the board or the chairperson.

M. The board shall consist of nine members appointed by the governor, one member shall be appointed from and shall reside in each of the five public service commission districts established by law. Four members shall be appointed from the state at large.

N. Five members of the board shall constitute a quorum for all purposes, including the granting or issuance of licenses and the rule making and adjudicative functions of the board, of which a majority vote is required for the approval of any decision.

O. Each board member shall have one vote on all motions before the board. Proxy voting is not allowed.

P. Any complaints to the board must be in writing, signed by the individual making said complaint, and include a means by which to contact said individual for investigative purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§103. Definitions

A. *Rule* means any agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the board.

Does not include statements concerning only the internal management or organization and not affecting private rights or procedures.

B. *Applicant* means a person who seeks to be examined for licensure, certification or registration by the board.

C. *Personal Service* when required, may be made by the board mailing the notice certified or registered mail, to the person's last known address.

D. *Licensee* means any person to whom a license is granted in accordance with the provisions of R.S. 37:3270 et seq.

E. *Principal Corporate Officer* means the president, vice-president, treasurer, secretary, or comptroller or any other person who performs functions for the corporation corresponding to those performed by the foregoing officers and who is recorded in the corporation minutes as an officer.

F. *Qualifying Agent* means a responsible officer or executive employee meeting the experience qualifications set forth herein for operating a contract security company.

G. *Registrant* means an individual who holds a valid registration card issued by the board.

H. *Branch Manager* means the individual endowed with the responsibility and liability for a branch office.

I. *Branch Office* means a separate office which is part of a company licensed by the Louisiana State Board of Private Security Examiners.

J. *Armed Security Officer* is an individual whose principal duty is that of an armed security officer, and who at any time wears, carries, possesses, or has access to a firearm in the performance of his duties. An armed security officer also includes:

1. a security officer who may carry a shotgun; and/or
2. a night stick; and/or
3. carry a P.R.C. 24 night stick; and/or
4. any other defensive tactic weapon the board may so

define.

K. *Dog Handler* will be considered an unarmed security officer unless he has access to weapons as defined under armed security officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

Chapter 2. Application and Requirements for Company License

§201. Application and Requirements for Company License

A. Request for information packages must be in writing, and provide the business address, phone number and contact person of the company requesting package.

B. An applicant shall meet the following criteria:

1. be of good moral character;
2. be of legal age (18 years of age or older);
3. be a citizen of the United States;
4. has not been convicted in any jurisdiction of any felony or any crime involving moral turpitude, or illegal use or possession of a dangerous weapon for any of which a full pardon or similar relief has not been granted;
5. has not been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease which has not been restored;
6. applicant must possess a high school diploma (or GED) or equivalent work experience;
7. if in the opinion of the board, the applicant provides inadequate information to allow the board to determine whether

the applicant meets the qualifications for licensing, the applicant shall be required to provide additional information to the board;

8. if the applicant possesses an arrest record as issued by the Louisiana State Police, Bureau of Identification, without the disposition thereof, it shall be incumbent upon the applicant within 30 days, to provide the written disposition of his arrest from the district attorney's office or the criminal clerk of court's office from the judicial district in which the arrest occurred;

9. a corporation seeking a license shall be incorporated under the laws of this state, or shall be duly qualified to do business within this state with a valid certificate of authority issued by the secretary of state and shall have an agent for service of process designated as required by law;

10. an applicant and/or qualifying agent for a security business shall have three years consecutive experience as an employee, manager, or owner of a security company, or three years experience as a law enforcement officer with any federal, state or local agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§203. Application Procedure

A. Application must be made to the board on application forms obtained from the board. If the applicant is an individual, the application shall be subscribed and sworn to by such person. If the applicant is a partnership, the application shall be subscribed and sworn to by each partner. If the applicant is a corporation, it shall be subscribed and sworn to by the qualifying agent. The application shall include the following information:

1. full name and business address of applicant; and if the applicant is a partnership, the name and address of each partner, or if a corporation, the name and address of the qualifying agent;

2. name under which the business is to operate;

3. address of the principal place of business and all branch offices of the applicant within this state, and the corporate headquarters of the business, if outside this state;

4. if the applicant is a corporation, the correct legal name, the state of incorporation, date of incorporation, date qualified to do business in Louisiana, along with a copy of the certificate of good standing; and the names of the two principal officers of the corporation, other than the qualifying agent, and the business address, residence address and the office or position held by each within the company; further, if the qualifying agent is not a resident of Louisiana, the application shall also include the name and the address of the applicant's agent for service of process designated as required by law;

5. statement as to the general nature of the business;

6. if the applicant is to operate as a sole proprietor, he must furnish a copy of his occupational license with the application;

7. as to each individual applicant; or if the applicant is a partnership, as to each partner, or if the applicant is a corporation, as to the qualifying agent and two principal corporate officers, the following information:

a. full name;

b. age;

c. date and place of birth;

d. all residences during the immediate past five years;

e. all employment or occupations engaged in during the immediate past five years;

f. one set of classifiable fingerprints;

g. one recent photograph no larger than 2" × 2";

- h. a general physical description;
- i. letters attesting to good moral character from three reputable individuals, not related by blood or marriage, who have known the applicant(s) or qualifying agent for at least five years;
- j. a list of all convictions and/or pending criminal charges in any jurisdiction for any felony, crime involving moral turpitude, or illegal use of a dangerous weapon, for which a full pardon or similar relief has not been granted;

8. one classifiable set of prints of the applicant, or of the manager, of each officer, partner or shareholder who owns a 25 percent or greater interest;

9. copy of DD214 form, if applicable, showing type of discharge;

10. a certificate of general public liability insurance in an amount of at least \$25,000 with the state of Louisiana named as an additional insured;

11. copy of company's badge and insignia;

12. copy of occupational license from parish where company or branch has operations;

B. Verification of required experience shall be in the form of affidavits from clients, employers, copy of DD214, and other types of information the board may reasonably deem sufficient.

C. An administrative fee of \$25 made payable to the board will be assessed on all checks returned from the bank and deemed non-sufficient funds.

D. An administrative fee of \$5 made payable to the board will be assessed on all fingerprint cards repeatedly rejected by the Department of Public Safety.

E. Company applications must be notarized; however, individual guard applications need not be.

F. 1. Companies wishing to do business in Louisiana must either incorporate here or be duly qualified to do business within this state with a valid certificate of authority issued by the secretary of state, and shall have an agent for service of process designated as required by law.

2. Out-of-state companies wishing to do business in Louisiana, who satisfied all the licensing requirements outlined in this law, may do so without examination if the state under which it holds a valid license has comparable licensing requirements. Verification of satisfactory completion of such other state's examination must be submitted to the board. If the out-of-state company is licensed by a state that does not have licensing requirements comparable to those of Louisiana, then the company must satisfy all the licensing requirements outlined in R.S. 37:3270 et seq.

3. Fees for out-of-state companies are the same as for in-state companies.

G. It shall be unlawful for any individual to make an application to the board as qualifying agent unless that person intends to maintain and maintains that supervisory position on a regular, full-time basis.

H. Licenses issued by the board shall be valid for a one-year period to begin from the date issued on the license.

I. Renewal Provisions

1. A \$200 annual renewal fee must be submitted to the board 30 days prior to the expiration date of license. If there have been any changes in the status of the company, then a new company application must also be submitted, along with a \$20 application fee.

J. All material changes of facts affecting the licensee must be communicated to the board in writing within 10 calendar days. These change of facts include the following:

- 1. change in any of the principal corporate officers or

qualifying agent of a corporation, any partner in a partnership, or individual, noncorporate owners of a 25 percent or greater interest in the applicant;

- 2. termination of a branch manager;
- 3. change of business name;
- 4. change of business address;
- 5. change of business telephone number;
- 6. change of ownership if the business is a sole proprietorship.

K. Any change of the current listed principal officers in a corporation that is a licensee must be accompanied with a copy of the minutes electing the new officers and verification that these changes have been recorded with the secretary of state's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

Chapter 3. Examination

§301. Examination

A. A qualified company at the time of the effective date of R.S. 37:3270 et seq. may be licensed without an examination, upon approval of the board, if the company applied to the board prior to March 31, 1986.

B. The applicant or his branch manager must successfully pass a written examination administered by the board. This examination will test the applicant's knowledge of R.S. 37:3270 et seq., the board's rules and regulations, and his knowledge of the security business.

C. All applicants to qualify for licensure or his branch manager shall be required to pass a written exam. This includes the following applicants:

- 1. reinstating an expired license;
- 2. applying to manage or supervise an original license.
- D. The passing grade of the exam shall be 70 percent.
- E. Fee for the examination is \$50.
- F. Re-examination

A person who has not successfully passed the examination can reapply to retake the examination for a fee of \$20. A person can reapply to take the examination twice within a 12-month period. If, after two attempts, the individual has not successfully passed the examination as required, board action will be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

Chapter 4. Registration of Security Officers

§401. Registration of Security Officers

A. Minimum Qualifications:

- 1. Be of good moral character.
- 2. A security officer must be 18 years or older for unarmed assignments and 21 years or older for armed assignments.
- 3. Citizen of the United States or a resident alien.
- 4. Has not been convicted of a felony or of any crime involving moral turpitude, or illegal use or possession of a dangerous weapon under the laws of the United States, the state of Louisiana, or any state or country for any of which a full pardon or similar relief has not been granted. The board may, however, at its discretion, issue or renew a license or registration card, where the registrant or licensee has maintained a good record and evidenced honest character from the date of expiration of sentence, and for good cause shown.
- 5. Has not been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease which

has not been restored.

6. Does not suffer from habitual drunkenness or from narcotics addiction or dependence.

7. If the applicant possesses an arrest record as issued by the Louisiana State Police, Bureau of Identification, without the disposition thereof, it shall be incumbent upon the applicant within 30 calendar days to provide the written disposition of his arrest from the district attorney's office or the criminal clerk of court's office from the judicial district in which the arrest occurred.

8. If applicant served in the military, a copy of the DD214 form showing type of discharge.

B. Any person hired to perform the functions and duties of a security officer after March 31, 1986, shall apply to the board for a registration card within 20 calendar days after the effective date of employment.

C. Prior to or after issuance of any registration card, the board may require documented evidence verifying the applicant meets all requirements. Failure to provide this information shall be sufficient cause for the board to deny, revoke, suspend, reprimand or demand the surrender of any registration card or license. Falsification of application may result in an administrative fine being assessed on the applicant, not to exceed \$500.

D. Denial of Application Due to Conviction

1. If an applicant has a felony conviction, as evidenced by the background check run by the Louisiana State Police Bureau of Identification, then his employment as a security guard must be terminated immediately. Written notification from the employer advising of termination date must be submitted to the board within 10 calendar days after denial notification from the board.

2. If the background check reveals a misdemeanor conviction that would disqualify the applicant under the provisions of this Chapter, he may continue to work pending the outcome of the appeal process.

3. If the applicant does not appeal the board's denial of his application due to his misdemeanor conviction, then the applicant must be terminated 30 days after receipt of written notice of denial from the board.

4. The board will notify the applicant and his employer if the application is denied and the reason therefor.

E. Procedure for Registration

1. Cover letter must accompany applications being submitted, identifying name of officer and categorizing fees by application, reapplication or transfer, fingerprints, and armed or unarmed status.

2. A security officer must submit an application on a form prescribed by the board, with a current photograph no larger than 2" x 2", and a \$20 application fee payable to the board.

3. One classifiable set of fingerprints of the applicant must accompany the application with a \$10 fee payable to the Department of Public Safety for the processing of the prints.

4. The applicant must sign the application to verify that the information is correct.

5. The licensee or branch manager must review and sign the application to certify that the applicant will be given the required training. The licensee or branch manager must also review the application to insure the application is complete and signed by the guard.

6. The employer shall give the applicant a copy of the application and/or the portion of the application indicating temporary registration and shall retain a copy in the individual's personnel file in the employer's office.

7. The applicant's copy of the application and/or the portion of the application indicating temporary registration shall be carried by the applicant when he is within the scope of his employment until such time as he receives his permanent guard registration card from the board. Temporary or permanent registration card shall be exhibited upon the request of any representative of the board or law enforcement officer.

8. A registration card will not be issued until an investigation determines that the applicant meets the requirements to become registered and certification has been received by the board that the required training has been successfully completed.

9. Special Events

a. Armed security officer must be registered with the board and have received all board training.

b. Unarmed security officer may work seven days prior to registering with the board.

c. Company must provide a list of security officers who worked a special event within five days after event.

F. Registration Cards

1. Shall be in the form of a pocket card and shall be issued to the applicant through the licensee with whom he is employed.

2. The registration card shall bear the name of the employer, current photograph of the applicant, and any other identifying data required by the board. The registration card must be signed by the applicant.

3. Each registrant shall carry his registration card whenever such individual is performing the duties of a security guard and it shall be exhibited upon request by a representative of the board or any law enforcement agency.

G. The registrant shall be required to advise the board in writing within ten calendar days of any change in his status, eligibility, or permanent address.

H. Registration cards issued by the board are valid for a two-year period, to begin from the date issued on the registration card.

I. A licensee shall notify the board in writing within 10 calendar days after the death, termination, or loss of eligibility of any of its employees who are registrants.

J. The holder of a registration card whose employment is terminated, or loses eligibility, must surrender the card to his/her employer within three working days (excluding Saturday, Sunday and holidays).

K. The licensee shall return the registration card of any applicant who ceases employment with the licensee to the board within 10 working days (excluding Saturday, Sunday and holidays).

L. Registration cards are the property of the Louisiana State Board of Private Security Examiners and must be surrendered to the board upon request.

M. Registrant will be held responsible for the loss or mutilation of registration card and will be assessed a \$10 fee by the board for reissuance of the card. Registrant must submit to the board in writing his name, social security number, registration card number and circumstance surrounding loss or mutilation of registration card.

N. Transfers

1. In the event a registrant terminates employment with one licensee and is reemployed within 30 calendar days as a security guard with another licensee, then the licensee must submit a transfer application with a \$10 transfer fee made payable to the board.

2. After receipt of the transfer application and fee, the

board shall then issue a new registration card reflecting the name of the new employer.

O. In the event that a registrant terminates employment and is rehired within 30 calendar days, a letter requesting reinstatement must be submitted with a \$10 reapplication fee made payable to the board. The reinstatement letter must provide the security officer's name, social security number, date of termination, and date of reinstatement.

P. An armed guard's registration card issued by the board shall suffice for the firearm permit requirement in R.S. 37:3285. Nothing in this law shall be construed as permitting the carrying of concealed weapons.

Q. Should a security officer desire to change his status from unarmed to armed, or vice versa, a \$10 fee made payable to the board will be assessed for reissuing the registration card.

R. The board will inform the company 30-45 days prior to the expiration date of the registration card of each security officer in their employ. A renewal application and \$20 fee made payable to the board must be submitted to the board within 30 days prior to the expiration date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

Chapter 5. Training
§501. Training

A. All security officers employed after the effective date of R.S. 37:3270 et seq. shall complete eight hours of classroom training within 30 calendar days of employment by a certified trainer and training program approved by the board. Within six months of employment, each security officer shall receive an additional eight hours of classroom training to be conducted by a certified trainer. Upon completion of each of the eight-hour segments of the prescribed training, an examination will be given to each security officer. All scores of such examinations must be recorded and submitted to the board on its prescribed form, within 10 calendar days of said training.

B. Armed security officers, in addition to the training requirements outlined in Rule 5.1, shall complete eight hours of firearms training and range qualifications prior to armed work assignment.

C. Basic Training Course for All Security Officers

- 1. First eight hours of training should contain:
 - a. Orientation and Introduction to the Law and the Board Rules and Regulations 2 hours
 - b. Legal Powers and Limitations 2 hours
 - c. First Aid Training/Emergency Procedures . . . 2 hours
 - d. General Duties/Field Notes/Report Writing . 2 hours
- TOTAL: 8 hours

2. Second eight hours of training are to be submitted to the board for approval by the board certified instructor.

D. Firearms Proficiency Course

1. An armed security officer must pass the course outlined as follows and all scores must be recorded on a form prescribed by the board. The weapon trained with must be the same weapon he/she carries while on his/her security work assignment.

2. Revolver/Handgun (.357/.38 caliber), 4" Barrel minimum, loaded with .38 caliber ammunition only.

3. 60 percent required to qualify, 150 points out of 250.

		Seconds
4. 4 Yards	12 Shots, unsupported, point-shooting, without sights	45

	6 Shots, strong hand only	
	6 Shots, weak hand only	
5. 7 Yards	2 Shots, unsupported	5
	Two handed - with sights (Indexing these rounds)	
	12 Shots, unsupported	
	Two-handed with sights	60
	12 Shots, unsupported	
	Two-handed with sights	60
6. 15 Yards	12 Shots, barricade-strong hand	
	Two-handed, with sights	60
	6 Shots, standing right barricade	
	6 Shots, standing left barricade	

7. NRA B-27 or TQ-10 Target is required.

8. Shotgun

a. 5 shots buckshot (9 pellets only), 5 shots slugs. 60 percent required to qualify out of 100 points possible on a NRA B-27 target. (B-29 target may be used for 25 yards at 15 yards)

b. Training in use of shotgun is to be taught only if the security officer is required to carry a shotgun in the performance of his duties.

c. Scoring: Two points for each hit (pellets or slugs) within the 7 ring. One point for each hit outside the 7 ring, in the black.

d. At the end of each stage of firing, all firearms will have their actions open, safeties on, with barrels up and muzzle above head.

e. Buckshot Stage

	Seconds
i. Fifteen yards two rounds, standing from the shoulder	10
ii. Twenty-five yards three rounds total, from the shoulder; one round standing, two rounds kneeling. Time includes loading time with the shotgun starting from the "cruiser-safe" position. (Chamber empty, magazine loaded, safety on).	20

f. Slug Stage

	Seconds
i. Twenty-five yards two rounds total, from the shoulder; one round kneeling, one round standing	15
ii. Twenty-five yards three rounds total, from the shoulder; one round standing, two rounds kneeling. Starting from the "cruiser-safe" position.	20

E. Certified Trainers and Programs

All training shall be administered by a certified trainer and the board shall approve all training programs.

F. Qualifications for certification as an instructor for unarmed guards are:

1. approval by the Board of Private Security Examiners; and

2. qualifications of an applicant as listed in R.S. 37:3270 A(1)-(6); and

3. minimum of three years supervisory experience with a contract security company, proprietary security organization, or with any federal, state, parochial, or municipal law enforcement agency; or

4. a degree in Administration of Justice or the equivalent thereof from an accredited college or university; or

- 5. P.O.S.T. certified instructor; or
- 6. teaching certificate issued by the state of Louisiana, Department of Education, or the equivalent thereof, and one year supervisory experience in the security field.

G. Qualifications for Certification as an Instructor of Armed Guards

- 1. Approval by the Board of Private Security Examiners; and
- 2. Qualifications of an applicant as required by R.S. 37:3276 A(1) - (6); and
- 3. Minimum of three years supervisory experience with a contract security company; proprietary security organization; or with any federal, state, parochial, or municipal law enforcement agency; or
- 4. A degree in Administration of Justice from an accredited college or university or the equivalent thereof; or
- 5. P.O.S.T. certified instructors certificate; or
- 6. Teaching certificate issued by state of Louisiana, Department of Education or the equivalent thereof; and one year supervisory experience in the security industry, and
- 7. N.R.A. Security or Police Firearm Instructor Certificate, showing successfully completed training; or the equivalent thereof.

H. Verification of the security guard's completion of training from a board-certified instructor must be submitted on a form prescribed by the board. Security guard is accepted by passing an examination determined by instructor and successfully achieving a 60 percent passing score.

I. Fees/Trainers

- 1. a. License and renewal fee for certified inhouse and outside firearms instructor \$75
- b. License and renewal fee for certified inhouse and outside classroom instructor \$50
- c. Application fee \$20
- d. Transfer fee from one company to another \$20
- e. Transfer fee from inhouse to outside (Classroom) . . . °
- f. Transfer fee from inhouse to outside (Firearms) °

° Not to exceed total cost of outside licensing fees
 2. Certification for trainers are renewable every two years from the date the certificate is issued.

3. An inhouse instructor must submit a new trainer application plus a \$20 application fee to transfer license from one company to another.

4. An inhouse instructor who desires to become an outside instructor must submit a new trainer application, \$20 application fee, transfer licensing fee, and complete course of study.

J. Guest Instructors

1. Classroom and firearms instructors must be certified by the board; however, qualified guest instructors are not required to be certified but must be supervised by the certified instructor, with the exception of firearms instruction, which shall be conducted by a board certified firearms instructor.

K. Liability of Certifying Trainer

1. A certified trainer may be held accountable for improperly certifying security guards, and upon showing of cause, his/her certification as a trainer may be suspended or revoked.

L. Board-certified instructors are required to carry \$25,000 general liability insurance with the state of Louisiana named as additional insured and provide the board with a Certificate of Insurance as proof of coverage. Inhouse instructors who are covered under his/her employer's company insurance policy in this amount shall be required to send a letter to that effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

Chapter 6. Hearing Provisions

§601. Hearing Provisions

A. The board may impose the following disciplinary action for good cause shown:

- 1. refuse to issue a license or registration card;
- 2. suspend a license or registration card;
- 3. revoke a license or registration card;
- 4. impose a probationary period or other restrictions of the license or registration card;
- 5. assess civil penalties in the form of fines and assessment of all costs of the board's proceedings.

B. A minimum of four concurring votes (or the majority of the board members present, whichever is greater) are necessary to suspend or revoke a license, or to impose costs or fines in excess of \$500.

C. Cease and Desist Order

1. In addition to criminal penalties and administrative disciplinary sanctions, the board is empowered to issue an order to any person or company engaged in any act, activity or practice that constitutes a violation of R.S. 37:3270 et seq. or the rules and regulations.

2. A Cease and Desist Order will direct the person or company to whom the order is issued to cease the prohibited activity within three working days from the date of service and shall be signed by the executive secretary or chairman of the board.

3. If a person or company fails to comply with this order, the board may seek a temporary restraining order, preliminary injunction or permanent injunction from a court of competent jurisdiction and venue.

D. Contested Proceedings

1. Before revoking or suspending a license or registration card, or imposing fines or costs over \$500, the board will afford the applicant an opportunity for a hearing after reasonable notice of not less than 15 days, except in a case of failure to maintain the required insurance.

2. All requests for a hearing must be submitted in writing to the board.

3. All hearings will be conducted in accordance with the Administrative Procedure Act contained in R.S. 49:950-970.

4. All final decisions of the board may be appealed to the District Court of East Baton Rouge Parish within 30 days after the final decision has been rendered.

E. Show Cause Orders

1. The board, either on its own motion or upon receipt of sufficient written complaint, may, after notice to all parties, cite any person operating under its jurisdiction to appear before it in a public hearing and require him or it to show cause why its license should not be revoked, suspended or other available action to be taken.

2. No revocation, suspension or costs and fines in excess of \$500 is effective unless, prior to the institution of the board's proceeding, the board gives notice to the licensee of the facts or conduct alleged to warrant the intended action and the licensee is given an opportunity to show compliance.

3. Such notice shall include

- a. statement of the legal authority and jurisdiction under which the hearing is to be held;
- b. reference to the particular section of the statutes and rules involved;

c. statement of time, place and nature of the hearings, and;

d. short and plain statement of the matters asserted.

F. Final Decision and Orders

1. All final decisions and orders of the agency shall be in writing and signed by the executive secretary or general counsel.

2. A final decision shall include findings of fact and conclusions of law separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts.

3. Parties shall be notified personally or by certified mail of any decision.

G. Any hearing to be conducted by the board may be held at a regular board meeting or at a special board meeting convened for that purpose.

H. In any hearing held for the purpose of affording any applicant the opportunity to present his qualifications to hold a license or registration card, the burden of bringing forth the evidence shall be on the applicant. In hearings held for the purpose of determining whether any person's license or registration card should be suspended or revoked, the burden of bringing forth evidence shall be on the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

Chapter 7. Investigations, Records and Unlawful Acts

§701. Grounds for Non-Issuance, Suspension, Restrictions

A. The board may refuse to issue or may suspend, revoke, or impose probationary or other restrictions on any license issued under this rule for good cause which shall include the following:

1. conviction of a felony or entry of a plea of guilty or nolo contendere to a felony charge under the laws of the U.S., this state, or any other state;

2. deceit or perjury in obtaining any certificate or license issued under R.S.37:3270 et seq. or under these rules and regulations;

3. providing false testimony before the board;

4. efforts to deceive or defraud the public;

5. professional incompetency or gross negligence;

6. rendering, submitting, subscribing, or verifying false, deceptive, misleading, or unfounded opinions or reports;

7. the refusal of the licensing authority of another state to issue or renew a license or registration card, or the revocation or suspension of, or other restriction imposed on a license or registration card issued by such licensing authority;

8. aiding or abetting a person to evade the provisions of this Chapter or knowingly combining or conspiring with an unlicensed person, or acting as an agent, partner, associate, or otherwise, of an unlicensed person with intent to evade the provisions of R.S. 37:3270 et seq. and the rules and regulations;

9. violation of any provision of R.S. 37:3270 et seq. and rules and regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§703. Administrative Fines

A. Administrative fines, for licensees in non-compliance, may be assessed by the executive secretary in lieu of, but not limited to, bringing before the board at a hearing. Fines are described as follows:

1. Failure to submit guard application, fingerprint card, and necessary fees within 20 days from date of hire as described

in §401.B of these rules Not to Exceed \$25

2. Failure to resubmit fingerprint cards in a timely manner after two written requests by the board Not to Exceed \$25

3. Failure to notify the board in writing of guards who have been terminated past 10-day period as prescribed by R.S. 37:3283 F(3) Not to Exceed \$25

4. Failure to submit information as requested by the board when a deadline date is given Not to Exceed \$25

If information is not submitted within 14 days after deadline date, amount of fine accumulates at a daily rate, up to \$500.

5. Failure to submit company renewal fee prior to expiration date Not to Exceed \$25/day up to \$500

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§705. Licensee's Suitability and Business Relationships

A. The board may deny application, suspend, revoke or restrict a licensee upon the vote of four concurring members when it finds that the licensee or business entity is unsuitable for the purpose of its license or endangers the health, safety or welfare of the citizens of this state.

B. In determining the suitability of an applicant or licensee or other persons or business entities, the board may consider the following:

1. general character, including honesty and integrity;

2. financial security and stability, competency, and business experience in the capacity of the relationship;

3. refusal to provide records, information, equipment, or access to premises to any authorized representative of the board or any law enforcement officers when such access is reasonably necessary to insure compliance with the law and rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§707. Employee Records Required to be Kept and Subject to Inspection

A. The following is required to be kept and subject to such inspection as may reasonably be required by an authorized representative of the board during reasonable business hours:

1. current residence of all registrants;

2. copy of the application submitted to the board;

3. documented information on the training required and provided;

4. copy of registration card issued by the board;

5. date of termination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§709. Licensee Inspection

A licensee shall make available to any authorized representative of the board for inspection such employee records and other information as the board may reasonably require to insure compliance with the Private Security Regulatory and Licensing Law and with these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§711. Investigation

The board may investigate the actions of any licensee. The investigation shall be conducted for the purposes of determining whether a licensee is in compliance with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§713. Training Records

It is the responsibility of licensees and certified trainers to

keep records of tests and firearms certification on training for each registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§715. Unlawful Act

No person shall engage in the business of providing security guard services except in accordance with this Chapter and the rules and regulations adopted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§717. Violations by Registrants

A. The following shall be considered a violation of this Act:

1. performing security duties for any other person other than the employer under whom the registration was issued or exempted by R.S. 37:3270 et seq.;
2. failure to affix guard's signature and photograph to the card issued;
3. failure to timely surrender guard registration card when required to do so;
4. possession or use of any registration card which has been improperly altered;
5. defacing of registration card;
6. allowing improper use of registration card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

Chapter 8. Insignias, Markings, Restrictions

§801. Restrictions

A. With the exception of sworn peace officers in police uniforms, no individual, while performing the duties of a security guard, shall wear or display any badge, patch, or insignia that contains the word "police" or which would lead a reasonable man to believe that he is a sworn peace officer.

B. The board will decide on an individual basis whether circumstances are such as would lead a reasonable man to believe that the badge, patch, insignia or other markings were those of a sworn peace officer.

C. A copy of such badges and insignias of the licensee shall be submitted for approval to the board at the time of filing for initial and renewable license application.

D. No person, while performing any security services, shall have or utilize any vehicle or equipment displaying the words "police" or "law enforcement," or have any sign, shield, marking or insignia that would lead a reasonable man to believe that such vehicle or equipment is from a public law enforcement agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§803. Unlawful Act

A licensee shall not display any red or blue emergency lights on any vehicle while in the performance of duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

Chapter 9. Rule Making Process; Public Information

§901. Procedure to Follow

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§903. Amending Sections

These rules and regulations may be added to, changed, altered or amended by a favorable vote of five members of the

board, when said additions, changes, alterations or amendments have been presented by a member of the board, at a regular or called meeting of same. They shall be received and all members notified 30 days in advance of the proposed additions, changes, alterations or amendments before final action can be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§905. Request for Copies

Copies of these rules and regulations will be made available upon written request to the board and a monetary fee will be assessed in accordance with the Division of Administration's rules governing public records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

§907. Public Comments

A. Upon adoption of these rules and regulations the board if requested to do so by an interested person within 30 days after adoption, shall issue a concise statement of the principal reasons for and against its adoption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

Cynthia Fonté
Executive Secretary

RULE

**Department of Public Safety and Corrections
Office of State Police
Hazardous Substances Control Section**

Title 33

ENVIRONMENTAL QUALITY

**Part V. Hazardous Materials and Hazardous Waste
Subpart 2. Department of Public Safety and
Corrections - Hazardous Materials**

**Chapter 101. Hazardous Materials Information Development, Preparedness and Response Act
§10101. Declaration of Authority, Background, Policy and Purpose**

A. The following rules are hereby promulgated pursuant to the authority provided in R.S. 30:1150.61-1150.79 regarding the Hazardous Materials Information Development, Preparedness and Response Act.

B. This Act was originally passed as Act 435 of the 1985 Legislative Session to implement the state's first "Right-to-Know" law. In 1986 the United States Congress passed the Superfund Amendments and Reauthorization Act (SARA). Title III of SARA required, among other things, that the governor of each state appoint an Emergency Response Commission to implement a hazardous materials information system regarding community Right-to-Know.

C. SARA had certain mandates which were in conflict with Louisiana's existing Right-to-Know law and vice versa. Therefore, the existing Right-to-Know law was amended by Act 347 of the 1987 Legislative Session in an attempt to, where possible, parallel the state and federal laws.

D. In some cases, compliance with SARA will automatically attain compliance with Louisiana's Right-to-Know law and, accordingly, compliance with Louisiana's Right-to-Know law will often attain compliance with SARA. It is recommended that both

laws be read to best determine how to attain compliance.

E. It should be noted that the Louisiana Emergency Response Commission, operating within the Department of Public Safety and Corrections, is the entity to which both SARA and state Right-to-Know responses are made. Once again, this should insure compliance with federal and state law by consolidating the reporting procedures, definitions, deadlines, etc.

F. As the chemical lists and threshold (inventory) quantities (TQ) change in the federal legislation, these rules may also be amended until permanent thresholds are reached. This would necessitate subsequent rule changes in 1988, 1989 and 1990.

G. It is the purpose of these rules to implement the informational system conceived of in the state's original Right-to-Know law by providing the citizens of this state, as well as emergency response personnel, with data on hazardous material storage necessary to make educated and responsible decisions.

§10103. Scope

A. Any facility which manufactures, uses, or stores any of the substances subject to these rules, in excess of the threshold (inventory) quantity (TQ) established for each substance, or any facility or transportation vehicle (including pipelines and maritime vessels) which releases any of these substances in a reportable quantity (RQ) as detailed hereafter, is subject to these rules.

§10105. Definitions

A. The following terms as used in this Chapter shall have the following meanings:

1. *Commission* means the Louisiana Emergency Response Commission appointed by the governor to implement the mandates of the Superfund Amendments and Reauthorization Act passed by the U.S. Congress in 1986. This commission is created within the Department of Public Safety and Corrections, Public Safety Services.

2. *Department* means the Department of Public Safety and Corrections.

3. *Deputy secretary* means the deputy secretary for Public Safety Services in the Department of Public Safety and Corrections.

4. *Environment* includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

5. *Facility* means the physical premises used by the owner or operator at which the hazardous materials are manufactured, used, or stored.

6. *Hazardous material* means any substance deemed a hazardous material and included on the most recent list developed as a result of the Comprehensive Environmental Response Compensation Liability Act or certain substances included on the most recent United States Department of Transportation Hazardous Material List. "Hazardous material" also means any substance designated by the deputy secretary in these rules or, on recommendation by the commission, which meets criteria established for adding other materials to the list.

7. *Local governing authority* means the police jury, parish council, the mayor's office of the city of New Orleans or the city-parish of East Baton Rouge or other primary governmental body of a parish.

8. *Local Emergency Planning Committee* means the committee in each parish designated by the Emergency Response Commission to coordinate Right-to-Know activities.

9. *Owner or operator* means any person, partnership, or corporation in the state including, unless otherwise stated, the state and local government, or any of its agencies, authorities, departments, bureaus, or instrumentalities engaged in business

or research operations which use, manufacture, release or store a hazardous material at a facility.

10. *Release* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous substance where such release has the potential to cause physical injury if it escapes beyond the site of the facility.

11. *Repository* means the local entity designated pursuant to R.S. 30:1150.68 to house and record hazardous material information received from the department, regulated facilities, and other state agencies for public dissemination and inspection.

12. *Significant change* means that the amount of hazardous material used or stored at a facility has exceeded the maximum reported under this Chapter to the department or when the material is no longer present at the facility.

13. *Inventory form* means the reporting form adopted by the department and completed by owners and operators which contains certain requested information on hazardous materials and which is used in developing the information system mandated by this Chapter.

14. *Small business* means a single business establishment employing a maximum of nine employees and showing a maximum of \$2 million in average annual gross receipts. (If a business employs more than nine persons, it cannot claim this exemption regardless of the amount of average annual gross receipts. Also, if a business employs nine or less persons, but grosses over \$2 million in average annual gross receipts, it cannot claim small business exemption).

15. *Trade secret* means any formula, plan, pattern, process, production data, information, or compilation of information, whether or not it is patented:

a. which is known only to the owner or operator and certain other individuals involved in the owner's or operator's enterprise, is used in the fabrication and production of an article of trade or service, and gives the owner possessing it a competitive advantage over businesses who do not possess it, or

b. the secrecy of which is certified by an appropriate official of the federal government as necessary for national defense purposes.

§10107. Alternate Means of Compliance

A. The following non-exclusive list of facilities qualifies for alternate means of compliance due to the nature of their respective operations as well as the fact that emergency response personnel can predict that hazardous materials should be present at these facilities. This list includes:

1. oil and gas exploration and production facilities;
2. pipelines carrying any of the materials regulated by these rules;
3. hydrocarbon storage facilities other than at petroleum refineries;
4. gasoline service stations;
5. electrical transmission and distribution facilities;
6. transportation-related facilities.

B. The rules that follow in Subsection C are applicable to the state law. The reporting procedures outlined are the result of detailed consultation with the various regulated entities. These alternate compliance procedures will satisfy the mandates of the state's Right-to-Know law, but if any federal regulations require a more stringent reporting procedure, the federal procedure should be followed.

C. Reporting Procedures (Alternate Means of Compli-

ance)

1. Oil and Gas Production (wells already drilled)

a. These sites must be reported by field name, indicating the total number of wells in each field. This will be done on a separate inventory form for each field. The location of each field must be as detailed as possible with at least the parish given for each field.

b. The inventory form can be filled out showing a generic list of materials commonly associated with an oil/gas production facility.

c. Well heads not located in a reported field (wildcats) are each to be listed on a separate inventory form.

d. All releases must be reported immediately to the local Emergency Planning Committee and the Emergency Response Commission.

2. Oil and Gas Exploration

a. If the exploration site is in an already reported field, a list of materials used in exploration will be shown on the inventory form for that field. This could be in the form of a generic list.

b. Wildcat drilling operations (not in previously reported fields) anticipated to exceed 30 days will require written notification to the Emergency Response Commission via the Office of State Police-Hazardous Substance Control Section, as well as written notification to the local Emergency Planning Committee in the respective parish, detailing the location and anticipated duration of the drilling operation. This notification will contain the names and telephone numbers of facility personnel to contact in case of an emergency. A generic list of materials associated with exploration will be furnished to the local Emergency Planning Committee in the parish in which the drilling occurs.

c. All releases must be reported immediately to the local Emergency Planning Committee and the Emergency Response Commission.

3. Pipelines (not within the fenceline of a facility)

a. One inventory form will be submitted for each parish. The form must list all pipelines operated by a facility in that parish, and must show the name of the material carried, the diameter, and the maximum operating pressure for each listed pipeline.

b. A map for each parish indicating the location of each pipeline and transmission and control station must be provided by each company to the Emergency Response Commission and the local Emergency Planning Committee. If the pipeline is shown on the most current Dewitt map, no map submission is required. Facilities are responsible for updating any changes in location of pipelines and/or product.

c. All releases must be reported immediately to the local Emergency Planning Committee and the Emergency Response Commission.

d. Natural gas distribution lines are exempt from this reporting. Distribution lines are those pipes that carry the gas to individual buildings, residences, etc.

e. Crude oil gathering lines are exempt from reporting under these rules. Gathering lines are those pipelines eight inches or less in nominal diameter that transport petroleum from a production facility to the main pipeline.

4. Facilities Reporting to Other State Agencies

a. Facilities reporting substances to the Department of Agriculture under the Louisiana Pesticide law or the Louisiana Structural Pest Control law are exempt from the inventory reporting requirements contained herein (for those substances only). All releases must be reported immediately to the local Emergency Planning Committee and the Emergency Response Commission.

mission.

b. Facilities reporting to the Liquefied Petroleum Gas Commission must complete an inventory form and comply with all other applicable parts of these rules with the exception that no reporting fees are required.

c. Anyone reporting to the Department of Environmental Quality under the Underground Storage Tank Regulations, promulgated pursuant to R.S. 30:1051 et seq., is exempt from reporting those same tanks under these rules. Any other regulated substances must be reported as applicable to these rules. All releases must be reported immediately to the local Emergency Planning Committee and the Emergency Response Commission.

5. Electrical Transmission and Distribution Facilities

a. All oil-filled electrical equipment (transformers, capacitors, etc.) which has been identified as containing Polychlorinated Biphenyls (PCB's) in concentrations exceeding 50 parts per million (ppm) shall be reported on the inventory form, by the reporting deadline, as applicable in these rules.

b. Any release from, or accident involving, oil-filled electrical equipment which has been identified as containing PCB's in concentrations exceeding 50 ppm will be reported immediately as applicable in the release reporting procedures detailed in these rules.

c. All fixed-site facilities where transformers are stored, cleaned or processed, or where other materials regulated in the rules are used or stored, will be reported on individual inventory forms for each separate site.

d. Fixed-site oil-filled electrical equipment that is associated with a facility must meet all area marking requirements under EPA and OSHA regulations.

6. Transportation-Related Industries

a. Regulated materials which are under active shipping papers (i.e., have not reached their final destination) are exempt from inventory reporting requirements contained in these rules.

b. Transportation-related industries, including but not limited to trucking companies, railroads, maritime wharves and warehouses (including Foreign Trade Zones), that store, incidental to transportation and still under active shipping papers, any of the materials regulated by these rules will, on an annual basis (by March 1 of each year), send to the Emergency Response Commission, the local Emergency Planning Committee, and the local fire department in their respective areas a letter detailing the emergency contact personnel and emergency telephone numbers. The letter will also indicate where shipping papers can be found by emergency response personnel.

c. Shipping documents must be readily accessible to emergency response personnel and proximate to the regulated material.

d. All regulated materials must be properly marked and placarded according to applicable U.S. Department of Transportation regulations as listed in 49 CFR Part 172 Subparts B, C, D, E, and F.

e. All releases must be reported immediately to the local Emergency Planning Committee and the Emergency Response Commission.

§10109. Reportable Materials

A. All substances listed in Appendix A of these rules, which is the list of "Extremely Hazardous Substances" published by the Environmental Protection Agency, must be reported, for the prior calendar year beginning January 1 and ending December 31, on an inventory form by March 1, 1988, and annually thereafter, if the material meets or exceeds the threshold (inven-

tory) quantity (TQ) as listed in these rules. The threshold (inventory) quantity (TQ) for each of these materials is indicated (in pounds) in the column to the right of the material marked "Threshold Inventory Quantity (TQ)." Where a material shows a threshold (inventory) quantity (TQ) listed as 10/500 or 100/500 etc., it is reportable as follows: The lower number is the reportable amount if the material is a solid existing in powdered form and has a particle size less than 100 microns; or is handled in solution or in molten form; or meets the criteria for a National Fire Protection Association (NFPA) rating of 2, 3, or 4 for reactivity. If the solid does not meet any of these criteria, it is subject to the higher inventory reporting threshold.

1. All releases of substances in Appendix A must be reported if the release meets or exceeds the (release) reportable quantity (RQ) shown for that substance and has the potential for off-site impact. However, facilities must report immediately any on-site incidents involving injury (requiring hospitalization) or any death resulting from an accident involving any of the materials regulated under these rules. This must be reported to the Louisiana State Police Hazardous Substance Control Section using the Hazardous Materials Hotline 504/925-6595.

B. All substances listed in Appendix B of these rules, which is a list extracted from 49 CFR Part 172.101, must be reported, for the prior calendar year beginning January 1 and ending December 31, on an inventory form by March 1, 1988, and annually thereafter, if the material is present at a facility in threshold (inventory) quantities (TQ) of 500 pounds or more. If an appropriate technical name cannot be found for a material, but the material is known to fall into a regulated hazard class e.g., flammable liquid, poison, corrosive etc., as defined in 49 CFR Parts 100 to 177, then that material will be reported on the inventory form as flammable liquid n.o.s. or poison n.o.s. etc., as appropriate. The letters n.o.s. stand for "not otherwise specified." However, the technical name should always be listed when available rather than "n.o.s."

The threshold (inventory) quantity (TQ) for compressed gases, however, is different and they must be reported as follows:

1. All compressed gas, flammable compressed gas, non-liquefied compressed gas, liquefied compressed gas, compressed gas in solution, cryogenic liquid, and refrigerant or dispersant gas, as defined in 49 CFR Part 173.300, must be reported on the annual inventory if threshold (inventory) quantities (TQ) of 1,000 pounds or more, including the weight of the cylinders (or any other package), are present at a facility.

2. Any of the gases described above, when contained within a system in a facility or in pipelines, must also be reported. To convert the gas or liquid volume to weight in pounds, multiply by an appropriate density factor.

C. All hazardous waste as defined in R.S. 30:1133 must be reported, for the prior calendar year beginning January 1 and ending December 31, on an inventory form annually by March 1, 1988 if that material is present at a facility in threshold (inventory) quantities (TQ) of 500 pounds or more. The material must be reported using the Environmental Protection Agency hazardous waste number and description as listed in Chapter 24 of the Louisiana Hazardous Waste Regulations promulgated pursuant to R.S. 30:1061 et seq.

D. Any material for which a facility must prepare or maintain a Material Safety Data Sheet (MSDS) under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (as listed in 29 CFR 1910.1200) must be reported, for the prior calendar year beginning January 1 and

ending December 31, on an inventory form annually beginning March 1, 1988, if the material is present at a facility in threshold (inventory) quantities (TQ) of 500 pounds or more.

E. All releases of materials contained in Appendix B of these rules, or regulated by Subsection D above, and all releases of any hazardous waste regulated by these rules, will be reported immediately if said release has the potential to cause physical injury and escapes beyond the site of the facility. In other words, a release of any of these materials or a regulated hazardous waste, must have potential off-site impact to be reportable. However, facilities must report immediately any on-site incidents involving injury (requiring hospitalization) or any death resulting from an accident involving any of the materials regulated under these rules. This must be reported to the Louisiana State Police Hazardous Substance Control Section using the Hazardous Materials Hotline 504/925-6595.

F. NOTE: Certain materials contained in Appendix B of these rules or covered under Subsection D above may also be regulated under the inventory reporting provision of Section 312 of Title III of the Superfund Amendments and Reauthorization Act. Incorporated in the Federal reporting provisions, as of this writing, is a declining threshold for reporting quantities of these materials such that, for the first and second year inventory quantities which meet or exceed 10,000 pounds are reportable, with the reportable threshold for the third and subsequent years being 500 pounds. In this area, the Louisiana law and Federal law differ. Materials contained in Appendix B and Subsection D above of these rules are reportable on the inventory form beginning March 1, 1988 in the 500 pound quantity (1,000 pounds compressed gas) as detailed above.

G. Mixtures will be reported as follows:

If the weight of a regulated material or materials within a mixture meets or exceeds the threshold (inventory) quantity (TQ) for that material(s) then the material(s) must be reported individually. If the weight of the regulated material(s) cannot be determined, then the weight of the entire mixture will be reported, with the technical name of the regulated components of the mixture written in parentheses immediately following the name of the mixture on the inventory form, and a Material Safety Data Sheet (MSDS) for the mixture must be submitted along with the inventory form. If a regulated material(s) comprises less than 1 percent of the mixture, then the mixture would not be reportable unless the mixture itself falls into any of the eight hazard categories as listed in 49 CFR Parts 100 to 177 and exceeds the 500 pound TQ.

§10111. Release Reporting

A. All releases as defined in these rules must be reported immediately. They must be reported to:

1. Emergency Response Commission via Office of State Police, Hazardous Substances Control Section using the Hazardous Materials Hotline phone number 504/925-6595 (collect calls accepted 24 hours a day).

2. Local Emergency Planning Committee with jurisdiction over a facility.

B. Facilities must also make follow-up written reports for all releases. This report must be made to the local Emergency Planning Committee with jurisdiction over a facility and to the Emergency Response Commission via the Department of Public Safety and Corrections, Office of State Police, Hazardous Substance Control Section, Box 66614, Baton Rouge, LA 70896.

C. As per the authority granted in R.S. 30:1150.76, the Office of State Police - Hazardous Substance Control Section will coordinate emergency response activities arising as a result of

releases of material regulated by these rules.

§10113. Exemptions

A. Certain persons and substances have been exempted from the inventory reporting requirements contained in these rules. There are no exemptions granted for release reporting of regulated substances.

B. Facilities exempted from reporting certain substances under state law are cautioned to examine Title III of the Superfund Amendments and Reauthorization Act (SARA) because not all of these exemptions are applicable to federal law. If a substance is not exempt under federal law, in most cases it is reportable to the Emergency Response Commission (via Department of Public Safety and Corrections), the local Emergency Planning Committee (one in each parish), and possibly the local fire department having jurisdiction over a facility.

C. The following persons are exempt from the inventory reporting requirements of these rules:

1. residential users;
2. owners or operators of hotels, motels, restaurants, apartment buildings or office buildings which use only small quantities of air conditioning and cleaning supplies;
3. owners or operators of retail sales establishments which sell consumer products or food stuffs packaged for distribution to, and intended for use by, the general public and who have storage areas or storerooms in such establishments which are separated from shelf or display areas, but maintained within the physical confines of such retail establishments;
4. owners or operators of cosmetology salons, and barber salons.

D. The following materials are exempt from the inventory reporting requirements of these rules:

1. hazardous materials under the direct control of the military forces of the United States;
2. any food, food additive, color additive, drug or cosmetic regulated by the U.S. Food and Drug Administration;
3. any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use;
4. any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public. (A 55-gallon drum is not considered a consumer type package.);
5. any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual. This would not include substances stored in a separate warehouse or storage room;
6. any substance to the extent it is used in routine agricultural operations or is fertilizer held for sale by a retailer to the ultimate customer. This would include materials reported to the Louisiana Department of Agriculture under the Louisiana Pesticide law or the Louisiana Structural Pest Control law. Such data shall be transmitted to the department as provided in R.S. 30:1150.67;
7. underground fuel storage tanks which have been properly reported to the Department of Environmental Quality pursuant to R.S. 30:1051 et seq.;
8. motor fuel contained in above ground storage tanks of 1100 gallons or less capacity used for non-commercial purposes to operate farm equipment, heating or air conditioning systems, or auxiliary electrical generating equipment;

9. compressed gases in cylinders while in use in hospitals or nursing homes. This would not include the bulk storage of these cylinders in separate storage rooms or warehouses;

10. compressed air used in distribution systems within a facility. This would not include any bulk storage of air cylinders;

11. compressed air in tanks when those tanks are part of an air compression system of the type used in gasoline service stations, garages, etc.;

12. hazardous materials already reported to the Nuclear Regulatory Commission.

§10115. Hazard Communication

A. The Department of Public Safety and Corrections adopts the Hazard Communication Standard as detailed in Title 29 CFR Parts 1910.1200 et seq. as part of these rules. All facilities subject to these rules must also comply with the Hazard Communication Standard as specified in the Occupational Safety and Health Administration (OSHA) rules listed in Title 29 CFR Parts 1910.1200 et seq. These standards refer to marking of the workplace, communicating to employees of any known hazardous properties of various substances, etc.

§10117. Failure to Report; Penalties

A. Failure to report any regulated material, as provided in these rules and under the authority of R.S. 30:1150.61 et seq., may result in the levying of Civil Penalties up to \$25,000 for each regulated hazardous material not reported and/or for each non-reported release of a regulated hazardous material.

B. The burden of proof shall be on the owner or operator of a facility to show that the failure to report a hazardous material or release was inadvertent.

C. Small businesses, as defined by these rules, which have any omission from the inventory reporting forms will receive, in first offense, a warning rather than a Civil Penalty.

§10119. Inventory Form

The "Tier Two - Emergency and Hazardous Chemical Inventory" form is the official inventory form for compliance with R.S. 32:1150.61 et seq.- Louisiana's Right-to-Know law, and is the form selected by the Louisiana Emergency Response Commission for inventory reporting as required under Section 312 of SARA. When filling out the Tier Two inventory form follow all applicable instructions printed on the form. The form has been slightly modified in Louisiana to accommodate certain materials regulated in this state that may not be regulated under federal law. Specifically, there are additional blocks on the form in which to place up to a four digit code assigned to certain materials found in Appendix B of these rules. If no Chemical Abstract Service (CAS) Number is listed for a material, then the four digit code should be used. The inventory form can be obtained upon request to the Department of Public Safety and Corrections, Office of State Police, Hazardous Substance Control Section, Box 66614, Baton Rouge, LA 70896.

§10121. Fees

A. One of the major objectives of this law is to determine the specific locations of certain hazardous substances. Therefore, it is necessary that a separate inventory form be submitted for each reporting facility. An example would be that XYZ Dry-cleaners would submit a separate inventory form for each of its 10 stores located throughout Baton Rouge. Another example is that a very large facility would submit only one inventory form covering the entire facility if the material is stored on contiguous property.

B. For each inventory form submitted (except as otherwise exempted), a fee of \$50 must accompany it. If a facility

must file more than one inventory form, there is a ceiling of \$300 per parish and \$1,000 statewide i.e., if a facility has eight sites in one parish it would submit only \$300. If these eight sites were in two parishes, with five in one and three in another, then a \$400 fee would be due, up to the maximum of \$1,000.

C. Small businesses, as defined in these rules, would submit a reduced fee of \$15 for each facility. The same ceilings on fees as detailed above would apply.

D. State, municipal, and local governmental entities who must report under these rules are exempt from paying any fee.

E. All checks must be made payable to the Department of Public Safety and Corrections and submitted as applicable with the inventory form(s). If an inventory form is received without proper payment it cannot be processed, and compliance with the law is not attained.

§10123. Trade Secret Claims; procedures; resolution

A. If an owner or operator believes that disclosing information as required by these rules will reveal a trade secret, he may file a trade secret claim with the Department of Public Safety and Corrections at the time of submission of the inventory form(s). He shall first disclose the identity of the material which is the subject of the trade secret claim to the department. In filing such a claim, the owner or operator shall include for each claim -

1. a statement in writing that reporting the information requested would reveal a trade secret, stating that concealment is justified, and the reasons for such concealment;

2. all appropriate information regarding procedures, including emergency treatment procedures for responding to leaks, spills, and any other exposure to hazardous materials. This information shall also be supplied to designated local Emergency Planning Committees;

3. a written statement identifying whether or not the material(s) sought to be protected as part of a trade secret claim appears on the most recent list of the National Toxicology Program Report on Carcinogens or most recent monograph of the International Agency for Research on Cancer.

B. Based on the claim submitted pursuant to Subsection A of this Section, the deputy secretary (of the department) shall make an initial determination of the validity of the trade secret claim. If he initially determines that such claim is not valid, he shall set a hearing date to receive information regarding the trade secret claim. The hearing shall be set not more than 60 days from the department's receipt of the owner or operator's claim, and shall be conducted with due regard for confidentiality. The owner or operator shall have the burden of showing the deputy secretary that the trade secret claim is valid. In determining such validity, the deputy secretary shall consider materials provided by the owner or operator regarding -

1. the extent to which the information, for which the trade secret claim is made, is known outside his business;

2. the extent of measures he has taken to guard the secrecy of the information;

3. the value of the information to him or his competitor;

4. the amount of effort or money he has expended in developing the information;

5. the ease or difficulty with which the secret could become known by analytical techniques, laboratory procedures, reverse engineering, or other means.

C. If the deputy secretary determines that the trade secret claim is not valid, he shall notify the owner or operator in writing by certified mail. The owner or operator shall have 15 working days, not to exceed 20 consecutive days, to file an appeal with a

court of appropriate jurisdiction. The owner or operator shall notify the department within five days, in writing, that an appeal has been filed. If no appeal is filed, the owner or operator shall immediately provide the department with an inventory form containing the disputed information. If the owner or operator timely notifies the department of filing an appeal, the department shall withhold from public disclosure any information for which the trade secret claim was made. The deputy secretary's determination shall be considered the final agency review, and he shall inform the owner or operator of his action by certified mail.

D. The subject of any trade secret claim pending or approved shall be treated as confidential information. The department shall protect confidentiality of trade secrets, provide separate secure storage areas for such information, and shall institute disciplinary procedures, including the firing of department employees who, negligently or intentionally, divulge such information.

E. At such time as the subject of an approved trade secret claim ceases to be a trade secret, the owner or operator shall have the obligation to report such information to the deputy secretary. If an ingredient, or combination of ingredients, in a mixture is granted a trade secret exemption and that ingredient or combination of ingredients is a hazardous substance regulated under this Part, the manufacturer shall have the responsibility of notifying the purchaser of the product that the mixture contains a material regulated under this Part and the mixture shall be reported by brand name.

F. The provisions of this Section shall not apply to the disclosure of any information required pursuant to any other provision of law or rules adopted pursuant thereto.

G. The department may provide trade secret information to a physician under an agreement of confidentiality, when such information is needed for medical diagnosis or treatment of a person exposed to a hazardous material.

H. Nothing in this Section shall be so construed as to interfere with the duty of a physician to report actual or potential public health problems to the proper authorities.

I. If a trade secret claim is filed for a material which is also regulated under Title III of the Superfund Amendments and Reauthorization Act (SARA) then the Trade Secret requirements as listed in Section 322 of Title III of SARA would preempt and take precedence over the trade secret provisions of the state law and rules.

Kendall J. Fellon
Lieutenant

RULE

Department of Revenue and Taxation Tax Commission

Title 61 REVENUE AND TAXATION Part V. Ad Valorem Taxation

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Tax Commission adopted amendments to the following sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations: Definitions (LAC 61:V.301), Real Property Rules

and Regulations (LAC 61:V.303), Forms (LAC 61:V.307), Loan and Finance Companies (LAC 61:V.503), Watercraft (LAC 61:V.703), Oil and Gas Properties (LAC 61:V.903 and 909), Pipelines (LAC 61:V.1301), Aircraft (LAC 61:V.1503), Inventory (LAC 61:V.1705), Leasehold Improvements (LAC 61:V.1901), Leased Equipment (LAC 61:V.2101), General Business Assets (LAC 61:V.2503), Use Value (LAC 61:V.2705, 2707 and 2717), Public Service Properties (LAC 61:V.2901) and Appeals and Public Exposure of Assessments (LAC 61:V.3101).

These amendments are available in the office of the Louisiana Tax Commission, 923 Executive Park Avenue, Suite 12, Baton Rouge, Louisiana, between the hours of 8 a.m. and 4 p.m.

Jamar W. Adcock
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

The State Civil Service Commission will hold a public hearing on Wednesday, January 6, 1988 to consider amending Civil Service Rules 8.27(c) and 17.17(c). The public hearing will begin at 8 a.m. in the Twelfth Floor Commission Hearing Room, Republic Tower Building, 5700 Florida Boulevard, Baton Rouge, Louisiana.

Consideration will be given to the following:

PROPOSAL - AMEND RULE 8.27(c)

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

- (a) . . .
- 1. . . .
- 2. . . .
- 3. . . .
- 4. . . .
- 5. . . .
- 6. . . .
- 8. . . .
- (b) . . .

(c) An employee who enters the state classified service in accordance with this rule shall have his pay established in accordance with Rule 6.17.

- (d) . . .
- 1. . . .
- 2. . . .
- 3. . . .
- (e) . . .

- (f) . . .
- (g) . . .
- (h) . . .
- (i) . . .
- 1. . . .
- 2. . . .
- 3. . . .
- (j) . . .
- 1. . . .
- 2. . . .

EXPLANATION

The entire Chapter 6 concerning the new pay rules was revised effective June 29, 1987. Employees who enter the classified service under the provisions of Rule 8.27 will have their pay established in accordance with Rule 6.17, instead of the previous Rule 6.28, which no longer exists.

PROPOSAL - AMEND RULE 17.17(c)

17.17 Displacement Rights of Permanent Employees

Only permanent employees have the right to displace other employees. An employee does not have displacement rights to a higher position than the one he occupies at the time of the layoff action which affects him. Subject to the following provisions, a permanent employee who is affected by a layoff has the right to displace another employee who occupies the same, an equivalent, or lower job in the same career field, organizational unit and applicable commuting area affected by his layoff, subject to the provisions of Rules 17.16 and 17.16.1. An employee who displaces another, must meet the job qualifications for the position involved. A part-time permanent employee shall not displace a full-time permanent employee.

(a) A permanent employee affected by a layoff shall have the right to displace, subject to Subsection (c) of this rule, permanent employees with less state service. Regardless of length of state service, a permanent employee who meets the job qualifications shall always have the right to displace a provisional or probationary employee.

(b) Within each affected job, employees with the least total state service shall be displaced first.

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

1. All offers shall be made with a minimum reduction in pay range.
2. Preference in making offers shall be given by length of state service with first preference being given to those affected employees with the most state service.
3. The first offer shall be to a position in the same job, if such a position is available.
4. The second offer shall be to a position in an equivalent job in the employee's career field, if such a position is available.
5. The third offer shall be to a position in the next lower available job in the career field, or to the highest job outside the career field, as long as it is higher than the offer in the career field, occupied by a probationary or provisional employee, if such positions are available in the applicable commuting area and organizational unit. The employee may choose if two offers exist under this provision.
6. Offers to displaced employees may cease when the first available offer listed above is accepted or declined by that employee.
7. If the employee declines or if no offers are available, the employee(s) is subject to layoff.
8. Subject to the provisions of this rule, vacancies may be

offered in lieu of occupied positions.

(d) Employees whose official domicile is "statewide" shall, for the purpose of offers of displacement, be considered domiciled in the parish in which they officially reside.

(e) Employees who live and work outside of Louisiana shall, for the purpose of offers of displacement, be considered domiciled either in the parish in which they have an official residence, or at their department's central headquarters. The employee must use the parish of his official residence, if he has one.

EXPLANATION

The proposed amendments to Rule 17.17(c) are clarifications of the existing rule.

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

Herbert L. Sumrall
Director

NOTICE OF INTENT
Department of Commerce
Office of Commerce and Industry
Finance Division

Louisiana Continuing Care Provider Registration
and Disclosure Act

The Finance Division of the Office of Commerce and Industry advertises its intent to adopt rules for administering the Continuing Care Retirement Community Registration Program, to be effective November 1, 1987. These rules may be viewed in their entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

The rules will implement R.S. 51:2171 through 2188 and R.S. 36:109(P) authorizing the secretary of The Department of Commerce to establish rules for the Continuing Care Provider Registration and Disclosure Act as established by Act 483 of the 1987 Legislative Session.

Interested persons may submit written comments on the proposed rules to Robert Paul Adams, Director, Finance Section, Department of Commerce, Box 94185, Baton Rouge, LA 70804-9185.

Kay Jackson
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Continuing Care Provider
Registration and Disclosure Act

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
A staff of two will be required to administrate this new program. Existing staff will be utilized. No additional expenditures are expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Act 483 provides for an administrative fee of \$1000 per each application for registration submitted. Presently, only

two facilities have been identified in the state which will require registration.

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

The rules implementing Act 483 require registration and full disclosure of financial and management capabilities of a Continuing Care Retirement Community provider in order to protect the financial interests of residents and prospective residents. These substantial regulations will impose additional operating costs on the industry, possibly resulting in increased residents' costs.

Escrow provisions impose restrictions, on use of entrance fees received from residents. The restrictions preclude investor/providers from using entrance fee payments for operating purposes, and may necessitate more operating capital be provided by the investor, from other sources.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The restrictions, contained in the Act and rules referred to above, may cause prospective developers to invest in other alternatives to retirement care. There is no information available on any competition with the Continuing Care Retirement Community concept.

Kay Jackson
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT
Board of Elementary and Secondary Education

Salary of the Appointed
Superintendent of Education

In accordance with R.S. 49:950, et seq., The Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved a maximum salary of \$100,000 plus fringe benefits for the appointed state superintendent of education.

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

Dr. James Meza, Jr.
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Salary of the Appointed
Superintendent of Education

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will cost the State of Louisiana (at a maximum) an additional \$43,933. The present salary of the state superintendent of education is \$60,169. Increasing the maximum salary of the appointed superintendent to \$100,000 will require an additional allocation of \$39,831 in the line item

category of salaries and an additional \$4,102 in the line item category of related benefits for retirement system payments. This additional cost should not be incurred prior to July 1, 1988.

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

There will be no impact on revenue collections of state or local governmental units.

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

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Dr. James Meza, Jr.
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin -
Addition of Standard 1.009.02

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 an amendment to Bulletin 741, page 7, to add Standard 1.009.02 as follows:

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

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

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

Dr. James Meza, Jr.
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Elementary and Secondary Ed. Comm. Motion 20

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

This change would cost about \$100 for printing and postage to notify the schools and school systems.

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

There will be no effect on revenue collections of state or local governmental units.

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

The rule change allows equal access by all Louisiana colleges and universities to schools for the purpose of college recruitment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 - Reword Standard 1.055.00
and add Standards 1.055.03 and 1.055.04

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 recommendations of the Parish Superintendents' Advisory Council as amendments to Bulletin 741, submitted pursuant to Act 504 of 1987.

Reword Standard 1.055.00 to read:

Students who have attained the age of seven years shall attend a public or private day school or participate in an approved home study program until they reach the age of 17 years. However, a student between the ages of 16 and 17 years may withdraw from school prior to graduation with the written consent of his parent, tutor, or legal guardian.

Reword Standard 1.055.03 to read:

Each school system shall develop and implement a system whereby a student's parent, tutor, or legal guardian is given written notification when that student has been excessively absent from school and at intervals thereafter. This notification shall be provided each semester for those high schools operating on a semester basis.

Add Standard 1.055.03 to read:

A student is considered to be excessively absent for the purpose of notification when he has missed five days of school for those schools operating on a semester basis or 10 days of school for those schools not operating on a semester basis.

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

Dr. James Meza, Jr.
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amend Bulletin 741 - Reword Standard 1.055.00, and add Standards 1.055.03 and 1.005.04

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

This change will cost \$50 to print the adopted changes. Additionally, it is estimated that a potential 6,000 students would be required to stay in school until reaching their seventeenth birthday (i.e. Act 504 1987 legislative session). If these 6,000 students do not receive a waiver from their parents to drop out of school officially, the impact on the MFP could escalate to as much as \$4,700,000.

LEA's may incur minor costs and possible increase in work load due to the requirement of having to notify parents when students are excessively absent.

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

If additional funding is budgeted in MFP due to the retention of students, then the funds will ultimately be distributed to the school systems in their monthly allotments out of the MFP.

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

It is expected that students that stay in school longer will receive a better education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

With students being retained for an additional year, it is expected that additional teachers will be needed in the school systems.

Joseph F. Kyle
Deputy Superintendent
Management & Finance

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Reword Standards 2.113.05 and
2.116.07 of Bulletin 741

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 recommendation of the State Department of Education to reword Standards 2.113.05 and 2.113.07 of Bulletin 741 and to add a procedural block concerning temporary certificates as follows:

Reword Standard 2.113.05

Teachers in summer school shall hold a standard "A", "B" or "C" teaching certificate in the subject area or areas teaching. Reword Standard 2.116.07

Teachers in summer school shall hold a standard "A", "B" or "C" teaching certificate in the subject area or areas teaching. Add as a procedural block under each Standard:

Teachers employed on a "T" certificate for the regular school year may be employed during the summer school year provided the superintendent certifies that no regularly certified teacher was available for the summer session.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m. February 8, 1988 at the following address: State Board of Elementary and

Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Dr. James Meza, Jr.
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amend Bulletin 741 and Standards 2.113.05 and 2.113.07

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

This change will cost \$100 to print the adopted revision to Bulletin 741.

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

There will be no effect on revenue collections.

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

Bulletin 741 would be updated to include revisions adopted concerning summer school faculty members credentials.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Teachers in summer school shall hold a standard "A", "B", or "C" teaching certificate in the subject area or areas of teaching.

Teachers for summer school may not be hired on temporary employment or emergency employment permits.

Joseph F. Kyle
Deputy Superintendent
Management & Finance

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Residence of Special Schools Superintendents

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 Board Policy and Procedure Manual by adding the following policy:

3.02.03.c — The board special school superintendent, in exercising overall management of his/her school, shall be required to reside on the grounds of the school in the on-site residence provided.

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

Dr. James Meza, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Residence requirement for BESE
Special School Superintendents**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Currently, there is no requirement for superintendents of special schools to pay rent for the housing facilities provided for them. Implementation of this rule will reduce revenue collections of the state by \$3,500 per year. Presently special school superintendents are paying rent for housing provided on the grounds of the individual schools. By adoption of this rule requiring superintendents to reside on the grounds of the school, rent for housing facilities presently provided will no longer be paid to the state as was provided in Act 17 of 1986, Section 8(D).
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The economic benefits to be realized by implementation of this rule will accrue to the superintendents of the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired and the Louisiana Special Education Center who will no longer pay rent for housing provided them on their respective campuses.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Dr. James Meza, Jr.
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Tuition Exemption Continuing Education Program for Teachers

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 proposed regulations for the Tuition Exemption Continuing Education Program for Teachers as presented by the Department of Education and amended by the board as follows:

Tuition Exemption Continuing Education Program for Teachers

I. Introduction

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

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

II. Application Forms

A. Distribution

- The Louisiana Department of Education prepares and distributes the forms.
- Participating parish or city school systems obtain forms from the Department of Education.
- Participating schools obtain forms from either the parish or city school board office.
- Participating applicants obtain forms from either the employing school or school board office. Regulations are to be posted at the employing school.

B. Completion

- Read the directions on the application.
- Complete Section I and sign.
- Have employing authority complete Section II and sign.
- Have university official complete Section III and sign.
- Present application to appropriate university officials at the time of official university registration. (You must inquire at the Registrar's office at the university in which you plan to enroll as to the specific university official to whom this form is submitted.)

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

III. Deadlines

A. Applications and Courses

1. Regular Semester or Quarter

- Application forms must be submitted to the specific university official no later than the fifth official university class day.
- Courses to be reimbursed shall be courses for credit that begin and end within a regular semester or quarter session and that meet the time requirements established by the Board of Trustees for the state's colleges and universities.

2. Summer Session

- Application forms must be submitted to the specific university official no later than the fifth official university class day.
- Courses to be reimbursed shall be courses for credit that begin and end within a regular summer or quarter session and that meet the time requirements established by the Board of Trustees for the state's colleges and universities.

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

B. Unsuccessfully Completed Courses

- 1. By the end of the semester, applicants who do not successfully complete the course for which tuition exemption was applied must pay the tuition as determined by the college or university in which the applicant was enrolled.
- 2. Applicants who drop, withdraw, or resign from courses will be billed the tuition amount as determined by the university by the Louisiana Department of Education.

IV. Eligibility

A. Participants

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

B. Colleges and Universities

Tuition reimbursement shall be limited to the following

Louisiana colleges and universities:

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

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

C. Courses

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

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

3. Course load for applicants who are on approved sabbatical leave for educational purposes shall not exceed three course offerings for each fall/spring session that the applicant is on such leave.

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

D. Tuition

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

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

3. Public and nonpublic teachers are eligible to receive a waiver for tuition (registration fee and building use fee per semester hour). The amount paid by the state for any tuition imposed by or applicable to the nonpublic college shall be equal to but not greater than the highest tuition charged by a public college or university in this state.

V. Ineligibility

Reimbursement shall not be paid on the following:

1. courses that are not successfully completed by the end of the semester or quarter;
2. non-credit courses or audit courses;
3. non-instructional credit courses such as examination courses;
4. courses in theology or divinity;
5. correspondence courses;
6. dropped, incomplete, or failed courses;
7. courses for which application forms were submitted to the university past the deadline date;
8. courses for which application forms were incomplete or inaccurate;
9. courses for applicants who are declared ineligible to participate;

10. courses for which funds are not appropriated;

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

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

13. courses taken by independent study;

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

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

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

VI. Appeals

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

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

VII. Colleges and University Procedures

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

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

Dr. James Meza, Jr.
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Tuition Exemption Guidelines

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

At this time the potential increase in costs cannot be determined, as this rule change will mean that a greater number of courses will be eligible for tuition exemption purposes. The result could be a greater cost factor to the Tuition Exemption Program. This rule change will also mean a greater number of applicants could also increase the cost to the state. The total number of applicants is unknown until registration and billing are complete at each institution.

The Tuition Exemption Program has been appropriated \$2 million in 8(g) funds for 1987-88. However, total program costs, which may be increased by this proposed rule, cannot be projected.

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

Payments to public and nonpublic higher education insti-

tutions could rise if teachers were able to select courses from a wider selection and if funds are made available for this purpose.

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

Public and nonpublic teachers are eligible to receive a waiver for tuition (registration fee and building use fee per semester hour.) The amount paid by the state for any tuition imposed by or applicable to the nonpublic college shall be equal to but not greater than the highest tuition charged by a public college or university in this state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since the program is not open to pre-service or potential teachers, there is no estimated effect on competition or employment.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Risk Management**

In accordance with the provisions of R.S. 23:1203.1 and R.S. 39:1527, et seq., notice of intent is hereby given to adopt a fee schedule for medical, surgical and hospital services due in self-insured worker's compensation cases.

**Title 37
INSURANCE**

Part I. Risk Management

Subpart 3. Worker's Compensation Fee Schedule

Chapter 33. Fee Schedule

Effective April 1, 1988, the Office of Risk Management, Division of Administration, proposes to adopt a fee schedule for medical, surgical and hospital services due under the Louisiana Worker's Compensation Act, R.S. 23:1021-1361, and which arise in state self-insured worker's compensation cases.

The schedule will be available on January 15, 1988 for review at the Office of Risk Management.

Interested persons may submit written comments until February 20, 1988, to J. Douglas Higley, State Risk Director, Box 94095, Baton Rouge, LA 70804-9095. He is the person responsible for responding to inquiries regarding this proposed action.

J. Douglas Higley
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Medical Fee Schedule**

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

Savings realized by implementing a fee schedule are projected to be \$3,642,500 annually.

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

Implementing a fee schedule would have no direct effect on revenue collections.

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

It would reduce income of medical providers with charges greater than the mean. Conversely it would reduce workers' compensation rates for all state agencies, boards and commissions, and universities (LSU not included).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition would be minimal. The effect on employment should be relatively small with the 3.6 million annual reduction in medical payment spread across the entire medical profession of Louisiana.

J. Douglas Higley
State Risk Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Board of Examiners of Professional Counselors**

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LX. Louisiana Licensed Professional
Counselors Board of Examiners**

Notice is hereby given that the Louisiana Licensed Professional Counselors Board of Examiners in accordance with the Administrative Procedure Act R.S. 49:950 et seq. intends to adopt rules and regulations implementing Act 892 of the 1987 Legislature, Louisiana Revised Statutes, Chapter 13 of Title 37, Sections 37:1101-1115. All portions of 37:1101-1115 are contained in the rules and regulations.

These rules and regulations may be viewed between the hours of 8 a.m. and 4:30 p.m. at the offices of the State Register, Fifth Floor, Capitol Annex Building, 900 Riverside North, and the Center for Displaced Homemakers, 7393 Florida Boulevard, Bon Marché Mall. Comments and objections should be addressed, in writing, to Dr. Thomas W. Hosie, Board Chairman, 123 Peabody Hall, Louisiana State University, Baton Rouge, LA 70803, no later than December 30, 1987. A public hearing on the rules and regulations will be held on January 7, 1988 at 11 a.m. in 225 Peabody Hall on the Louisiana State University Campus, Baton Rouge, LA. Interested persons will be afforded an opportunity to state their views at the hearing.

Thomas W. Hosie, Ph.D.
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Board Rules and Regulations**

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

There will be no costs (savings) to other state or local governmental units as a result of these proposed rules and regulations. The Professional Counselors Board of Examiners operates by collecting fees from granting licenses. Implementation costs for the board for year one is \$14,300; for year two, \$22,500; and for year three, \$23,800.

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

There is no effect on revenue collections of other state or local governmental units. The board estimates collection of \$35,000 for year one; \$45,000 for year two; and \$37,750 for year three.

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

The only individuals affected by costs will be those licensed. Fees charged:

Application, license, and seal	\$100
Written examination	50
Renewal of license	50
Reissuance of lost or destroyed license	50

There are no costs and/or economic benefits which will directly affect other persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There could be a marginal effect on competition in the private sector. Exempt private sector agencies and individuals are listed in R.S. 37:1113(1)-(10). All public sector employees are exempt from R.S. 37:1101-1115.

Thomas W. Hosie
Chairman

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by R.S. 37:1270B(1) and (6), intends to amend its existing rule governing the qualifications for the licensure of physicians and surgeons by reciprocity with other states. LAC 46:XLV.1133. Under the existing rule, an otherwise eligible applicant who was awarded a doctor of medicine degree on or after January 1, 1978 is required to take and successfully pass the clinical competence portion of the Federation Licensing Examination (FLEX) as a condition to Louisiana licensure. The proposed amendment would change such cutoff date to January 1, 1987. The proposed rule, as amended, is set forth hereinafter.

§1133. Qualification for Licensure by Reciprocity

A. An applicant who possesses and meets all of the qualifications and requirements specified by §§1107 to 1109 of this Chapter, save for successfully passing the FLEX, as otherwise required by §1107.A.5, shall nonetheless be eligible for licensing if such applicant:

1. possesses, as of the time the application is filed and at

the time the board passes upon such application, a current, unrestricted license issued by another state;

2. was awarded a doctor of medicine degree on or before December 31, 1986; and

3. has, within 10 years prior to the date of application, taken and successfully passed a written medical competence examination acceptable to the board.

B. An applicant who possesses all of the qualifications for licensure by reciprocity specified by the preceding Subsection, save for A.2 (*i.e.*, an applicant who was awarded a doctor of medicine degree on or after January 1, 1987) shall nonetheless be considered eligible for licensure by reciprocity upon taking and successfully passing Day III of the FLEX (or the clinical competence portion of its successor examination) as administered by and under the auspices of the board.

C. An applicant who possesses all of the qualifications for licensure by reciprocity specified by Subsection A of this Section, save for A.3 (*i.e.*, an applicant who has not taken and passed a written medical competence examination within 10 years of the date of application), shall nonetheless be considered eligible for licensure by reciprocity if such applicant takes and successfully passes Day III of the FLEX (or the clinical competence portion of its successor examination) as administered by and under the auspices of the board.

Inquiries concerning the proposed rule amendment may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below. Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted and received by January 20, 1988. A request pursuant to R.S. 49:953A(2) for oral presentation, argument or public hearing must be made in writing on or before November 8, 1987.

Delmar Rorison
Executive Director

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

Rule Title: Qualifications for Licensure by Reciprocity

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

It is estimated that implementation of the proposed rule amendment will result in cost savings to the board of approximately \$13,200, representing expenses paid by the board to the Federation of State Medical Boards for administration of the clinical competence portion of the Federation Examination (FLEX) to persons who, but for the rule amendment, would be required to take such examination in connection with application for medical licensure.

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

It is anticipated that the proposed amendment will result in an annual gross revenue reduction of approximately \$13,200 annually (equal to the anticipated reduction in expenses), in that an estimated 50-55 applicants annually may be relieved of the necessity of taking the clinical competence portion of the FLEX licensing examination, for which a \$240 fee per applicant is required.

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

Individual physicians licensed in other states who obtained their medical degrees between January 1, 1978 and December 31, 1986, applying to the Louisiana State Board of Medical Examiners for medical licensure by reciprocity and who are otherwise eligible, will benefit by being relieved of the requirement of taking and successfully passing the clinical competence portion of the FLEX, at a cost savings to each such individual of \$240.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed amendments will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt the following rule in the Food Stamp Program.

This revision is mandated by federal regulations as published in the *Federal Register*, Vol. 52, No. 188, Tuesday, September 29, 1987, pages 36390-36400. This was adopted as an Emergency Rule

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

Proposed Rule

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

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

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

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 94065, Baton Rouge, LA 70804. Mrs. Stewart is the person responsible for responding to inquiries regarding this proposed rule. A copy of the proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on the proposed rule will be held on

January 7, 1988, in the Louisiana State Library Auditorium, 760 North Riverside, Baton Rouge, Louisiana beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

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

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Food Stamp Definition of Homeless Individual

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

The cost is \$200 in FY 87-88 (\$100 state and \$100 federal).

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

There is no effect on revenue collections.

Although Food Stamp benefits are 100 percent federally funded and are not cash, the value of food coupons issued may increase as a result of this rule. The amount of the increase cannot be determined.

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

There will be no costs or economic benefits.

The number of Food Stamp households may increase as a result of this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Marjorie T. Stewart
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt the following rule in the Food Stamp Program.

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

Proposed Rule

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

Public Law 100-77 amended the Food Stamp Act to allow a parent with his/her minor children to live with the parent's sibling and be considered a separate household if the parent with

the minor children purchases food, and prepares meals separately from the parent's siblings. It also provides that an individual who is the parent of minor children, along with that individual's children or spouse may be granted separate household status if the individual and his/her children are living with the individual's parent and purchasing and preparing meals separate from the parent. These households' certification period shall not exceed six months.

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

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 94065, Baton Rouge, LA 70804. Mrs. Stewart is the person responsible for responding to inquiries regarding this proposed rule. A copy of the proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on the proposed rule will be held January 7, 1988, in the Louisiana State Library Auditorium, 760 North Riverside, Baton Rouge, Louisiana beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

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

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Food Stamp Household Composition

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The cost is \$200 in FY 87-88 (\$100 state and \$100 federal). Food stamp benefits are 100 percent federally funded.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
Although Food Stamp benefits are 100 percent federally funded and are not cash, the value of food coupons issued will increase as a result of this rule. The amount of the increase cannot be determined.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Certain Food Stamp households that had been considered one household could now become separate households. The total number of Food Stamp households would increase, therefore, the amount of benefits issued would increase.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Marjorie T. Stewart
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt the following rule in the Medical Assistance Program.

The Health Care Financing Administration (HCFA) has promulgated reimbursement limits on payments for drugs under Title XIX (Medicaid). These limits were published in the *Federal Register*, Vol. 52, No. 147, Dated July 31, 1987, Pages 28648 - 28658. Under these regulations the Health Care Financing Administration has eliminated specific reference to the establishment of dispensing fees and acceptable methodologies. However, the new regulation requires states to comprehensively describe the agency's payment methodology for prescription drugs. HCFA has advised that states are required to determine reasonable dispensing fees and document how such fees are established. Currently, the Medical Assistance Program utilizes a dispensing fee survey methodology in establishing the dispensing fee for pharmacy providers. This rule sets forth the basic methodology used in establishing the current dispensing fee, which follows HCFA's prior regulations, and reestablishes that criteria under the new regulation requirements.

Proposed Rule

Dispensing Fee Determination

A. Dispensing Fee Survey

The state agency shall set the dispensing fee by taking into account the results of surveys of the costs of pharmacy operation.

B. Survey Methodology

The agency shall select participating providers through use of a random sample. Participation of selected providers shall be mandatory. Any providers who have less than 12 months of available operating data, shall be replaced with replacement providers selected randomly to assure the integrity of the survey. Information submitted by participants shall be desk reviewed for accuracy and completeness. Field examination of a representative sample of participants shall be primarily random, but geographic location and type of operation shall be taken into consideration in order to ensure examination of pharmacies in various areas of the state and representative of various types of operations.

C. Cost Finding Procedures

The basic analytical rationale used for cost finding procedures shall be that of full costing. Under full costing, all costs associated with a particular operation are summed to find the total cost. The objective of cost finding shall be to estimate the cost of dispensing prescriptions through generally accepted accounting principals.

D. Inflation Adjustment

Where data collected from participating pharmacies represents varying periods of time, cost and price data may be adjusted for the inflation that occurred over the relevant period. The appropriate "market basket" indicator of the Consumer Price Index produced by the U.S. Department of Labor, Bureau of Labor Statistics shall be utilized.

E. Usual and Customary Survey

In addition to cost finding procedures, a usual and customary survey shall be included in the survey instrument. This instrument shall be used to determine the following:

1. An average usual and customary charge, or gross margin, for each pharmacy.

2. The computation of the net margin per prescription (gross margin less computed dispensing cost per prescription) in order to approximate the average profit per prescription.

3. The computation of the average percentage of markup per prescription.

F. Statistical Analysis

Statistical analysis shall be undertaken to estimate the cost to pharmacies of dispensing prescriptions. Such analysis shall include, but not be limited to:

1. an average dispensing cost for all pharmacies;

2. analysis of the correlations among dispensing costs and parameters deemed relevant to pharmacy costs;

3. the statistical relationship between independent variables and dispensing cost shall be analyzed using the techniques of simple linear and stepwise multiple regression. Independent variables may include annual volume of prescriptions filled, pharmacy location, type of ownership and number of medicaid claims paid.

Before regression analysis is performed, efforts shall be made to insure that the data collected during the surveys was accurate and representative, and that errors made during data entry are corrected. Efforts should include tabulations, cross tabulations, data plotting, and visual data inspection.

G. Survey Results

The agency shall consider survey results in determining whether the dispensing fee should be increased or decreased. The agency may review the survey data and establish a reasonable dispensing fee based on all or any combination of factors included or not included in the survey results.

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Box 94065, Baton Rouge La 70804-4065. Ms. Stewart is the person responsible for responding to inquiries regarding this proposed rule. A copy of this proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on this proposed rule will be held on January 7, 1988 in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge La, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

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

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

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Pharmacy Program Dispensing Fee Survey

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

The effect of this proposed rule cannot be estimated. The amount of any increase or decrease in pharmacy dispensing fees resulting from this proposed rule cannot be determined. Administrative costs associated with this rule are estimated at

\$100 for providing copies to providers and other interested parties.

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

The effect of this proposed rule on collection of federal title XIX revenues related to possible changes in the amount of the pharmacy dispensing fee cannot be determined.

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

This proposed rule will have no effect on providers or recipients because it reestablishes current program procedures under new federal regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The cost and/or economic benefits to providers and recipients cannot be determined, because it is not known whether the proposed rule will result in any change in the pharmacy dispensing fee.

Marjorie T. Stewart
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt the following rule in the Medical Assistance Program.

The Health Care Financing Administration (HCFA) has promulgated reimbursement limits on payments for drugs under Title XIX (Medicaid). These limits were published in the *Federal Register*. Vol. 52, No. 147. Dated July 31, 1987. Pages 28648 - 28658. Under these regulations the Health Care Financing Administration has eliminated current procedures for setting limits on payments for drugs supplied under Title XIX (Medicaid); and has revised Medicaid rules establishing a new methodology which limits the availability of Federal Financial Participation (FFP) subject to specific aggregate limitations on the cost for drug products. Under these regulations the state agency is required to assure its reimbursement methodology for prescription drugs is at or below the aggregate limits established by the Health Care Financing Administration in order to maintain FFP. States whose current methodologies exceed HCFA's aggregate upper limits for reimbursement must modify their reimbursement methodologies or face loss of FFP for reimbursement above the cost limits adopted by HCFA.

Under these regulations Federal Maximum Allowable Cost limits on Multiple Source Drugs have been replaced by a formula approach which is applicable to all multiple source drugs, identified by HCFA, which meet the following requirements:

1. All of the formulations of the drug approved by the Food and Drug Administration have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or in successor publications).

2. At least three suppliers list the drug which has been

classified by the FDA as category "A" in the aforementioned publication. The formula utilized by HCFA in setting the maximum cost limit for designated multiple source drugs is 150 percent of the published price for the least costly therapeutic equivalent (using all available national compendia) that can be purchased by pharmacists in quantities of 100 tablets or capsules (or if the drug is not commonly available in quantities of 100, the package size commonly listed) or in the case of liquids, the commonly listed size.

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

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

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

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

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

Proposed Rule

Federal Maximum Allowable Cost (MAC) regulations which are utilized in determining ingredient cost are hereby repealed. Prescribed Drugs are reimbursed as follows:

I. Methods of Payment

Maximum and minimum payment rates for medications - pharmacy or dispensing physician are as follows:

A. Maximum Pharmaceutical Price Schedule

The maximum payment by the agency for a prescription shall be no more than the cost of the drug established by the state plus the established dispensing fee.

Each pharmacy's records shall establish that the established dispensing fee paid by the Medical Assistance Program for prescriptions does not exceed the dispensing fee paid by others. This also applies to the payment for insulin and diabetic testing agents and indwelling catheters and catheterization trays for which the dispensing fee may not exceed 50 percent of the wholesale price.

B. Payment for Medications to Dispensing Physician

Payment will be made for medications dispensed by a physician on a continuing basis only when his main office is more than five miles from a facility which dispenses drugs.

Under the above circumstances, vendor payment (when the treating prescriber dispenses his own medications and bills the Medical Assistance Program under his own name or the name of his own clinic or hospital) will be made on the same basis as a pharmacist as specified in Paragraph A above.

II. Standards for Payment

A. Payment will be made for medications in accordance with the payment procedures for any eligible person who has identified himself to the provider by presenting his identification card which shows his eligibility. State office advises participating pharmacists regarding payable medication.

B. The pharmacy must be licensed to operate in Louisiana except:

1. as provided for a person residing near the state line; or
2. as provided for a recipient visiting out-of-state.

C. Payment will be made only to providers whose records are subject to audit.

D. Payment will be made to providers only for medications furnished to persons eligible for medical vendor payments on a prescription written by a licensed physician or dentist.

E. Payments will be made only for the drugs covered under the Medical Assistance Program's Pharmacy Program.

1. Definitions

Brand Name means any registered trade name commonly used to identify a drug.

Estimated Acquisition Cost (EAC) means the Average Wholesale Price of the drug dispensed, identified by the manufacturer number, product number, and package number usually purchased by a provider, from a supplier whose products are generally available to all pharmacies and reported in one or more national compendia. EAC for drug products supplied through repackaging into smaller quantities by chain drugstore central purchasing shall be based on the package size purchased by the central purchasing unit. Supporting documentation (invoices) shall be made available to the agency or its designee upon request. If the package size is larger than the largest size listed by the Louisiana program, then EAC will be based on the largest size listed in the American Druggist Blue Book or other national compendia utilized by the State to update the Medicaid Management Information System (MMIS).

Average Wholesale Price (AWP) means the price of a drug product as reported to the agency by the American Drug-gist Blue Book or other national compendia utilized by the State to update the Medicaid Management Information System. Where more than one price is reported for the same drug product, the agency shall determine which price best reflects availability to providers. The State agency's determination of availability shall not be subjugated by any other group.

Multiple Source Drug means a drug marketed or sold by two or more manufacturers or labelers or a drug marketed or sold by the same manufacturer or labeler under two or more different proprietary names or both under a proprietary name and without such a name.

2. Federal Upper Limits for Multiple Source Drugs

a. Except for drugs subject to "Physician Certification," the Medical Assistance Program shall utilize listings established by HCFA that identify and set upper limits for multiple source drugs that meet the following requirements:

(1) All of the formulations of the drug approved by the Food and Drug Administration (FDA) have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or in successor publications);

(2) At least three suppliers list the drug (which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally.

b. The Medical Assistance Program shall utilize the upper limits established by HCFA in determining Multiple Source Drug Cost.

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

d. The Medical Assistance Program shall provide pharmacists who participate in Title XIX reimbursement with updated lists reflecting the multiple source drugs subject to federal multiple source drug cost requirements, the maximum reimbursement amount per unit, and the date such costs shall become effective.

3. Louisiana Maximum Allowable Cost (LMAC) Limits for Multiple Source Drugs

The LMAC, determined and calculated for a multiple source drug (as defined in 42 CFR 447.301) is the median AWP cost for a specific strength/unit drug determined by listing the wholesale costs for each readily available manufacturer, labeler, etc. and taking the median of those AWP costs (one-half will be above the median cost and one-half will be below the median cost.) LMAC limits may be adjusted by the agency based on changes in the availability and EAC of the drugs.

The agency shall make determinations of which multiple source drugs are to be subject to LMAC regulation based on the availability of drugs in the Louisiana Medical Assistance Program. The availability of a drug product will be determined by review of provider claim data. Providers shall be given advance notice of any additions, deletions, or adjustments in price. A complete LMAC cost listing will be distributed periodically. In no

case shall a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the LMAC limit, nor may OFS use a cost which exceeds the established maximums except for physician certification for brand name drugs.

4. Lower Of Reimbursement for Multiple Source Drugs

The agency shall make payments for multiple source drugs other than drugs subject to "Physician Certifications" based on the lower of:

a. the providers' usual and customary charges to others not to exceed the agency's "Maximum Pharmaceutical Price Schedule";

b. the agency's estimated acquisition cost (EAC) plus the agency's established dispensing fee;

c. any applicable federal upper limit for Multiple Source Drugs plus the agency's established dispensing fee; or

d. any applicable Louisiana Maximum Allowable Cost (LMAC) limit plus the agency's established dispensing fee.

5. Physician Certifications

Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is attached to the prescription. A standard phrase, in the prescriber's handwriting, such as "brand necessary" will be acceptable.

Any practice which precludes the prescriber's handwritten statement shall not be accepted as a valid certification. Such practices include, but are not limited to:

a. a printed box on the prescription blank that could be checked by the prescriber to indicate brand necessity;

b. a handwritten statement transferred to a rubber stamp and then stamped on the prescription blank;

c. preprinted prescription forms using a facsimile of the prescriber's handwritten statement.

6. Other Drug Cost Limits

The agency shall make payments for drugs other than multiple source drugs and drugs subject to "Physician Certifications" based on the lower of:

a. the agency's estimate of acquisition cost plus the agency's established dispensing fee;

b. the providers' usual and customary charges to others not to exceed the agency's "Maximum Pharmaceutical Price Schedule."

7. General Requirements Applicable to all Prescriptions

a. For all prescriptions, the maximum quantity payable shall be a month's supply or 100 unit doses, whichever is greater. The quantity billed shall be that prescribed, unless it exceeds the maximum quantity payable in which case the maximum quantity payable shall be filled.

b. When maintenance drugs are prescribed and dispensed for chronic illnesses they shall be in quantities sufficient to effect economy in dispensing and yet be medically sound. Listed below are drugs the agency considers to be maintenance type drugs and which should be prescribed and dispensed in a month's supply:

Anti-coagulants

Anti-convulsants

Oral Anti-diabetics

Calcium Gluconate, Calcium Lactate, and Calcium Phosphate

Cardiovascular Drugs including: diuretics, antihyperten-

sives, and antihyperlipidemics

Estrogens

Ferrous Gluconate and Ferrous Sulfate

Potassium Supplements

Thyroid and antithyroid drugs

Vitamins - A, D, K, B₁₂ Injection, Folic Acid, and Nicotinic

Acid

c. For patients in nursing homes, the pharmacist shall bill for a minimum of a month's supply of medication unless the treating physician specifies a smaller quantity for a special medical reason.

d. Payment will not be made for narcotics prescribed only for narcotic addiction.

F. Recipients shall have free choice of pharmacy unless subject to the agency's "lock-in" procedures.

G. When services are provided the eligible person under another service plan (Hospitalization or extended care facility), the provisions applicable to such service plans shall apply during the time the service is provided and vendor payments will not be made for medications.

H. Payment will be made for prescriptions refilled not more than five times or more than six months after issue date and only to the extent indicated by the prescriber on the original prescription and as restricted by state and federal statutes. The prescriber is required to state on the prescription the number of times it may be refilled.

I. Prescriptions shall be filled within 10 days; narcotic (classified as schedule II by the U.S. Drug Enforcement Administration) prescriptions within 24 hours.

J. A prescriber who has a suboffice in an area more than five miles from a pharmacy or other facility dispensing medications will not be paid for medication he dispenses if his main office is within five miles of a pharmacy or other facility dispensing medications.

K. When a prescriber bills the Medical Assistance Program for medications he dispenses, he shall certify that he himself, another prescriber or a pharmacist dispensed the medications and he shall maintain the same records as required of the pharmacist.

L. The manufacturer number, product number, and package number for the drug dispensed shall be listed on all claims. This information shall be taken from the actual package from which the drug is purchased by a provider. Drug products supplied through repackaging into smaller quantities by chain drug store central purchasing shall be billed by the dispensing pharmacy using the manufacturer number, product number, and package size number of the package size purchased by the central purchasing unit. If the package size is larger than the largest size listed by the Louisiana program, then the package size billed shall be the largest size listed in the American Druggist Blue Book or other national compendia used by the state to update the Medicaid Management Information System.

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Box 94065, Baton Rouge La 70804 4065. She is the person responsible for responding to inquiries regarding this proposed rule. A copy of this proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

Notice Of Public Hearing

A public hearing on this proposed rule will be held on January 7, 1988 in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge LA, beginning at 9:30 a.m. All inter-

ested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Regulatory Exception

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

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Pharmacy Program
Reimbursement Limits**

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

Unknown. There is not sufficient data available to the agency to determine the impact of this rule on expenditures. Administrative costs for implementation of this rule are estimated at \$100 for providing copies to interested parties.

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

Unknown. There is not sufficient data available to the agency to determine the impact of this rule on federal funding.

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

Under this rule providers may have difficulty obtaining drugs at or below the limits established by the Health Care Financing Administration.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of this rule on competition and employment cannot be determined.

Marjorie T. Stewart
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Human Development
Division of Children, Youth, and Family Services**

The Department of Health and Human Resources, Office of Human Development, Division of Children, Youth, and Family Services (DCYFS) proposes implementing policy revising the definition of the "Special Needs Child" on Page 2 of Section 8-710 in the DCYFS Program Policy Manual to read as follows:

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

I. race/sex/age

a. white boys, age 11 or older;

b. black boys, infants or older;

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

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

The rationale is based on the need to give specificity to age, sex, and race of children in adoptive families receiving subsidies through the Adoption Subsidy Program. The proposed revisions consider the difficulty in recruitment and placement of children of a certain age, sex, and race. This redefinition will assist in controlling the expenditures of the Adoption Subsidy Program by refining the process whereby new applicants for subsidy are reviewed and accepted initially. The new definition will be applied to all cases for whom new, (i.e., initial), applications are submitted as of February 20, 1987.

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

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

This proposal was published as an Emergency Rule in the November 20, 1987 Issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes to the following address: Wayne C. Heap, Assistant Secretary, Office of Human Development, Box 44367, Baton Rouge, LA 70804. The referenced page of the DCYFS Program Policy Manual may be viewed in each DCYFS parish and regional office or it may be obtained from the Office of the Assistant Secretary. Mr. Heap is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on Tuesday, January 5, 1987, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 10 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

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

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Proposals to revise the definition of a Special Needs Child in regard to age, race, and sex. (Adoption Subsidy Program)

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

The proposed rule will not result in additional costs to the state. There will be an estimated savings in adoption subsidies of \$36,550 in state funds in 1987-88 and \$62,657 each

year thereafter. The Adoption Subsidy Program is experiencing a deficit in budgetary spending due to the growing number of families receiving adoption assistance. This proposal will assist the program to remain within the appropriated budget by reducing the number of subsidies in the program.

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

The proposed rule will result in a decrease in federal Title IV-E revenues of \$39,134 in 1987-88 and \$67,057 each year thereafter.

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

The approval of the proposed rule will result in controlling the expenditures in the Adoption Subsidy Program by refining the screening process whereby new applicants for subsidies are reviewed and approved.

Single, healthy white boys under age 11, white girls under age 12, and black girls under age 5 will be directly affected by the change in the special needs definition because they will not automatically be considered special needs unless some other very unusual circumstance exists that would cause them to be considered special needs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment are not affected by the proposed rule.

Wayne C. Heap
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Human Development Division of Children, Youth, and Family Services

The Department of Health and Human Resources, Office of Human Development, Division of Children, Youth, and Family Services (DCYFS) proposes implementing policy limiting to \$300 per adoptive family, the fee paid to private attorneys by DCYFS for work performed on adoptions under the Adoption Subsidy Program. Special Services Subsidies described on Page 2 of Section 8-715 of the DCYFS Program Policy Manual. This proposal was published as an Emergency Rule in the November 20, 1987 issue of the *Louisiana Register*.

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

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

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

reduction/curtailment of services/subsidies to these Subsidized Adoption Program recipients whose health and welfare would otherwise be adversely affected.

Interested persons may submit written comments on the proposed changes to the following address: Wayne C. Heap, Assistant Secretary, Office of Human Development, Box 44367, Baton Rouge, LA 70804. The referenced page of the DCYFS Program Policy Manual may be viewed in each DCYFS parish and regional office or it may be obtained from the office of the assistant secretary. Mr. Heap is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on Tuesday, January 5, 1987, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA beginning at 10 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

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

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

Rule Title: Proposal to limit the Adoption legal fee to \$300 per family in the Adoption Subsidy Program

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

Implementation of this proposed rule will result in an estimated savings of \$11,970 in state funds in 1987-88 and \$23,760 each thereafter in adoption subsidy legal fees. The Adoption Subsidy Program is experiencing a deficit in budgetary spending due to the growing number of families receiving adoption assistance. This proposal will assist the program in remaining within the appropriated budget.

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

The proposed rule will result in a decrease in federal Title IV-E revenues for administrative expenses of \$11,970 in 1987-88 and \$23,760 each year thereafter. Fifty percent of administrative costs in Title IV-E costs may be paid with federal funds.

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

The approval of the proposed rule will result in a reduced amount charged by attorneys to finalize agency adoptions. The prospective adoptive parents will be responsible for compensating the attorney for any amount over the state ceiling rate of \$300 per family.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment are not affected by the proposal.

Wayne C. Heap
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Human Development
Division of Children, Youth,
and Family Services**

The Department of Health and Human Resources, Office of Human Development, Division of Children, Youth, and Family Services (DCYFS) proposes implementing policy reducing the monthly maintenance payment according to the scale below to all Title IV-E eligible adoption subsidy program recipients having income exceeding the gross annual income as stated on page 2 of Section 8-730 of the DCYFS program policy manual. This reduction will only apply to Title IV-E eligible cases. This proposal was published as an emergency rule in the November 20, 1987 issue of the *Louisiana Register*.

Exceptions to increase the monthly maintenance payment to the next highest percentage of monthly maintenance payment in the scale for these adoption subsidy program recipients may be obtained after special reviews based on the:

- (1) number of children in the family or household,
- (2) other special subsidy payments being provided to the family,
- (3) number of children being adopted into the home,
- (4) ages of the child(ren) being adopted into the home, and
- (5) extraordinary needs the child(ren) being adopted may have.

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

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

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

Interested persons may submit written comments on the proposed changes to the following address: Wayne C. Heap, Assistant Secretary, Office of Human Development, Box 44367, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries regarding this proposed rule. The refer-

enced page of the DCYFS program policy manual may be viewed in each DCYFS parish and regional office or it may be obtained from the office of the assistant secretary.

A public hearing on the proposed rule will be held on Tuesday, January 5, 1987, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 10 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

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

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

**Rule Title: Proposal to Reduce Monthly
Maintenance for Title IV-E Eligible
Families in the Adoption Subsidy Program**

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

Implementation of this proposed rule will result in an estimated savings of \$3,744 in state funds in 1987-88 and \$7,418 each year thereafter in monthly maintenance adoption subsidy payments. The Adoption Subsidy Program is experiencing a deficit in budgetary spending due to the growing number of families receiving adoption assistance. This proposal will assist the program to remain within the budget and simultaneously continue to provide services.

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

Implementation of this proposed rule will result in an estimated reduction in federal Title IV-E revenues for maintenance payments of \$7,193 in 1987-88 and \$12,331 each year thereafter. Federal Title IV-E participation in monthly maintenance adoption subsidy payments is at the rate of 65.77 percent.

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

The approval of the proposed rule change will result in a reduction in the amount of the monthly maintenance payments granted to Title IV-E eligible adoptive families whose income exceeds the state income guidelines.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment are not affected by the proposed rule.

Wayne C. Heap
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

Effective February 20, 1988, the Department of Health and Human Resources, Office of Human Development will promulgate the Personal Care Assistance (P.C.A.) Policy Manual authorized by Act 781 of 1987 relative to the establishment of a

pilot program to provide personal assistance services for severely disabled persons.

The Louisiana Department of Health and Human Resources will conduct public hearings in January, 1988 in the major metropolitan areas of the state listed below.

Copies of the P.C.A. Policy will be available at the Division of Rehabilitation Services offices located at the public hearing sites listed in the schedule below.

Public Hearings for the P.C.A. Policy Manual are scheduled as follows:

Tuesday, January 12, 1988, in Shreveport at 1 p.m., State Office Building, Room 711, 1525 Fairfield Avenue, Shreveport, LA.

Wednesday, January 13, 1988, in Alexandria at 1 p.m., First Floor Conference Room, State Office Building, 900 Murray Street, Alexandria, LA.

Thursday, January 14, 1988, in Lafayette at 1 p.m., State Office Building, 302 Jefferson Street, Blue Room, First Floor, Lafayette, LA.

Friday, January 15, 1988, in New Orleans at 1 p.m., Magnolia Room-Fourth Floor, Avenue Building, 2026 St. Charles Avenue, New Orleans, LA.

Interested persons may submit written comments on the proposed change prior to January 25, 1988, at the following address: Wayne C. Heap, Assistant Secretary, Office of Human Development, Box 44367, Baton Rouge, Louisiana 70804.

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

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

**Rule Title: Personal Care Assistance
Policy Manual - Act 781**

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

The estimated annual implementation cost is \$365,000 with a monthly expenditure rate of \$34,160 in state general funds. In the current fiscal year, our annual cost is estimated to be \$170,800.

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

No impact on revenue collection.

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

It is anticipated that the \$365,000 will be used to serve a maximum of 100 Severely Disabled Adults (ages 18 to 55) and will fund the cost of Data Collection, Client Evaluations, and Evaluation Team cost incurred by the three Title VII funded Independent Living Center Programs located in New Orleans, Lake Charles, and Shreveport.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Brenda W. Kelley
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Human Development

Effective February 20, 1988, the Department of Health and Human Resources, Office of Human Development, Division of Rehabilitation Services, will change their policy manual separating procedures from policy. This notice of intent is being re-submitted due to substantial changes made in the proposed policy manual. The original notice of intent was published in the August 20, 1987, *Louisiana Register*.

The Louisiana Department of Health and Human Resources will conduct public hearings on this change in January, 1988, in four major metropolitan areas of the state.

Copies of the policy manual will be available at the Division of Rehabilitation Services' offices located in the public hearing sites listed below.

Public hearings for the policy manual are scheduled as follows: Tuesday, January 12, 1988, 10 a.m., State Office Building, Room 711, 1525 Fairfield Avenue, Shreveport, LA; Wednesday, January 13, 1988, 10 a.m., First Floor Conference Room, State Office Building, 900 Murray Street, Alexandria, LA; Thursday, January 14, 1988, 10 a.m., State Office Building, 302 Jefferson Street, Blue Room, First Floor, Lafayette, LA; Friday, January 15, 1988, 10 a.m., Magnolia Room-Fourth Floor, Avenue Building, 2026 St. Charles Avenue, New Orleans, LA.

Interested persons may submit written comments on the proposed change prior to January 25, 1988, at the following address: Mr. Wayne C. Heap, Assistant Secretary, Office of Human Development, Box 44367, Baton Rouge, LA 70804.

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

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Division of Rehabilitation Services Policy Manual

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no implementation cost for state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Rehabilitation funds will be redirected toward serving more severely disabled individuals, funding supported employment for individual clients as a step toward placement in the competitive employment market, increasing client participation in the costs of college training, requiring performance standards for eligibility for college assistance, and limiting expenditures for motor vehicle adaptation. Funds will be redistributed across a more broad client population with some individuals assuming some costs of their services.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The new supported employment program will hopefully

lead to competitive employment for approximately 20 severely disabled clients.

Brenda W. Kelley
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Office of Prevention and Recovery From Alcohol and Drug Abuse

The Department of Health and Human Resources, Office of Prevention and Recovery from Alcohol and Drug Abuse, proposes to amend LAC 48:VII.117 to read as follows:

Title 48

PUBLIC HEALTH - GENERAL

Part VII. Alcohol and Drug Services

Chapter 1. Program Authorization

§117. Copayment Fee for Driving While Intoxicated Program

A. The Office of Prevention and Recovery from Alcohol and Drug Abuse may assess every patient in a driving while intoxicated program, to whom the office provides treatment services, a standard co-payment fee of \$20 per session, subject to applicable federal regulations. A patient whose treatment is provided by the Office of Prevention and Recovery from Alcohol and Drug Abuse through a private contractor shall not be assessed a co-payment fee as provided above. Private providers can assess fees otherwise allowable under applicable federal and state laws.

B. The co-payment provided shall be deposited in the state treasury pursuant to R.S. 39:136.1 and shall be accounted for by the commissioner of administration through appropriations pursuant to R.S. 39:334(6).

C. The commissioner of administration shall establish a separate cost center in the Office of Prevention and Recovery from Alcohol and Drug Abuse budget unit in the Department of Health and Human Resources for revenue generated. All funds not obligated shall revert to the state general fund at the end of the fiscal year.

Interested persons may submit written comments on the proposed changes within 15 days of the date of publication at the following address: Vern C. Ridgeway, Assistant Secretary, Office of Prevention and Recovery from Alcohol and Drug Abuse, Department of Health and Human Resources, 2744-B Wooddale Boulevard, Baton Rouge, LA 70805.

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

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: DWI Program Fee Assessment

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional cost to implement the proposed rule.

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

Based on the first quarter of FY 87/88, an average of 307 DWI clients were admitted to our clinics. Implementing the \$20 co-payment fee at 15 sessions per client would yield approximately \$24,560 per month. We are allowing a 30 percent decrease in collections due to: decrease in clientele because of fees being higher than that in the private sector; inability of some clients to pay; and the waiver of fees by the judiciary, thereby bringing the monthly collections to \$17,192. Based on the above assumptions, in the last two quarters of FY 87/88, OPRADA should collect approximately \$103,152. For FY 88/89 OPRADA should collect approximately \$206,304 and that same amount in FY 89/90. We are not predicting an increase in clientele for subsequent years due to the increase of fees.

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

Clients participating in DWI treatment programs will each bear the cost of \$20 per visit at a minimum of 15 visits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Vern C. Ridgeway
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

Notice is hereby given that the Department of Health and Human Resources, Office of Preventive and Public Health Services will no longer inspect and regulate any fair or festival, even when requested to do so by the owner or promoter of the fair or festival or local governing authority.

This position is in accordance with R.S. 40:4.1, 40:4.2, 40:4.3, 40:4.4, 40:4.5, and 40:4.6; more specifically, Chapter 23A of the Louisiana State Sanitary Code will no longer apply to those legislatively exempt activities.

The department recognizes that this proposed regulation will have a public health significance; accordingly, a public hearing will be held on January 6, 1988, in the State Office Building, 325 Loyola Avenue, Room 409, New Orleans, LA, beginning at 10 a.m. Any and all interested persons are requested 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: Fairs and Festivals**

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

Implementation of this rule will not have an impact on our present staff. There will be no implementation costs.

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

The effect on revenue collections of state or local governments will be negligible.

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

The consumer and owner or promoter will not benefit by the public health protection of DHHR/OPPHS as no sanitary inspection or comments will be made.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effect on competition will be nominal.

Joseph D. Kimbrell
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Preventive and Public Health Services proposes to amend Chapter XIII (sewage and refuse disposal) of the Sanitary Code, state of Louisiana. This proposed rule change would amend Chapter XIII to provide for an acceptable alternate form of sewage disposal for individual camps. This notice previously published in the August 20, 1987 *Louisiana Register*, is being republished as a result of additional requirements which are necessary.

This amendment is necessary to allow consideration of the specified alternate system for those instances where such would be deemed the *best treatment economically available* for isolated individual camps where other forms of sewage disposal would be impractical. Language in the following sections of Chapter XIII shall be amended to read as follows:

Part I - Sewage Disposal
Sub-Part E - Special Applications
Section 13:022 - Paragraph 6

6. Individual camps, where no community sewage is available, shall be provided with an approved individual sewage disposal system sized for the camp as if it were a residence, and in compliance with the following:

b. if installation of a conventional disposal system is not possible (i.e. the camp is in a marsh/swamp area, located over water, etc.) and/or disinfection of the sewage system effluent would be required, the use of a system comprised of one of the following may be considered:

(1) a septic tank system consisting of three septic tanks in series (or an acceptable three-cell or three-compartment tank) followed by an automatic chlorination device/system. The first tank/cell shall have a minimum volume of 500 gallons. The second and third tanks/cells shall each have a minimum volume of 250 gallons. Each of the three septic tanks (or each compartment of a three-cell tank) shall meet all design, material and construction requirements for septic tanks as described in Section I of Appendix A of this Chapter. In addition to the construction and material requirements in Appendix A, the following restrictions/ exceptions shall also apply: 1) metal tanks shall not

be used; 2) the tank(s) shall be demonstrated to be water-tight; 3) fiberglass tanks shall be adequately coated to prevent deterioration by ultraviolet light; 4) where multiple-compartment single tanks are used, only one access opening, of six inch minimum diameter, per tank shall be required; and, 5) tanks set below the normal high-water level shall be anchored or otherwise secured against movement. The chlorination system shall be provided with a contact chamber of a minimum of 100 gallons, and shall be equipped with an automatic *cutoff* to prevent flow from the third septic tank/chamber if the chlorine supply is exhausted. Also, the effluent line from the chlorine contact tank shall be protected against entrance of small animals or other pests by use of a flap-type gate, screen, or other means approved by the state health officer.

(2) A U. S. Coast Guard approved type II Marine Sanitation Device (MSD).

Interested parties may submit comments to the following address: Joseph D. Kimbrell, Deputy 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: Amendment of Chapter XIII of the Sanitary Code

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule can be accomplished with present staff. There are no implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The effect on revenue collections of state or local governments is projected to be negligible.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The consumer will be afforded a practical and possibly more economical means whereby sewage wastes may be treated. This should result in fewer sanitary code violations and better public health protection.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Effect on competition and employment will be nominal.

Joseph Kimbrell
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety Office of Motor Vehicles

Under authority of R.S. 32:1304 A and B and in accordance with the provisions of the Administrative Procedure Act, the Office of Motor Vehicles intends to adopt the following rule relative to Motor Vehicle Inspection.

Title 55 PUBLIC SAFETY Part III. Motor Vehicles

Chapter 9. Vehicle Emission

§907. Louisiana Parameter Vehicle Emission Inspection and Maintenance Report

A. Form # AQTS-01 is to be used when performing the Parameter Vehicle Emission Inspection and Maintenance Inspection on 1980 and later model year passenger cars and light-duty trucks. Blank emission inspection forms may be obtained from Office of Motor Vehicles, Box 64886, 1771 N. Lodbell Ave., Baton Rouge, LA 70896.

B. The individual vehicle reports must be submitted by public stations each week for the period covering the previous week. Dealer, fleet and government stations will be required to submit individual vehicle reports once a month for the period covering the previous month. Mail completed reports to Office of Air Quality, Box 44096, Baton Rouge, LA 70804-4096. If no inspection is made, a report is required to be submitted indicating that no inspections were made during this reporting period.

Note: Failure to submit all information required on the emission report form may result in suspension or revocation of station license.

C. Use a black ink pen to complete the form (red ink will not be allowed). The form must be kept clean, unfolded, and free of grease. Print or mark the form as indicated. The form should be completed as follows:

1. *Parish Code* - Mark the two digit parish code as shown on form.

2. *Station No.* (Inspection station number of your inspection station) - Mark in space provided the number as listed on the inspection station's certificate of appointment.

3. *Date of Inspection* (MO-Month, DA-Day, YR-Year) - Mark in space provided the number of the month, number of the day, and the year the inspection was performed. The true date of inspection must be entered.

4. *MDL Yr.* (Vehicle Model Year) - Mark the vehicle's model year in the first and second columns. For example: MDL YR 1985 - Mark number 8 in first column and mark number 5 in second column.

5. *No. Cyl.* (Number of cylinders in vehicle's engine) - Mark appropriate number in the space provided.

6. *Vehicle Make* - Mark the make of the vehicle in the space provided. If the make is not printed on the form, mark "other".

7. *Inspection Parameters* (Inspection parameter to be performed according to model year of vehicle). Mark in space provided the proper result of each of the parameters inspected.

a. *R/R Pass* - Repair or Replacement Completed - Passed

b. *Pass* - Passed - No repair or replacement required

c. *Fail* - Failure

d. *NA* - Not appropriate (Parameter does not apply for the vehicle)

D. 1980 through 1983 year model passenger cars and light-duty trucks inspect the following:

fuel inlet restrictor;

catalytic converter;

lead test;

PCV valves and hoses;

air injection system;

evaporative canister;

choke system;
exhaust gas recirculation system;
thermostatic air intake system.

E. 1984 and later model year passenger cars and light-duty trucks inspect the following:

fuel inlet restrictor;
catalytic converter;
lead test;
PCV valves and hoses;
air injection system;
evaporative cannister;
oxygen sensor and valves;
choke system;
misfire;
exhaust gas recirculation system;
thermostatic air intake system.

8. *Rejection/Reinspection* - Mark rejection issue if a rejection certificate was issued. Mark reinspection if this is a reinspection. If the vehicle is returning for a reinspection, a new form will be executed and the inspection certificate number issued will be shown.

9. *License Number or VEH Identification Number* - Record the vehicle identification number or vehicle license plate number in the blocks provided. Leave blank any unused blocks. If there is no license plate on the vehicle, write the word "None". Out of state license, dealer's plate number, etc. are permitted.

10. *Certificate No. Issued* - Mark the serial number of the vehicle inspection certificate issued in the space provided. If this is a rejection mark the rejection certificate number issued in these spaces.

11. *Parts & Labor; Cost in Dollars* - Mark the cost of the parameter emission replacement or repair.

12. *Inspector D.I. No.* (Certified inspectors drivers license number) - Mark in the space provided the drivers license number of the person performing the inspection. The certified inspector performing the inspection shall be responsible for recording the necessary information including his drivers license number in the appropriate blocks.

Interested persons may submit written comments on the proposed rule to Captain David J. Keyser, Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896.

John J. Politz
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Vehicle Emission Inspection Reporting Form

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

It is estimated that cost associated with the reporting form for publishing and distribution will be \$32,800 for fiscal year 87-88, increasing to \$39,600 for fiscal year 88-89 and \$53,600 for fiscal year 89-90.

Expenses associated with printing the reporting forms will be borne from self generated funds collected by the Department of Environmental Quality.

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

It is estimated that the adoption of these regulations will not affect revenue collection of state or local governmental

units.

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

It is estimated that compliance with the regulations for filling out the reporting form will require a minimal amount of time per inspection.

It is estimated that 2,236,000 reporting forms will be returned annually by all Motor Vehicle Inspection Stations statewide at a mailing cost of \$44,726.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that adoption of these regulations will have no effect on competition and employment.

James L. Thibodeaux
Deputy Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety Office of Motor Vehicles

Under authority of R.S. 32:1304 A and B and in accordance with the provisions of the Administrative Procedure Act, the Office of Motor Vehicles intends to adopt the following rule relative to Motor Vehicle Inspection.

Title 55 PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 9. Vehicle Emission §909. Required Manuals

A. Motor Vehicle inspection stations are required to possess and maintain current editions of the Emission Control Systems Application Manual published by Cascade Automotive Resources, Inc., copies of which may be purchased from Cascade Automotive Resources, Inc., 1125 S.W. Wright Court, Troutdale, Oregon 97060-1499 or from JHD Sales & Service, 8017 Jefferson Hwy. C-2, Baton Rouge, LA 70809, Telephone (504) 926-3808.

This manual is to be used as a reference or secondary source of information. The Vehicle Emission Control Information label should be the primary source for determining if a vehicle was factory equipped with a specific emission control system.

Interested persons may submit written comments on the proposed rule to Captain David J. Keyser, Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896.

John J. Politz
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Vehicle Emission Inspection Required Manuals

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

There will be no implementation costs or savings to state or local governmental units.

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

There will be no 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)

A one time fee of \$11.50 will be needed by each inspection station to purchase the required manual. \$11.50 (Cost of Manual) × 1961 (# of inspection stations) = \$22,551.50.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James L. Thibodeaux
Deputy Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Division of Charitable Gaming Control**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Public Safety and Corrections, Office of State Police, Division of Charitable Gaming Control intends to re-promulgate and adopt permanent rules to the Charitable Raffles, Bingo and Keno Law, R.S. 33:4861.1 et seq. and R.S. 40:1485.1 et seq.

Copies of the rules may be viewed at the Division of Charitable Gaming Control, 9624 Brookline Avenue, Baton Rouge, LA 70809, between 8:30 a.m. and 4:30 p.m. daily.

All interested persons are afforded an opportunity to submit in writing any data, views or arguments to the Louisiana State Police, Division of Charitable Gaming Control, Box 66614, Baton Rouge, LA 70896-6614.

Colonel J. C. Willie
Deputy Secretary

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

Rule Title: Charitable Raffles, Bingo and Keno

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

There will be some minor costs associated with the new rules implementation, specifically in the printing. Current staffing and budgets can absorb changes at the implementation level for fiscal year 1987-88. Costs for 1988-90 fiscal years are anticipated to be \$250,000 per year which will be collected through self generated use fees.

There is no appreciable costs associated with these rules to local governments. Savings to local governments will occur as the division is required to issue licenses prior to local governing bodies, thereby relieving them of costs associated with applicant investigations.

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

There will be no appreciable effect on revenue collections pertaining to rules already in effect and which are only clarification and restatement. Rules pertaining to cable television bingo, in particular, based upon anticipated sales of \$5,000,000 dollars will generate additional revenue of \$250,000 to the Louisiana Charitable Gaming Fund as established by Act 752 of the 1986 Legislative Session. Local government, specifically New Orleans, anticipated to collect \$1,000,000 in fees based on sales of \$5,000,000.

Removal of the license fee for smaller organizations is expected to decrease by \$10,000 the amount of license fees currently collected by the division.

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

Charitable organizations should have no costs or obligations increased by the restatement and clarification of rules. Small organizations, those with less than \$25,000 in annual gross receipts will, in fact, benefit from a paperwork reduction and fee from licensing. The 200 organizations which will no longer require a license projects to \$10,000 less in collection of license fees for the state. Division personnel will have increased monitoring time available to monitor large games.

All organizations directly affected and/or associated with cable television bingo should receive approximately \$2,000,000 annually from cable television bingo activity.

This figure is derived from an anticipated gross sale volume of \$5,000,000. After payment of prizes of \$1,500,000; costs associated with promotion and actual conduct of the games of \$250,000; state regulatory fees of \$250,000 and New Orleans fees of \$1,000,000; the organizations should realize \$2,000,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Rules of reinstatement enhancement and clarification will have no effect on competition or employment. Rules relating to cable television bingo are anticipated to increase employment by 10 persons and should have no effect on competition.

Lieutenant Emile S. Bourgoyne
Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Revenue and Taxation
Income and Corporation Franchise Taxes Division**

Title 61

Revenue and Taxation

**Part I. Taxes Collected and Administered by
the Secretary of Revenue and Taxation**

The Department of Revenue and Taxation, Income and Corporation Franchise Taxes Division, advertises its intent to carry over and repromulgate regulations adopted for Part I and II of Chapter I of Title 47, relative to income tax, which are not inconsistent with Louisiana's new corporation income tax law, enacted by Act 16 of the 1986 First Extraordinary Session. Most of the regulations are being repromulgated without substantive changes in the content of the regulations. The department also intends to promulgate newly written regulations which are considered necessary and useful for the administration, interpreta-

tion, and enforcement of the new law. These regulations address only some of the sections contained in Act 16 of the 1986 First Extraordinary Session.

The regulations are applicable only with respect to taxable years beginning after December 31, 1986, including taxable years deemed to have commenced on January 1, 1987 by the provisions of R.S. 47:287.443.

A copy of the proposed regulations may be obtained by writing to Gary Riles, Bureau of Research, Department of Revenue and Taxation, Box 201, Baton Rouge, Louisiana 70821. Mr. Riles is the person responsible for responding to inquiries regarding the proposed regulations. A copy may also be obtained by request in person, at his office on the first floor of the Louisiana Department of Revenue and Taxation Building, 330 North Ardenwood Drive, Baton Rouge, LA.

A public hearing on the proposed regulations will be held on January 5, 1988 in the Mineral Board Hearing Room, located on the first floor of the Department of Natural Resources Building, 625 North 4th Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views or agreements, orally or in writing, at said hearing.

Shirley McNamara
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Louisiana Corporation Income Tax Regulations

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

There will be no significant implementation costs or savings to the State of Louisiana or local governmental units.

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

The proposed regulations will not have any significant effect on revenue collections of the state or local government. The regulations interpret the new Louisiana corporation income tax law which was estimated to prevent the loss of \$40,000,000 in revenue collections.

Generally, the regulations adopted for the corporate income tax law have been carried over or have been carried over and updated to reflect legislative and administrative action since these regulations were first written in 1957. In a few instances, new regulations are proposed to implement Act 16 of the 1986 First Extraordinary Session and/or the Federal Tax Reform Act of 1986.

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

It is anticipated that there would be a very limited impact on the costs or additional workload of affected taxpayers. No data is currently available to effectively analyze the revenue impact to a specific corporation. However, it is expected that corporations will be affected by Act 16 of the 1986 First Extraordinary Session, and the Federal Tax Reform Act and these regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Janet M. White
Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), the Louisiana Wildlife and Fisheries Commission gives notice that it proposes minor changes/clarification to the Louisiana Administrative Code -- Title 76, Part V, Chapter 1, 103 (Field Trials on Wildlife Management Areas). The proposed action simply omits unnecessary regulations, liberalizes the season framework, and states more clearly procedural responsibilities required by the LDWF of bird and dog clubs utilizing a WMA for a field trial. The Department of Wildlife and Fisheries requested that the commission authorize these changes at the November 5, 1987 commission meeting held at Baton Rouge.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§103. Field Trials on Wildlife Management Areas (amend)

The Louisiana Wildlife and Fisheries Commission does hereby authorize field trials by recognized bird dog associations to be held on selected wildlife management areas but only under the following conditions:

A. The season framework for conducting field trials involving the use of bird dogs is from October 1 through March 30 of each year. Specific season dates, however, will be set annually, management area by management area.

B. No trial will be allowed during managed deer hunts or opening weekends of deer gun seasons.

C. No shooting of wild bobwhites will be allowed during the closed quail season.

D. Pen-reared bobwhites can not be used for field trial purposes without first obtaining health certification as prescribed by the Louisiana Wildlife and Fisheries Commission. Failure of bobwhites to pass the certification will result in the postponement (cancellation) of the field trial.

E. Applications must be submitted well in advance (a period established by the Louisiana Wildlife and Fisheries Commission) by field trial associations specifying the date and precise location for the proposed field trial.

F. Only two trials per field organization will be allowed each season.

G. Applications will be approved only after the field trial association has met these conditions.

H. All bobwhites released for field trial purposes must be banded with a numbered band furnished by the Louisiana Department of Wildlife and Fisheries. A list of the band numbers of birds released and birds recovered as well as any unused bands

must be returned to the Louisiana Department of Wildlife and Fisheries within two weeks after a field trial is held.

I. All pen-reared bobwhites can be inspected by Louisiana Department of Wildlife and Fisheries personnel for evidence of diseases before they are released on the wildlife management areas for field trial purposes. Evidence of diseased birds can result in cancellation of the field trial.

J. Applications received for the Fort Polk Wildlife Management Area must be approved by the U. S. Army.

Interested parties may submit their views in writing to Hugh A. Bateman, Chief, Game Division, Louisiana Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895.

Mary Mitchell
Chief Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Field Trials on WMA's
Title 76, Chapter 1, §103**

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

This rule change will have no estimated implementation costs to state or local government units. Proposed regulations are compatible with current Wildlife and Fisheries Commission practices regarding oversight of Wildlife Management Area (WMA) field trials.

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

There is no estimated effect on revenue collections. The Wildlife and Fisheries Commission charges no fee for the use of a WMA to conduct a field trial.

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

There are no estimated cost and/or economic benefits. Field trial associations are presently obtaining health certifications of samples of birds to be released on WMA's prior to field trials. Hence, the proposed regulation will not require additional expense to these associations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Mary Mitchell
Chief Fiscal Officer

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

The 1984 Legislature has mandated the Louisiana Wildlife and Fisheries Commission to adopt rules to regulate the mandatory firearms and hunter education program.

**Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries
Commission and Thereunder**

**Chapter 3. Special Powers and Duties
Subchapter B. Hunter Safety Program
§313. Mandatory Hunter Education Certification
(adopt)**

A. The Louisiana Wildlife and Fisheries Commission shall be the sole authority for establishing minimum requirements for certification of students and volunteer instructors and for the overall administration of the hunter education program.

B. The Louisiana Department of Wildlife and Fisheries shall maintain a computer register of all students and instructors who have successfully met all requirements for certification.

C. Requirements for student certification shall be as follows:

1. a minimum age requirement of 10 years at time of certification;
2. a minimum of 10 hours classroom instruction;
3. pass a written exam prepared by the department;
4. demonstration of proficiency of hunting firearms under field conditions;
5. upon successful completion of the requirements, students shall receive permanent credentials.

D. Requirements for volunteer instructor certification shall be as follows:

1. a minimum of 12 hours classroom instruction;
2. pass a written exam prepared by the department;
3. demonstration of proficiency of firearms through a field shooting exercise;
4. upon successful completion, candidates as volunteers shall be certified for a one-year period. Recertification shall be based on continued participation in the Louisiana Firearms and Hunter Education Program.

E. Provide for the revocation of any hunting license or hunting permit upon determination that the holder thereof obtained it other than in accordance with this Part.

J. Burton Angelle
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Mandatory Hunter Education
Certification**

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

This program was implemented in 1985 by the Department of Wildlife and Fisheries at an annual cost of \$60,000. This increased cost is associated with increases in supplies, equipment and travel required to accomplish certification of participants. A 25 percent annual growth in program costs is projected over the next two fiscal years as the numbers of participants increases.

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

The Hunter Education Course is offered free of charge to participants, therefore there will be no revenue impact due to this proposed rule change.

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

This rule change will have no economic impact on directly affected persons or non-governmental groups. Volunteers are used to provide the instructors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change will have no impact on competition or employment.

Mary Mitchell
Chief Fiscal Officer

David W. Hood
Legislative Fiscal Analyst

Committee Reports

COMMITTEE REPORT

House of Representatives House Natural Resources Committee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on November 25, 1987 and reviewed certain changes in state regulations proposed by the Louisiana Department of Environmental Quality for which notice of intent was published in the October 20, 1987 *Louisiana Register* with the following results:

1. Proposal by the Department of Environmental Quality to amend the Louisiana air quality regulations. The proposed re-adoption is intended to (a) renumber the regulations for incorporation in the Louisiana Administrative Code, (b) consolidate the regulations by removing redundant language, and (c) make the process of codification easier.

Approved by a vote of 5-0.

Clyde W. Kimball
Chairman

COMMITTEE REPORT

House of Representatives House Natural Resources Subcommittee Oversight Review

NOTICE OF DISAPPROVAL

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on November 25, 1987 and reviewed certain proposed rules by the Louisiana Department of Environmental Quality to regulate inactive and abandoned waste sites for which notice of intent was published in the October 20, 1987 *Louisiana Register* with the following results:

1. No determination was made regarding whether the

proposed rule was within the intent and scope of the enabling legislation because no such specific legislation was cited to the subcommittee.

2. No determination was made whether the proposed rule was contrary to applicable provisions of law and of the constitution.

3. No determination was made regarding the merit of the proposed rule.

4. The subcommittee determined that the rule change was unacceptable because changes proposed by the department at the hearing were found to be substantive and would alter the nature of the proposed rule.

Rejected by a vote of 5-0.

In accordance with R.S. 49:968(F), copies of this report are being forwarded this date to the governor, the Department of Environmental Quality, and the State Register.

Clyde W. Kimball
Chairman

COMMITTEE REPORT

House of Representatives House Natural Resources Committee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on November 25, 1987 and reviewed certain changes in state regulations proposed by the Louisiana Department of Environmental Quality for which notice of intent was published in the October 20, 1987 *Louisiana Register* with the following results:

1. Proposal by the Department of Environmental Quality to amend the Louisiana solid waste rules and regulations. The proposed amendments are to provide definitions for the terms "residential waste" and "commercial waste." The proposed revisions also add specific language to the permitting requirements and to the standards regarding the operation of solid waste facilities receiving commercial waste and residential waste by person certified by the Louisiana Solid Waste Certification Program.

Approved by a vote of 5-0.

Clyde W. Kimball
Chairman

COMMITTEE REPORT

House of Representatives House Natural Resources Committee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on November 25, 1987 and reviewed certain changes in state regulations proposed by the Louisiana Department of Environmental Quality for which notice of intent was published in the October 20, 1987 *Louisiana Register* with the following results:

1. Proposal by the Department of Environmental Quality

to amend the rules of procedure for the solid waste operator certification and training program.

Approved by a vote of 5-0.

Clyde W. Kimball
Chairman

COMMITTEE REPORT

House of Representatives House Natural Resources Subcommittee Oversight Review

NOTICE OF DISAPPROVAL

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on November 25, 1987 and reviewed certain proposed rules by the Louisiana Department of Environmental Quality to modify rules governing daily cover over solid waste at solid waste landfills for which the notice of intent was published in the October 20, 1987 *Louisiana Register* with the following results:

1. No determination was made regarding whether the proposed rule was within the intent and scope of the enabling legislation because no such specific legislation was cited to the subcommittee.

2. No determination was made whether the proposed rule was contrary to applicable provisions of law and of the constitution.

3. No determination was made regarding the merit of the proposed rule.

4. The subcommittee determined that the rule change was unacceptable because the specific language regarding the exposure of solid waste after it has been covered was not reasonable.

Rejected by a vote of 5-0.

In accordance with R.S. 49:968(F), copies of this report are being forwarded this date to the governor, the Department of Environmental Quality, and the State Register.

Clyde W. Kimball
Chairman

COMMITTEE REPORT

House of Representatives House Natural Resources Committee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on November 25, 1987 and reviewed certain changes in state regulations proposed by the Louisiana Department of Environmental Quality for which notice of intent was published in the October 20, 1987 *Louisiana Register* with the following results:

1. Proposal by the Department of Environmental Quality to promulgate the Municipal Facilities Revolving Loan Fund rules and regulations.

Approved by a vote of 5-0.

Clyde W. Kimball
Chairman

COMMITTEE REPORT

House of Representatives House Natural Resources Committee Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on November 25, 1987 and reviewed certain changes in state regulations proposed by the Louisiana Department of Public Safety and Corrections for which notice of intent was published in the October 20, 1987 *Louisiana Register* with the following results:

1. Proposal by the Office of State Police within the Department of Public Safety and Corrections to adopt rules to enforce the requirements of the Hazardous Waste Information Development, Preparedness and Response Act.

Approved by a vote of 6-0.

Clyde W. Kimball
Chairman

Administrative Code Update

Administrative Code Update July, 1987 through November, 1987

Vol.	Title:Part.Section	Effect	Location
1	LAC:35.V.5741	Adopted	LR 13:495
	LAC:35.V.6357	Amended	LR 13:432
	LAC:35.V.6358	Adopted	LR 13:432
	LAC:35.V.6360	Adopted	LR 13:432
2	LAC:7.XXI.11731	Amended	LR 13:555
	LAC:7.XXI.11733	Amended	LR 13:556
	LAC:7.XXI.11735	Amended	LR 13:556
	LAC:7.XXI.11737	Amended	LR 13:558
	LAC:7.XXI.11739	Amended	LR 13:559
	LAC:7.XXI.11741	Amended	LR 13:559
	LAC:7.XXI.11749	Amended	LR 13:559
	LAC:7.XXI.Chapter 18	Adopted	LR 13:560
	LAC:7.XXXIX.20101	Adopted	LR 13:432
	LAC:7.XXXIX.20301	Adopted	LR 13:432
3	LAC:46.VII.111	Amended	LR 13:439
	LAC:46.VII.119	Amended	LR 13:583
	LAC:46.VII.1301	Adopted	LR 13:395
	LAC:46.VII.1501	Amended	LR 13:582
	LAC:46.VII.1501	Adopted	LR 13:397
	LAC:46.VII.1503	Adopted	LR 13:397
	LAC:46.VII.1505	Adopted	LR 13:398
	LAC:46.VII.1507	Adopted	LR 13:398
	LAC:46.VII.Chapter 17	Adopted	LR 13:581
	LAC:46.XXXVII.701	Amended	LR 13:570
	LAC:46.XLI.729	Amended	LR 13:392
LAC:46.XLI.729	Amended	LR 13:433	
LAC:46.XLV.Chapter 29	Adopted	LR 13:574	

Vol.	Title:Part.Section	Effect	Location
	LAC:46.XLV.Chapter 59	Adopted	LR 13:577
	LAC:46.XLV.Chapter 65	Adopted	LR 13:570
	LAC:46.XLV.Chapter 81	Adopted	LR 13:577
	LAC:46.XLVII.3349	Amended	LR 13:436
	LAC:46.XLIX.701	Amended	LR 13:570
	LAC:46.XLIX.703	Amended	LR 13:570
4	LAC:4.III.111	Amended	LR 13:656
	LAC:4.VII.Chapter 1	Repeal/Readopt	LR 13:652
	LAC:4.VII.937	Amended	LR 13:570
	LAC:4.VII.1167	Amended	LR 13:569
	LAC:4.VII.Chapter 13	Adopted	LR 13:569
	LAC:19.III.1515	Amended	LR 13:497
	LAC:19.III.1703	Amended	LR 13:497
5	LAC:76.VII.125	Adopted	LR 13:502
	LAC:76.VII.323	Adopted	LR 13:502
	LAC:76.VII.701	Adopted	LR 13:440
6	LAC:22.III.Chapter 47	Adopted	LR 13:434
	LAC:55.VII.319	Amended	LR 13:667
7	LAC:25.VII.Chapter 31	Adopted	LR 13:392
	LAC:37.VII.123	Amended	LR 13:667
	LAC:37.VII.125	Amended	LR 13:667
9	LAC:48.I.10505	Amended	LR 13:439
	LAC:48.I.11535	Adopted	LR 13:438
	LAC:48.I.Chapter 115	Amended	LR 13:439
	LAC:48.I.11523	Amended	LR 13:580
	LAC:48.I.11523	Amended	LR 13:657
	LAC:48.I.12501	Amended	LR 13:658
	LAC:48.I.12503	Amended	LR 13:659
	LAC:48.I.12701	Amended	LR 13:579
	LAC:48.I.12703	Amended	LR 13:579

POTPOURRI

Department of Natural Resources

FISHERMEN'S GEAR COMPENSATION FUND

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1 through 56:700.5, and regulations adopted for the fund, published in the *Louisiana Register* on August 20, 1980, notice is given that 50 claims amounting to \$87,556.22 were received during the month of November 1987. During the same month, 23 claims, amounting to \$48,956.10 were paid.

Due to the provisions of EWE 87-47 and the clarification dated December 3, 1987, hearings scheduled for December 10, 1987, in Houma and Galliano were cancelled.

B. Jim Porter
Secretary

POTPOURRI

Department of Urban and Community Affairs Office of State Clearinghouse

The Department of Urban and Community Affairs, Office of State Clearinghouse, is initiating a requirement that all applications for federal funds under the Stewart B. McKinney Act (PL 100-77) be submitted in duplicate. One application will remain in State Clearinghouse for the normal review process, while the second requirement copy will be used by the Governor's Task Force on the Emergency Shelter Grant Program for the Homeless. This requirement is effective immediately.

Colby S. LaPlace
Assistant Secretary

Potpourri

POTPOURRI

Department of Agriculture Horticulture Commission

The next retail floristry examinations will be given at 10 a.m. daily at the 4-H Mini-Farm Building, on the LSU Campus, in Baton Rouge, Louisiana on January 25-29, 1988. The deadline for getting an application and fee is January 8, 1988. All applications must be in the Horticulture Commission office no later than 4:30 p.m. on that date.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 44517, Capitol Station, Baton Rouge, LA 70804, phone (504) 925-7772.

Bob Odom
Commissioner

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