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Executive Orders

EXECUTIVE ORDER EWE 87-38

WHEREAS, recent international and national market conditions have affected adversely the oil industry and the shipping industry, historically the primary economic mainstays of the state of Louisiana and the city of New Orleans; and

WHEREAS, the resultant economic setbacks suffered by the state and the city have evidenced the need for a diversification and a more complete development of our economic base; and

WHEREAS, although tourism always has been an important source of revenues, its role as a major component of our economic base has been proven during this time; and

WHEREAS, in order to realize the full potential of this industry, it is necessary to make a concerted effort to promote those unique characteristics of the city of New Orleans and this state which have put us at the forefront of the convention and tourism industry:

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

Section 1: There is hereby created in the office of the governor, the International Trade, Industry and Tourism Commission.

Section 2: The commission shall be composed of concerned and active citizens and civic leaders, each of whom shall be appointed by the governor to serve at the pleasure of the governor.

Section 3: The governor shall designate one member to serve as chairman of the commission and one member to serve as vice-chairman. The commission may elect such other officers as is deemed necessary.

Section 4: The commission shall meet at least quarterly and at other times on call of the chairman.

Section 5: The commission shall conduct an overview of the tourism industry to ascertain its current status and level of commitment to the development of the industry. The commission shall project maximum potential tourism demands based on a maximization of resources and shall identify areas where further development is necessary to satisfy these demands. The commission shall formulate a comprehensive tourism program and recommendations for its implementation. The commission shall encourage participation on state and local levels to achieve its goals.

Section 6: The commission shall submit reports on its actions and its recommendations to the governor, the lieutenant governor, the secretary of the Department of Culture, Recreation and Tourism, the secretary of the Department of Commerce and Industry, the legislature and others as deemed appropriate by the commission.

Section 7: Each department of state government is directed to provide the commission with such administrative services, support services, and staff as may be reasonably necessary for the commission to perform its duties hereunder.

Section 8: Members of the commission shall receive no per diem or other compensation for the performance of their duties.

Section 9: The commission is authorized to solicit, accept, and expend donations, grants, and any other contribution from any public or private source to accomplish its goals hereunder.

IN WITNESS WHEREOF, I have hereunder set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge on this 17th day of September, 1987.

Edwin W. Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 87-39

Sections 1, 3, 4, 5, 6, 7 and 10 of Executive Order No. EWE 87-13 are hereby rescinded in their entirety.

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 September, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 87-40

WHEREAS, the number of homeless persons in the United States has been increasing at an alarming rate; and

WHEREAS, state and federal authorities are working together to alleviate the suffering of the homeless and to eradicate the problem; and

WHEREAS, the United States Congress has authorized several programs designated to assist the homeless under which state participation is essential; and

WHEREAS, this administration recognizes the necessity for state action and for participation on a local level in the aforementioned programs to rectify this situation most effectively:

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

Section 1: The Louisiana State Task Force on the Homeless is hereby created within the office of the secretary of the Department of Health and Human Resources.

Section 2: The task force shall be composed of:

- a. The secretary of the Department of Health and Human Resources, or her designee, who shall serve as chairman.
- b. The secretary of the Department of Urban and Community Affairs, or her designee, who shall serve as vice-chairman.
- c. The secretary of the Department of Labor, or her designee.
- d. The executive director of the Office of Women's Services.
- e. The executive director of the Office of Elderly Affairs.

f. The chairmen of the Mayor's Task Force on the Homeless for the cities of Baton Rouge, New Orleans, and Shreveport.
g. One member from the state at large, to be appointed by the governor.

Section 3: The task force shall oversee state administration of federal/state programs for the homeless.

Section 4: This executive order shall remain in effect until amended, rescinded, or terminated by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this the 28th day of September, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 87-41

WHEREAS, the welfare of Native Americans in Louisiana is important to this administration; and

WHEREAS, the Governor's Commission on Indian Affairs has been designated as the agency to represent the interests of the Native American population of the state; and

WHEREAS, the Governor's Commission on Indian Affairs is required by the Community Services Block Grant Policy Manual and Special Clauses to have an advisory board:

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

Section 1: The Advisory Board for Native Americans in Louisiana is created within the Governor's Commission on Indian Affairs, office of the governor.

Section 2: The Advisory Board shall be composed of 15 members as follows:

1. Five members shall be elected officials currently holding office;
2. Five members shall be representatives of the poor in Indian communities;
3. Five members shall be officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.

Section 3: Each member shall be appointed by the governor and shall serve for a term of one year. Any vacancy occurring on the board shall be filled in the manner of the original appointment. Members of the Governor's Commission on Indian Affairs shall not serve as members of the Advisory Board for Native Americans in Louisiana.

Section 4: The duty of the Advisory Board is to serve in an advisory capacity to the Governor's Commission on Indian Affairs.

Section 5: The governor shall appoint the chairman of the Advisory Board and the board may elect other such officers as it deems necessary.

Section 6: Members shall serve without compensation, and no member shall receive per diem or reimbursement of personal expenses from public funds.

Section 7: This order shall remain in effect until amended or modified by the governor or terminated by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this the 28th day of September 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

EXECUTIVE ORDER EWE 87-42

WHEREAS, the Congress of the United States has repealed Title XV (the National Health Planning and Resources Development Act) of the Public Health Service Act and in so doing has eliminated the appropriation for the health facility capital expenditure review authorized by Section 1122 of the Social Security Act and for associated health planning activities; and

WHEREAS, for this reason, the agreement under which Louisiana administers the Section 1122 Review Program will be terminated effective October 1, 1987; and

WHEREAS, the Section 1122 Review Program assures that state funds and federal funds appropriated for Title XIX of the Social Security Act are used to support only necessary capital expenditures made by or on the behalf of health care facilities reimbursed under that Title and therefore assures the most cost effective use of those funds; and

WHEREAS, the Department of Health and Human Resources, as the state health planning and development agency vested with the responsibility for health planning and development under R.S. 36:256, has administered the Section 1122 Review Program since 1979; and

WHEREAS, in the program under contract with the Department of Health and Human Services (DHHS), the state has been responsible for review of applications for health facility capital expenditures and to recommend to the DHHS that the expenditures be approved or disapproved as a prerequisite to the decision of DHHS to reimburse providers for services rendered under Title XVIII and Title XIX of the Social Security Act; and

WHEREAS, the Statewide Health Coordinating Council has served as the advisory board for the Division of Policy, Planning and Evaluation of the Department of Health and Human Resources acting as the state health planning and development agency;

NOW THEREFORE I, EDWIN EDWARDS, governor of the state of Louisiana, do hereby direct the Department of Health and Human Resources to continue to administer a health facility capital expenditure review program similar to the Section 1122 Review Program to make final decisions on the necessity for capital expenditures proposed by health care facilities as a prerequisite to the inclusion of the capital expenditures in reimbursement for services furnished under Title XVIII and XIX of the Social Security Act.

FURTHERMORE, in service of the public interest, there is hereby authorized and continued in its present composition the Statewide Health Coordination Council as the advisory board to the designated planning agency.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of

Louisiana, at the Capitol, in the city of Baton Rouge, on this the 28th day of September 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Commerce Racing Commission

Title 35 HORSE RACING Part VII. Wagering

Chapter 115. Triple Play (New Chapter)

§11501. Scope

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

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

§11503. Ticket is Evidence of Binding Contract

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

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

§11505. Distinctive Name

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

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

§11507. Pari-Mutuel Pool

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

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

§11509. Coupled Entries and Fields

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

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

§11511. Calculation of Pool

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

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

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

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

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

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

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

§11513. Canceled Triple Play Race(s)

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

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

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

§11515. Actual Favorite Substituted for Scratch

A. In the event a triple play ticket designates a selection in any one or more of the races comprising the triple play and that selection is scratched, excused, or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by

the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs.

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

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

§11517. Dead Heats

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

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

§11519. No Ticket Sold, Exchanged or Canceled

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

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

§11521. Announcing Payoff Prices

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

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

John P. Davis, DVM
Secretary

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Bulletin 741, Standard 1.010.02

The State Board of Elementary and Secondary Education, at its meeting of August 27, 1987, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B and adopted the following amendment to Bulletin 741, Standard 1.010.02 to add the following as a new policy:

"K. Equal access by all Louisiana colleges and universities to schools for the purpose of college recruitment."

This emergency adoption is necessary in order that the policy will be in place prior to expiration of the consent decree with the U. S. Department of Justice and institutions of higher education.

Dr. James Meza, Jr.
Executive Director

10-87-63 R

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Revisions to Nonpublic School Standards

The State Board of Elementary and Secondary Education, at its meeting of August 27, 1987, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B and approved revisions to the nonpublic school standards as follows:

1. On page 8, Standard 6.037.10 - change 360 minutes to 330 minutes, and change 180 minutes to 165 minutes.

2. On page 8, Standard 6.037.11 - change 360 minutes to 330 minutes.

3. Add the following standard:

"Each school may include in its calendar, a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time. (effective 1987-88 school year)"

4. Add the following to the nonpublic program of studies (Bulletin 741):

"Publications course offerings shall be as follows:

Course Title	Units
Publications I (yearbook)	1
Publications II (yearbook)	1
Publications I is a prerequisite to Publications II	

Teachers in the areas of Journalism, English, and/or Business Education are qualified to teach Publications I and II, effective date: 1987-88 school year."

This emergency adoption is necessary in order that the nonpublic school standards will be in place for the present school year and to be in compliance with the public school standards.

Dr. James Meza, Jr.
Executive Director

DECLARATION OF EMERGENCY

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

The Department of Health and Human Resources (DHHR) Office of Preventive and Public Health Services (OPPHS) has exercised the emergency provision of the Administrative Procedure Act, (R.S. 49:953 B) to notify the public of a grant in the amount of \$301,076 awarded to DHHR/OPPHS from the U. S. Department of Health and Human Services. This grant was announced in a potpourri notice in the September 20, 1987 issue of the *Louisiana Register*. This money was awarded to the state to purchase Azidothymidine (AZT), which has been determined by the Food and Drug Administration to prolong the life of a person with acquired immunodeficiency syndrome (AIDS). It is necessary to adopt this as an emergency rule due to the lethal nature of the disease which the drug AZT delays to some extent.

The Department of Health and Human Services has stipulated that low income individuals not covered under the State Medicaid Program or another third-party payor, or whose State Medicaid Program does not provide this coverage, be targeted as recipients of this state-purchased AZT. The grant gives Louisiana the latitude to define low-income for purposes of this program and to establish medical eligibility criteria for potential recipients

of the drug. In order to develop these eligibility criteria, the state health officer established a review board consisting of experts in the AIDS field to establish financial and medical criteria and to grant approval status to applicants. On Tuesday, October 6, 1987, the state health officer issued an emergency declaration through the news media to announce that the review board has met and established the following criteria for use in determining potential recipients of AZT.

Criteria for Patient Eligibility for
Federally Funded Azidothymidine (AZT).

(1) The patient must have been diagnosed with AIDS or Advanced AIDS Related Complex (ARC).

(2) The patient must be ineligible for any non-placebo controlled AZT study. Eligibility for current studies may be determined by calling (504) 584-3605, the number of the LSU-Tulane AIDS Treatment and Evaluation Unit in New Orleans.

(3) The patient must be willing to be followed as felt necessary by his/her physician. Poor patient compliance can be reason for discontinuing medication.

(4) The patient's financial status is within the definition of 200 percent of the federal poverty level as follows: 1 person household \$ 900/mo.; 2 person household \$1233/mo.; 3 person household \$1530/mo.; 4 person household \$1867/mo.

(5) The patient must have no other financial means for access to AZT.

Program Referral Procedures

All referrals of potential recipients shall be directed to the program review board by the patient's physician. The referring physician shall assure that the patient meets all of the above stated eligibility criteria.

A referral form for use by the referring physician has been developed and will be distributed through the parish health units or by calling the Office of Preventive and Public Health Services Epidemiology Section, at (504) 568-5005. The referral form contains instructions for proper completion and routing to the review board for their consideration for program participation.

The review board shall review all applications on a first come first serve basis using the above criteria to determine eligibility for approved participation in the program at no cost to patients. This program to purchase AZT is totally dependent upon federal funds and will continue as long as funds are available under the limited award of \$301,076. The state does not guarantee funding beyond that of this awarded amount or the grant expiration date of 9/30/88, whichever occurs first.

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

DECLARATION OF EMERGENCY

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

The Department of Health and Human Resources has exercised emergency rulemaking provisions of the Administrative Procedure Act, R.S. 49:953B, to set forth the following regulations which are effective immediately as mandated by R.S. 40:1099 as enacted by Act 805 of 1987. These regulations shall require hospitals, as defined herein, to notify and advise any person(s) involved in the emergency treatment or transportation of ill or injured patients who are subsequently diagnosed as having certain infectious diseases. R.S. 40:1099 mandates that

these notification procedures be promulgated prior to October 30, 1987. This emergency rule is necessary because of an imminent peril to public health as caused by exposure to infectious diseases as listed in R.S. 40:1099.

R.S. 40:1099 defines hospital to mean any public or private health care facility which is primarily operated for the purposes of diagnosis, treatment or care of persons admitted for health care services. This definition expressly includes emergency rooms and outpatient clinics operated in connection with said health care facilities. In addition, R.S. 40:1099 B requires notification to and by nursing homes.

R.S. 40:1099 lists the following infectious diseases which are subject to notification requirements:

1. untreated pulmonary tuberculosis
2. acute meningococcal meningitis
3. acute hepatitis virus B infection (or diagnosed carriers of chronic hepatitis B)
4. human immunodeficiency virus (HIV) infection or acquired immunodeficiency syndrome (AIDS). These diseases must be reported within 48 hours of the confirmation of patient diagnosis.

In accordance with R.S. 40:1099, the following notification procedures shall be carried out in each hospital:

1. Each hospital shall be responsible for maintaining a registry or sign-in log which shall include the name, address and telephone number of the person(s) who provided emergency treatment and/or transportation of the patient, when the provider is someone other than an ambulance transportation service provider. Transporting ambulance providers shall continue to use the existing ambulance transportation log. The log shall later be referred to in the event that it becomes necessary to identify and notify such providers of the exposure to a patient who is subsequently diagnosed and confirmed as having one of the above listed infectious diseases.

2. Each hospital shall post a visible sign to advise the public that Louisiana law requires the hospital to notify, within 48 hours after diagnosis confirmation, any person who has provided emergency treatment or transportation of a patient who is later diagnosed to have infectious diseases as listed in R.S. 40:1099. In order to comply with this law anyone transporting a patient into the hospital must register in the hospital log book. Transporting ambulance service providers, however, will continue to sign the existing ambulance log which is currently completed whenever a patient is transported by ambulance to the hospital.

3. The hospital's Infection Control Officer (ICO) or other administratively designated staff person shall be promptly notified of all cases involving confirmed diagnoses of the above listed infectious diseases. The ICO shall confidentially contact the listed person(s) or transporting ambulance firm to advise of the exposure to a confirmed case of an infectious disease. The notification, which shall be done within 48 hours, must include a statement that the transporting individual contact a designated hospital staff person for necessary consultation. The hospital must document that the required notification and consultation, if held, has taken place.

R.S. 40:1099 further requires that a physician who has actual knowledge of his patient's infectious disease as listed above shall notify the hospital or nursing home of his patient's disease upon admission. Furthermore, whenever a patient with a listed infectious disease is transferred from a nursing home to a hospital or vice versa, the transferor shall follow the same notification procedures.

Hospitals and nursing homes must assure that their policies and procedures on confidentiality are updated to include such notification procedures as required by R.S. 40:1099.

In addition, the existing reporting requirements of Chapter II of the State Sanitary Code shall continue to be met.

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

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of Juvenile Services

The Department of Public Safety and Corrections, pursuant to the authority contained in R.S. 49:953 B, adopted the following emergency rules on September 1, 1987. This emergency adoption was necessitated by the enactment of R.S. 46:1906 by the 1987 Regular Legislative Session. R.S. 46:1906 requires the Department of Public Safety and Corrections to accept legal custody on the day of disposition of all children placed in it by the Court and to pay the local governing authority for feeding and maintaining each such child who is adjudicated delinquent and held in a local institution or facility due to the department's inability to accept legal custody. R.S. 46:1906 became effective on September 1, 1987, and the Department of Public Safety and Corrections had insufficient time and information between the close of the Legislative Session and the effective date of the law to promulgate permanent rules.

The Department of Public Safety and Corrections finds that the lack of permanent rules between the effective date of the law and the adoption of permanent rules poses an imminent peril to public health, safety and welfare. The following emergency rules are needed to protect the health, safety and welfare of the public, to provide for payment to the local governing authority for feeding and maintaining children who are placed in the legal custody of the Department of Public Safety and Corrections due to the Department's inability to accept physical custody. The permanent rules will be promulgated by the Department of Public Safety and Corrections at a later date with opportunity for public comment.

These emergency rules govern the terms, rate and method of payments by the Department of Public Safety and Corrections to local governing authorities, for the care and feeding of juveniles adjudicated delinquents and placed in the legal custody of the Department of Public Safety and Corrections. Effective date of this emergency rule was September 1, 1987.

The text of the proposed rules are as follows:

I. Definitions

A. Local governing authority

Local Governing Authority is defined as the public body responsible for funding the local institution or facility which feeds and maintains adjudicated delinquents who have been placed in the custody of the Department, pending the juvenile's acceptance by the Department.

B. Legal custody

The term Legal Custody is defined as the legal obligation of the Department of Public Safety and Corrections to provide all necessary and appropriate care for a child adjudicated delinquent.

C. Local institution or facility

Local institution or facility is defined as a building or part

thereof designated and operated by the local governing authority for the purpose of providing lawful and secure care and treatment of juveniles and which is in compliance with all applicable federal, state, local statutory requirements and Department requirements relative to this type of facility or institution.

D. Feeding and maintaining

Feeding and maintaining shall include, but is not limited to, providing a balanced diet, suitable clothing, shelter, 24 hour supervision.

II. Criteria and Applicability

A. Local governing authorities requesting reimbursement for feeding and maintaining juveniles in the legal custody of the Department of Public Safety and Corrections shall only be entitled to reimbursement under the following terms and conditions:

1. The juvenile for which payment is requested must be committed to the legal custody of the Department of Public Safety and Corrections by valid order of the court of competent authority.

2. The juvenile must be housed in an appropriate secure facility and legally held in accordance with the Code of Juvenile Procedure.

3. The juvenile is being held in a local institution or facility because of the inability of the Department of Public Safety and Corrections to accept physical custody of the juvenile.

4. The juvenile is not being held by valid order of the committing judge for constructive contempt of court, as defined by Art. 83, Juvenile Code, or direct contempt of Court, as defined in LA CCrP Art. 21.

5. The juvenile is not being held in a local institution or facility pending disposition on any charge.

6. The juvenile must be physically housed at the local institution or facility for which payment is claimed.

III. Certification of Eligible Facilities

A. In order to be reimbursed for the care and feeding of juveniles under Act 171, local governing authorities must submit the following documentation to the agency at least 10 days prior to the first of the period for which initial reimbursement is claimed:

1. Letter of intent directed to the Assistant Secretary, Office of Juvenile Services, in the form of a resolution, or other official communication, designating the entity of government responsible for all transactions in regard to billing and receipt of payments, and the name of the individual authorized to verify and sign official documents.

2. Document certifying the status of the local facility or institution as a Governmental entity.

3. IRS tax I.D. number of local governing authority.

B. The Department of Public Safety and Corrections, through its agent or representative, shall, at its discretion and at any time, inspect the premises of any facility or institution for which eligibility for reimbursement is claimed for the feeding and maintaining of juveniles adjudicated delinquents who have been placed in the legal custody of the Department pending physical acceptance by the Department.

C. The Department of Public Safety and Corrections shall issue a letter certifying the eligibility or non-eligibility of facilities operated by the local governing authority for the feeding and maintaining of juveniles adjudicated delinquent.

D. A permanent file shall be maintained on participating governmental agencies and local facilities and institutions.

E. The local governing authority, after initial certification, shall submit to DPS&C, annually, a written statement of continuing participation, which shall be received in the Office of Juvenile

Services before July 15th of each year, and which shall include any amendments due to changes in previous submissions and/or documentation.

IV. Procedure

A. Once a juvenile is placed in the legal custody of the DPS&C and housed in a local institution or facility, as defined herein, the local authority shall immediately submit to the OJS Regional Manager a copy of the legal order giving custody of the juvenile to DPS&C. Upon receipt of that order, the Regional Office of OJS shall assign a DOC ID# to the juvenile. A copy of the order must be received by the OJS Regional Manager before payment on behalf of the juvenile shall be authorized.

B. When the juvenile is released to the physical custody of DPS&C, The OJS/DEP - Release Form must be completed and signed by the authorized agent of the local governing authority or by a designee of the facility and by the authorized agent of DPS&C. The date indicated on the discharge form shall serve as the official date of transfer for payment purposes and payment shall not be made for the date of transfer.

V. Payment

A. Liability for payment to the local governing authority by the DPSC shall commence on the day of legal commitment of the juvenile to the custody of the Department of Public Safety and Corrections. Payment shall begin the first day the juvenile is physically housed in an eligible local facility or institution, and shall cease the day prior to the actual day of release from the local institution or facility.

B. The Department of Public Safety and Corrections shall pay the same amount for juveniles, under R.S. 46:1906, as is paid by the Department for adults housed in local facilities under R.S. 15:824. The amount stated in R.S. 15:824 represents the maximum rate of reimbursement and no additional costs, resulting in claims for payment, shall be paid by the Department of Public Safety and Corrections.

C. The local governing authority shall submit a monthly invoice, with the billing period commencing in the first of each month, and said invoice shall include the following information:

1. Month and year for which reimbursement is claimed
2. DOC vendor I.D. number
3. IRS number of the payee
4. Vendor name and address to which payment is to be made

5. Name of juvenile
6. Actual number of days in period
7. Dates for which payment is claimed

D. The Department of Public Safety and Corrections is not responsible for payment for services not billed within 60 days from the date of the delivery of service.

E. All disputes over alleged discrepancies in billing or disbursements shall only be considered for adjustments by the Department of Public Safety and Corrections when they are reduced to writing and received by the Department of Public Safety and Corrections, Office of Juvenile Services no later than ten (10) working days beyond the last payable day of the month in which the alleged billing of discrepancy occurred, or ten (10) days beyond the date payment is received.

F. Requests for payment may not be submitted prior to the last day of the month for which reimbursement is claimed. All billings shall be directed to the Regional Manager, Office of Juvenile Services. The following is a list of addresses of regional offices of the Office of Juvenile Services and parishes which they serve. Invoices shall be submitted to the appropriate regional office.

Region 1—1000 Howard Avenue, Suite 200, New Orleans, Louisiana 70113, (568-4533). Serving parishes of: Orleans, Jefferson, Plaquemines, and St. Bernard

Region 2—544 Main Street, Baton Rouge, Louisiana 70802, (344-4440). Serving parishes of: East Baton Rouge, West Baton Rouge, East Feliciana, West Feliciana, Livingston, Iberville, St. Helena, Ascension, Tangipahoa, Pointe Coupee, Washington, and St. Tammany.

Region 3—1202 Tiger Drive, P. O. Box 5175, Thibodaux, Louisiana 70302, (447-2318). Serving parishes of: Assumption, St. John, St. James, St. Charles, Terrebonne, and Lafourche.

Region 4—1814-A N.E. Evangeline Thruway, Lafayette, Louisiana 70501, (265-5661). Serving parishes of: Evangeline, Iberia, Acadia, St. Martin, Vermilion, St. Mary, and Lafayette.

Region 5—710 W. Prien Lake Road, Suite 107, Lake Charles, Louisiana 70601, (491-2336). Serving parishes of: Beauregard, Calcasieu, Cameron, Jefferson Davis, and Allen.

Region 6—900 Murray Street, P.O. Box 7767, Alexandria, Louisiana 71306-0767, (487-5241). Serving parishes of: Rapides, LaSalle, Vernon, Catahoula, Grant, Concordia, Winn, and Avoyelles.

Region 7—1525 Fairfield Avenue, 10th Floor, Shreveport, Louisiana 71101-3104, (226-7019). Serving parishes of: Caddo, Claiborne, Bossier, Bienville, and Webster.

Region 8—2004 Tower Drive, P.O. Box 3104, Monroe, Louisiana 71210-3104, (362-5208). Serving parishes of: Union, Ouachita, Lincoln, Morehouse, Jackson, and Caldwell.

Region 9—508 East Bayou Road, P.O. Box 1309, Tallulah, Louisiana 71284-1309, (574-0731). Serving parishes of: West Carroll, East Carroll, Madison, Tensas, Richland, and Franklin.

Region 10—116 Highway 1 South, P.O. 2310, Natchitoches, Louisiana 71457, (352-1804). Serving parishes of: DeSoto, Sabine, Red River, and Natchitoches.

C. Paul Phelps
Secretary

Rules

RULE

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

The Louisiana State Livestock Sanitary Board adopted amendments to LAC 7:XXI Chapter 117 as follows.

Title 7

Agriculture and Animals

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter B. Cattle

§11731. Admission of Cattle into Louisiana

All cattle entering the state must meet the general requirements of LAC 7:XXI.11705 and the following specific requirements:

- A. Tuberculosis Requirements

All cattle over one year of age must show a negative test for tuberculosis within 30 days prior to entry. The date and results of the test and the individual identification of each animal must be recorded on the health certificate. The following are exempt from this requirement:

1. Cattle that originate from a tuberculosis free accredited herd; however, they must be individually identified and the accredited herd number furnished on the health certificate.

2. Beef cattle that originate from a tuberculosis free state or from a herd, not under quarantine, in a modified-accredited tuberculosis free state or area.

3. Cattle consigned to a recognized slaughter establishment or to an approved livestock auction market to be sold directly for immediate slaughter only.

B. Brucellosis

1. In addition to the above requirements, cattle entering Louisiana must meet the brucellosis requirements found in part 78 of the code of federal regulations.

2. No cattle from brucellosis quarantined herds may move into Louisiana except those cattle moving to an approved livestock auction market or to an approved slaughter establishment and accompanied by the required federal form VS 1-27.

3. In addition to the requirements of B.1. above, cattle must meet the following requirements:

a. Heifers between the ages of four and 12 months of age must be official brucellosis calfhood vaccinates to be eligible to be brought into Louisiana. Exceptions to this Subparagraph are:

i. heifers moving from a farm to an approved stockyard or an approved slaughter establishment;

ii. individually identified heifers, less than 12 months of age, entering the state for exhibition purposes and returning to the state of origin.

b. Heifers and cows entering Louisiana, which were born after January 1, 1982 and are over 12 months of age, must be official brucellosis vaccinates or originate from a herd that has had a complete negative herd test within the previous 12 months. A copy of the herd test record, which includes the animal(s) entering the state, must accompany the health certificate. Exceptions to this Subparagraph are:

i. heifers and cows moving directly from a farm to an approved stockyard or an approved slaughter establishment;

ii. individually identified heifers and cows entering the state for exhibition purposes and returning to the state of origin;

iii. individually identified heifers and cows originating from a certified brucellosis free herd, a brucellosis free state, or a brucellosis Class A state.

c. Effective January 1, 1989, all heifers and cows over 12 months of age, entering Louisiana, must be official brucellosis vaccinates or originate from a herd that has had a complete negative herd test within the previous 12 months. A copy of the herd test record, which includes the animal(s) entering the state, must accompany the health certificate. Exceptions to this Subparagraph are:

i. heifers and cows moving directly from a farm to an approved stockyard or an approved slaughter establishment;

ii. Individually identified heifers and cows entering the state for exhibition purposes and returning to the state of origin;

iii. Individually identified heifers and cows originating from a certified brucellosis free herd, a brucellosis Class Free state, or a brucellosis Class A state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2221.

§11733. Admittance of Louisiana Cattle to Fairs, Livestock Shows, Breeders' Association Sales and Rodeos Held in Louisiana

All cattle consigned to fairgrounds, livestock show grounds, sale grounds, and rodeos must meet the general requirements of LAC 7:XXI.11707 and the following specific requirements (Note: The word "cattle" as used in this regulation refers to cattle for exhibition and/or sale and the nurse cows that may accompany them.):

A. Brucellosis

1. No cattle from brucellosis quarantined herds or brucellosis quarantined areas are allowed to be exhibited in the state of Louisiana or consigned to breeders' association sales in Louisiana.

2. All heifers between four and 12 months of age, must be official brucellosis calfhood vaccinates to be eligible to be shown in Louisiana.

3. All heifers and cows over 12 months of age must be official brucellosis vaccinates or be from a herd that has had a complete negative herd test within the past 12 months and be tested negative to the brucellosis card test within 30 days prior to admission to fairs, livestock shows, and breeders' association sales. A copy of the herd test record, which includes the animal(s) on the health certificate, must accompany the health certificate. Exceptions to this Paragraph are:

a. individually identified, official brucellosis calfhood vaccinates under 20 months of age for dairy breeds and under 24 months of age for beef breeds, which are not pre-parturient (springers) or post-parturient. The vaccination tattoo must be recorded on the health certificate;

b. individually identified heifers and cows originating from a Louisiana farm, which have been tested within 60 days prior to admission to fairs and livestock shows and are official brucellosis vaccinates or have been part of a complete negative herd test, conducted in the past 12 months. A copy of the herd test record, which includes the animal(s) on the health certificate, must accompany the health certificate;

c. individually identified cattle, moving directly from a certified brucellosis free herd. The certified herd number must be recorded on the health certificate;

d. individually identified heifers and cows entering the state for exhibition purposes and returning to the state of origin.

4. Individually identified cattle originating in and moving directly from a certified herd. The certified herd number must be recorded on the health certificate.

B. Tuberculosis

All cattle must originate from herds not under quarantine for tuberculosis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2093.

§11735. Livestock Auction Market Requirements

All cattle which are sold or offered for sale in livestock auction markets must meet the general requirements of LAC 7:XXI.11709 and the following specific requirements:

A. Brucellosis

1. Cattle from quarantined herds or from non-qualified herds from quarantined areas are not eligible for sale in the state of Louisiana except as provided in LAC 7:XXI.11749, which governs brucellosis quarantined herds.

2. All cattle that are offered for sale through Louisiana livestock auction markets must be identified by a white official backtag; those animals two years of age and older, shall have this official backtag placed immediately behind the shoulder of

the animal. The market shall furnish and make immediately available to the Livestock Sanitary Board's official representative, a copy of each check-in slip showing the name and address of each consignor and the official backtag numbers applied to the consignor's livestock.

3. All cattle 18 months of age and over, that are offered for sale, must be further identified by an official metal tag and must be tested for brucellosis. Exceptions to LAC 7:XXI.11735.A.3. are:

- a. steers and spayed heifers;
- b. cattle consigned from quarantined feedlots that are "S" branded and permitted prior to shipment to the auction barn;
- c. official calfhood vaccinates less than 24 months of age that are not pre-parturient or post-parturient.

4. All non-vaccinated heifer calves between four and 12 months of age, must be vaccinated with USDA Approved Brucellosis Strain 19 vaccine prior to being sold.

b. All heifers and cows, which were born after January 1, 1982 and are over 12 months of age, must be brucellosis tested and be official brucellosis vaccinates (calfhood or adult), or originate from a herd that has had a complete negative brucellosis herd test within the previous 12 months. A copy of the herd test record, which includes the animal(s) being tested, must accompany the animal(s) at the stockyard. All heifers and cows, older than 12 months of age, which were born after January 1, 1982, that are not official brucellosis vaccinates or have not been part of a complete negative brucellosis herd test, conducted within the previous 12 months, may be returned to the farm of origin or be brucellosis tested, "S" branded, and sold to a quarantine feedlot or an approved slaughter establishment, and shall be accompanied by a VS Form 1-27. These non-vaccinated "S" branded animals must be delivered to an approved slaughter establishment, a Louisiana or USDA approved quarantined feedlot, or the premises of a Louisiana permitted livestock dealer within 72 hours of purchase. The permitted livestock dealer may hold these animals up to seven days at his approved facilities. The animal(s) must move from the permitted livestock dealer's premises directly to an approved slaughter establishment or to a Louisiana or USDA approved quarantined feedlot. Exceptions to this Subparagraph are:

i. official brucellosis calfhood vaccinates under 20 months of age for dairy breeds and under 24 months of age for beef breeds, which are not pre-parturient (springers) or post-parturient;

ii. individually identified cattle, moving directly from a certified brucellosis free herd and accompanied by a copy of the last herd test record, which includes the animal(s) being offered for sale.

c. Effective January 1, 1989, all heifers and cows over 12 months of age, must be brucellosis tested and be official brucellosis vaccinates (calfhood or adult), or originate from a herd that has had a complete negative herd test within the previous 12 months. A copy of the herd test record, which includes the animal(s) being tested, must accompany the animals to the stockyard. All heifers and cows older than 12 months, that are not official brucellosis vaccinates or have not been part of a complete negative brucellosis herd test, conducted within the previous 12 months, may be returned to the farm of origin or be brucellosis tested, "S" branded, and sold to a quarantined feedlot, or to an approved slaughter establishment, and shall be accompanied by a VS Form 1-27. These non-vaccinated "S" branded animal(s) must be delivered to an approved slaughter establishment or a Louisiana permitted livestock dealer within 72 hours of pur-

chase. The permitted livestock dealer may hold the animal(s) up to seven days at his approved facilities. The animal(s) must move from the Louisiana permitted livestock dealer's premises directly to an approved slaughter establishment or to a Louisiana or USDA approved quarantined feedlot. Exceptions to this Subparagraph are:

i. official brucellosis calfhood vaccinates under 20 months of age for dairy breeds and under 24 months of age for beef breeds, which are not pre-parturient (springers) or post-parturient;

ii. individually identified cattle, moving directly from a certified brucellosis free herd and is accompanied by a copy of the last herd test record, which includes the animal(s) being offered for sale.

5. Dispositions of animals tested at an auction market:

a. Reactor animal(s), either vaccinated or non-vaccinated, disclosed must be branded with a three-inch hot brand on the left jaw, tagged and removed to slaughter with a properly executed VS Form 1-27.

b. Suspect animal(s), adult vaccinated, or calfhood vaccinated animals, which are card test positive and rivanol test negative on the market test, can be "S" branded and sold for slaughter or at the owner's choice, returned to the farm of origin under quarantine for retest in no less than 30 days. Additional animals in the same consignment with the vaccinated suspect(s), which are negative on the brucellosis test, may move without restriction, provided they are in compliance with other appropriate regulations.

c. All exposed animals in a consignment must be "S" branded for removal to slaughter or, at the owner's choice, returned to the farm of origin under quarantine.

6. Cattle originating from brucellosis quarantined herds shall be identified by eartag and branded with a three-inch hot "S" brand on the left jaw and accompanied by a properly executed VS Form 1-27. The branding and the issuance of VS Form 1-27 will be completed on the farm of origin prior to movement. The VS Form 1-27 will be delivered to authorized representatives at the livestock auction market. In cases where it is impractical to have the exposed cattle branded on the farm of origin, the state veterinarian can authorize the movement of the cattle to the livestock auction market and the branding be accomplished at this point.

a. Cattle from brucellosis quarantined areas may be moved to Louisiana livestock auction markets on a permit. These animals will be "S" branded after arrival at the Louisiana livestock auction market.

b. Cattle from quarantined areas and from brucellosis quarantined herds must be sold to approved slaughtering establishments or to an approved quarantined feedlot. Exceptions to LAC 7:XXI.11735.A.6.b. are:

i. steers and spayed heifers over six months of age;

ii. heifers that are official vaccinates and under 12 months of age and originating in a herd under an approved herd plan may move without restrictions;

iii. bull calves under six months of age, that are nursed by brucellosis reactor or exposed cows, may move from the quarantined premises under permit, provided they have been weaned for not less than 30 days immediately preceding movement.

7. When brucellosis reactors are found in a consignment, all remaining negative cattle in the consignment are considered exposed and shall be handled by one of the following ways:

a. the exposed cattle shall be identified by a three-inch hot brand on the left jaw with the letter "S" and sold directly to a

recognized slaughter establishment for immediate slaughter or to a state-federal approved quarantined feedlot and shall be accompanied by VS Form 1-27.

b. The exposed cattle may be identified by a yellow paint mark on the left ear and returned to the original owner's premises under quarantine. All such movements will be accompanied by a quarantine notice listing the eartag and auction tag identification numbers of the animals moving to Louisiana farms. Exceptions to LAC 7:XXI.11735.A.7.b. are:

- i. steers and spayed heifers over six months of age;
- ii. brucellosis vaccinated heifers between the ages of four and 12 months that originate from quarantined herds that are participating in an approved herd plan to eliminate brucellosis from the herd;
- iii. heifer calves four months of age and under, and bull calves six months of age and under whose dam tested negative for brucellosis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

§11737. Governing the Sale of Cattle in Louisiana by Livestock Dealers

All cattle which are sold or offered for sale by livestock dealers, must meet the general requirements of LAC 7:XXI.11711 and the following specific requirements:

A. Brucellosis

1. No cattle may be sold or purchased from brucellosis quarantined herds except as provided for in LAC 7:XXI.11749.

2. a. All cattle 18 months of age and over, as evidenced by the presence of the first pair of permanent incisor teeth, including animals under these ages which are parturient or post-parturient, must be negative to the brucellosis card test within 30 days prior to sale. The date and results of the test and individual identification of each animal must be recorded on the official health certificate. Exceptions to LAC 7:XXI.11737.A.2. are:

- i. steers and spayed heifers;
- ii. individually identified official brucellosis calfhood vaccinated heifers under 20 months of age for dairy breeds and under 24 months of age for beef breeds, which are not parturient or post-parturient, that originate in and move directly from a herd known not to be infected. The vaccination tattoo must be recorded on the health certificate;
- iii. individually identified cattle originating in and moving directly from a brucellosis certified free herd. The certified herd number must be recorded on the health certificate.

b. In instances where brucellosis reactors are found, the reactor animals must be branded with a three-inch hot brand on the left jaw with the letter "B" and a brucellosis reactor tag must be placed in the left ear. The branding of reactors and placement of reactor tags must be accomplished immediately after the animals are found to be brucellosis reactors. All other cattle that have been comingled with the reactor animals for more than 24 hours are considered exposed and must be branded on the left jaw or high on the tail head by a three-inch hot brand with the letter "S." The reactor and exposed cattle shall be separated from all other cattle immediately and placed in quarantine pens identified as such by conspicuously placed signs. The movement of such cattle shall be restricted to:

- i. The reactor cattle must be sold directly to an approved slaughter establishment or at an approved livestock auction market for sale to such slaughtering establishment. These animals must be accompanied by a VS Form 1-27.
- ii. The exposed cattle may be moved to an approved slaughter establishment or to a state-federal approved quarantine

feedlot, or to an approved livestock auction market to be sold to an approved slaughter establishment or to an approved quarantine feedlot. These animals must move on a VS Form 1-27. Exceptions to the above restrictions are:

- (a) heifers between four and 12 months of age that are brucellosis calfhood vaccinated;
- (b) steers and spayed heifers;
- (c) heifer calves four months of age and under, and bull calves six months of age and under, whose dam tested negative for brucellosis.

3. a. All heifer calves between four and 12 months of age must be vaccinated with USDA approved Brucellosis Strain 19 vaccine, prior to being sold.

b. Heifers and cows over 12 months of age must meet the following requirements before a dealer can purchase and resell these animals:

- i. Heifers and cows over 12 months of age, born after January 1, 1982, must be official brucellosis vaccinates (calfhood or adult), be from a producer's herd (not a herd owned by the dealer), that has had a complete negative brucellosis herd test conducted in the past 12 months, be negative to the brucellosis card test within 30 days prior to, or at the time of, purchase by the dealer, and the animals do not come in contact with animals other than those from the herd of origin. The dealer must keep a copy of the complete negative brucellosis herd test with his records to show that the animals have met the above requirements.

- ii. Effective January 1, 1989, all heifers and cows over 12 months of age must meet the requirements of A.3. b. i. above, before a dealer can purchase and resell these animals.

- c. All livestock dealers must do the following with all of their cattle herds in order for them to be in compliance with this regulation and before they can sell any heifers and cows over 12 months of age from cattle herds owned by them.

- i. All livestock dealers must identify and record with the Livestock Sanitary Board, all of their cattle herds.
- ii. All livestock dealers must test all of their cattle herds annually.

- iii. All permitted livestock dealers must maintain records and appropriate documents to show that purchased heifers and cows added to their herds met the brucellosis testing requirements in effect at the time of purchase.

4. Cattle over six months of age originating in brucellosis quarantined areas must originate from a qualified herd (known not to be infected), and must pass a negative card test for brucellosis, not less than 30 days from the date of herd qualification and within 30 days of the date of sale. The date and results of the test and individual identification of each animal must be recorded on the official health certificate.

5. All cattle 18 months of age and over, as evidenced by the presence of the first pair of permanent teeth, including animals under these ages which are parturient or post-parturient, must be negative to the brucellosis card test within 30 days prior to purchase from herds not under quarantine for brucellosis. The official test chart, health certificate, or a certificate of veterinary inspection, or an individual brucellosis test record, must be kept for a period of 24 months following the purchase of any brucellosis tested cattle. Exceptions to this Paragraph are:

- a. steers and spayed heifers;
- b. individually identified official brucellosis calfhood vaccinated heifers under 20 months of age for dairy breeds and under 24 months of age for beef breeds;
- c. individually identified cattle originating in and moving

directly from a certified brucellosis-free herd;

d. test eligible cattle may be moved from a producer's premises to a dealer's premises enroute to an approved stockyard or approved slaughter establishment without being tested for brucellosis, provided the test is completed within 72 hours of movement from the producer's premises; and records are maintained to identify the animals and identify the herd of origin. Contact with other cattle is not permitted.

B. Tuberculosis

No cattle shall be purchased from tuberculosis quarantined herds unless moving directly to slaughter and must be "S" branded and accompanied by VA Form 1-27.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2221, and R.S. 3:2228.

§11739. Governing the Sale and Purchase, Within Louisiana, of all Livestock Not Governed by Other Regulations (Brucellosis Requirements)

It is a violation of this regulation to sell or purchase cattle, not governed by other regulations of the Livestock Sanitary Board, in Louisiana, for any purpose other than immediate slaughter, unless they meet one of the following requirements:

A. Heifers, four to 12 months of age, must be official brucellosis calfhood vaccinates to be eligible to be sold other than to slaughter or to a quarantined feedlot.

B. 1. Heifers and cows over 12 months of age and born after January 1, 1982, must be official brucellosis vaccinates (calfhood or adult), or be part of a herd that has had a complete negative brucellosis herd test, conducted within the previous 12 months, and be tested negative for brucellosis 30 days prior to, or at the time of, being sold or purchased.

Exceptions to this Subsection are:

i. Individually identified official brucellosis calfhood vaccinated heifers, under 20 months of age for dairy breeds and under 24 months of age for beef breeds, that are not pre-parturient (springers) or post-parturient.

ii. Individually identified heifers and cows, originating in and moving directly from a certified brucellosis-free herd.

2. Effective January 1, 1989, all heifers and cows over 12 months of age must be official brucellosis vaccinates (calfhood or adult) or part of a herd that has had a complete negative brucellosis herd test, conducted within the previous 12 months and be tested negative for brucellosis 30 days prior to, or at the time of, being sold or purchased.

Exceptions to this Subparagraph are:

i. Individually identified official brucellosis calfhood vaccinated heifers, under 20 months of age for dairy breeds and under 24 months of age for beef breeds, that are not pre-parturient (springers) or post-parturient.

ii. Individually identified heifers and cows, originating in and moving directly from a certified brucellosis-free herd.

C. Bulls over 18 months of age, as evidenced by the presence of the first pair of permanent incisor teeth, must be brucellosis test negative 30 days prior to, or at the time of, sale or purchase. Exception to this Subsection is:

1. Individually identified bulls originating in and moving directly from a certified brucellosis-free herd.

D. Steers and spayed heifers may move unrestricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

§11741. Governing the Sale and Use of Brucella Abortus Antigen

A. The sale of brucella antigen, manufactured for the purpose of detecting brucellosis in food producing animals, shall

be restricted, in Louisiana, to either the Louisiana Department of Agriculture and Forestry or the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services.

B. 1. The use of brucella antigen manufactured for the purpose of detecting brucellosis in food producing animals is restricted, in Louisiana, to authorized accredited veterinarians, authorized employees of the Louisiana Department of Agriculture and Forestry, employees of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, and research projects approved by the state veterinarian.

2. It is a violation of this regulation for anyone other than authorized individuals to use and/or possess brucella antigen.

C. All cattle tested for brucellosis shall be individually identified by official eartag, individual tattoo and/or brand number (identification such as chain numbers, is not acceptable).

D. Veterinarians conducting brucellosis card agglutination tests, either on a private basis or under the state-federal brucellosis eradication program, must submit all blood samples and all used cards to the state-federal brucellosis testing laboratory for confirmation. The samples shall be accompanied by the proper state-federal forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

§11749. Governing the Testing and Vaccination of Cattle and the Movement of Cattle from Brucellosis Quarantined Herds

A. Testing of Cattle in Quarantined Herds

1. Within six months of the date the quarantine was issued, an exposed herd will be tested at a date agreed upon by the owner or his representative and an authorized agent of the Livestock Sanitary Board. If a date to test an exposed herd cannot be agreed upon, the state veterinarian will establish a date to test the exposed herd and notify the owner in writing 30 days prior to the date established. An exposed herd will remain under quarantine and be tested until it has passed one complete negative test. When more than one herd test is required to obtain a complete negative test, the test date will be established by the procedures used to establish the initial herd test.

2. a. An infected herd will be tested on a schedule established in an approved herd plan or be tested at intervals of 60 days or less. The adult herd will be tested and continue to be classified as infected and under quarantine until it has passed one complete negative herd test, not less than 30 days following the date the last reactor was removed from the herd, and, in addition, a second negative herd test, no less than 180 days from the date the last reactor was removed from the herd.

b. Heifer calves weaned after eight months of age, from a known brucellosis infected herd, must be quarantined and held separate and apart from the known infected adult herd until they test negative for brucellosis following their first calving or;

c. if heifer calves remain in a brucellosis infected adult herd, the entire herd shall remain under quarantine until all the heifer calves have calved and the entire herd is tested negative for brucellosis.

3. Any brucellosis infected herd which has one or more reactors on more than one herd test, would be required to be adult vaccinated against brucellosis and will be tested on a schedule established in an approved herd plan or be tested at intervals of 180 days or less. The herd will be tested and continue to be classified as infected and under quarantine until it has passed one complete negative test, not less than 30 days follow-

ing the date the last reactor was removed from the herd and, in addition, a second negative herd test, no less than 180 days from the date the last reactor was removed from the herd.

B. Movement of Cattle from Quarantined Herds

1. Brucellosis reactors disclosed in a quarantined herd will be:

- a. "B" branded on the left jaw;
- b. identified with a reactor tag; and
- c. removed from the herd and sold directly to slaughter or to an approved stockyard for sale to slaughter within 45 days from the date the animal is classified as a brucellosis reactor.

2. a. All cattle over six months of age in beef herds, will be "S" branded and identified prior to movement from the quarantined premises by an authorized agent of the Livestock Sanitary Board. In cases where it is impractical to have exposed cattle branded on the farm of origin, the state veterinarian can authorize the movement of cattle from quarantined herds to a livestock auction market for branding and identification. Exceptions to this Subparagraph are:

- i. steers and spayed heifers;
- ii. official brucellosis calfhood vaccinated heifers, no more than eight months of age and in a herd participating in an approved herd plan to eliminate brucellosis from the herd.

b. All cattle over six months of age in dairy herds, will be "S" branded and identified prior to movement from the quarantined premises by an authorized agent of the Livestock Sanitary Board. Exceptions to this Subparagraph are:

- i. steers and spayed heifers;
- ii. calves, no more than six months of age which were separated from the dam at no more than seven days of age, held separate and apart from the infected herd for at least 30 days, and be identified with an official eartag prior to movement from the premises. In addition, they must be from a herd participating in an approved herd plan to eliminate brucellosis.

C. All movement from brucellosis quarantined herds must be accompanied by a VS Form 1-27, listing the individual identification of each animal to be moved. This form must be delivered to an authorized representative at destination. These permits will be issued by an agent of the Louisiana Livestock Sanitary Board.

D. All intrastate and interstate movements from brucellosis quarantined herds are restricted to an approved slaughtering establishment for immediate slaughter, directly to an approved quarantined feedlot, or to an approved livestock auction market for sale to an approved slaughtering establishment or quarantined feedlot. (Brucellosis reactors must be sold for slaughter only, either directly to an approved slaughtering establishment or through an approved livestock auction market for sale to such establishment.) Exceptions to LAC 7:XXI.11749.D are:

1. steers and spayed heifers over six months of age;
2. heifer calves under 12 months of age that are official calfhood vaccinated, and they originate from herds participating in an approved herd plan to eliminate brucellosis from the herd;
3. bull calves under six months of age that are nursed by brucellosis reactor or exposed cows, may move from the quarantined premises under permit, provided they have been weaned for not less than 30 days immediately preceding movement. Exceptions to this Subparagraph are:
 - a. steers and spayed heifers;
 - b. heifer calves from beef herds that are no more than eight months of age and are in a herd participating in an approved herd plan to eliminate brucellosis from the herd;
 - c. Calves from dairy herds that are not more than six months of age which were separated from the dam at no more

than seven days of age, held separate and apart from the infected herd for at least 30 days, and are identified with an official eartag prior to movement from the premises. In addition, they must be from a herd participating in an approved herd plan to eliminate brucellosis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2221.

Bob Odom
Commissioner

RULE

**Department of Agriculture and Forestry
Office of Management and Finance**

**Title 7
AGRICULTURE AND ANIMALS
Part XXXVII. Security Devices**

Chapter 181. Central Registry

§18101. Definitions

Buyer in the ordinary course of business means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products.

Central Registry means the place of recordation of all security devices which establish a security interest in farm products, and the place for recordation of assignments, amendments, extensions, and cancellations of security devices which have been filed with the Central Registry.

Commission merchant means any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

Commissioner means the Louisiana Commissioner of Agriculture and Forestry, or his duly authorized agent.

Creditor means any person who holds a security interest in a farm product.

Crop year means:

1. for a crop grown in soil, the calendar year in which it is harvested or to be harvested;
2. for animals, the calendar year in which they are born or acquired; or
3. for poultry or eggs, the calendar year in which they are sold or to be sold.

Cumulative addendum means a document listing all filings with the Central Registry as of the date of issuance that are not listed on the most recent master list.

Debtor means any person who owns or has an ownership interest in farm products which are subject to a security interest of creditors.

Department means the Louisiana Department of Agriculture and Forestry.

Effective Financing Statement (EFS) means a written instrument which is an abstract of a security device and which complies with the provisions of R.S. 3:3654(E).

Encumbrance certificate means a written document signed by the commissioner which lists all security devices affecting a person which have been filed with the Central Registry on the date and at the time the certificate is issued and which complies with the provision of R.S. 3:3654(F).

Farm product means an agricultural commodity such as

wheat, corn, soybeans or a species of livestock, such as cattle, hogs, sheep, horses or poultry, used or produced in farming operations or a product of such crop or livestock in its unmanufactured state, such as ginned cotton, wool-clip, maple syrup, milk and eggs, that is in the possession of a person engaged in farming operations.

Farm product encumbrance list (master list) means a document listing all Effective Financing Statements, amendments, assignments and extensions of Effective Financing Statements which:

1. is organized according to farm product; and
2. is arranged within each such product in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors; in numerical order according to the social security number of the individual debtors, or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors; geographically by parish; and by crop year.

Filing means the receipt of any EFS, amendment, assignment, extension or cancellation of an EFS with any other security devices accompanied by a related EFS by the Central Registry stamped with the date and time received and assigned a file number.

Knows or Knowledge means actual knowledge.

Person means any individual, partnership, corporation, trust or any other business entity.

Registrant means any person who has made application with the Central Registry, has paid the required registration fee and received written notice that his application has been accepted.

Regular business day means any day that the department is open for routine business.

Secured party means a creditor with a security interest in farm products.

Security device is a written instrument that establishes a creditor's security interests in farm products.

Security interest means an interest in farm products that secures payment or performance of an obligation.

Selling agent means any person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farm operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3652, R.S. 3:3654 and Public Law 99-198 (Food Security Act of 1985).

§18103. Administration

The Central Registry will be administered by the commissioner and operated by the Office of Management and Finance of the department. All filings, notices, petitions, documents or other correspondence shall be addressed to the Louisiana Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, Box 44306, Capitol Station, Baton Rouge, LA 70804.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3654 and Public Law 99-198 (Food Security Act of 1985).

§18105. Filing Procedures

A. Any person holding a security interest in a farm product may file security devices which are accompanied by a related EFS with the Central Registry. All security devices must be originals or a certified copy.

B. All Effective Financing Statements must be submitted

on Form CR-1 as prescribed by the commissioner.

C. All amendments, assignments, extensions and cancellations of an EFS must be submitted on Form CR-2 as prescribed by the commissioner.

D. All Effective Financing Statements or amendments, assignments, extensions and cancellations of Effective Financing Statements must be accompanied by the required fee and completed in accordance with the instructions on the form.

E. The Central Registry will notify the secured party in writing at the address provided by the secured party of the time and date of filing of any EFS or an amendment, extension or cancellation of an EFS. In the case of assignments to an EFS, the Central Registry will notify the assignee at the address provided on the assignment form (CR-2).

F. Any EFS or amendment, assignment, extension or cancellation of an EFS that does not conform to all provisions of this Section will be rejected and returned to the secured party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

§18107. Procedures for Amendment, Assignment, Extension and Cancellation of an EFS

A. All amendments to security devices which are accompanied by a related EFS shall be filed in writing (Form CR-2) within three months of amendment.

B. All assignments of security devices which are accompanied by a related EFS shall become effective at time and date of filing with the Central Registry.

C. All extensions to security devices which are accompanied by a related EFS must be filed with the Central Registry within six months before the expiration of the initial five-year period.

D. Each person who files security devices which are accompanied by a related EFS with the Central Registry shall request cancellation of the EFS within 10 calendar days after the date the person who has granted or who is affected by the security device requests in writing, cancellation of the security device, provided the security device is then no longer in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

§18109. Registrations

A. Any person may register with the Central Registry to receive the master list or a portion thereof. Applications for registration shall consist of two types, namely initial registrations and renewal registrations. An initial registration application may be filed at any time of the year. A renewal registration application shall be filed by December 15 of each year. Failure to make application for renewal by December 15 shall result in termination of service by the Central Registry and loss of registrant status.

B. An initial application for registration may be filed at any time during the year. Within 30 days of notification of acceptance by the Central Registry, the registrant will receive the most recent master list and cumulative addendum or portion thereof for which registrant has registered.

C. Initial registration application forms (CR-3 as prescribed by the commissioner) will be provided by the Central Registry upon request. The form must be completed in its entirety and submitted with the required fee.

D. The Central Registry will notify each registrant that a renewal application is due and provide the renewal application to the registrant by October 10 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

§18111. Farm Product Encumbrance List (Master List)

A. The Central Registry shall compile all filings into a master list. The master list or portions thereof will be distributed to each registrant based on farm products and parishes as indicated on each registration application (Form CR-3).

B. The master list will be compiled on the first regular business day of each quarter beginning January 1, 1987 and distributed within five regular business days. Each master list shall contain all filings prior to close of business on the last regular business day of the previous quarter. Cumulative addenda shall be compiled on the first and fifteenth day of each month and distributed within three regular business days. The Central Registry will not distribute cumulative addenda on the first of each month in which there is a distribution of a master list.

C. The department shall allow interested parties to obtain direct access to the computerized information in the Central Registry. Request for direct access will be considered on a case by case basis. Method of access, terms, costs and conditions will be stipulated by contract between the department and the interested party. The cost of direct access to the interested party will be limited to the actual cost to the Central Registry.

D. All registrants shall be deemed to have received any master list or cumulative addendum distributed by the Central Registry on the seventh day following the date of mailing to the intended recipient or the date of actual delivery, whichever occurs first. The Central Registry shall maintain accurate records so that such dates can be readily determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

§18113. Oral Requests

A. The Central Registry shall furnish oral confirmation to any person of the existence of an EFS filed in the Central Registry. The request shall contain:

1. the name, address and telephone number of the person making the request; and
2. the request shall contain the complete name, address, (including the parish of residence), and social security number or federal tax identification number of the person who is the subject of the request.

B. Oral confirmation will be provided no later than the regular business day following the day on which the request is received, at the time of day when it was received.

C. All oral requests and responses will be recorded and will be kept on file at the Central Registry.

D. All oral confirmations will be followed by written confirmation in the form of an encumbrance certificate, except when the person making the request is delinquent on any fee due the Central Registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

§18115. Encumbrance Certificates

Any person may request an encumbrance certificate from the Central Registry. The request may be oral or written. Each request shall be subject to the following provisions:

1. The request shall contain the name and address of the person making the request.
2. The request shall contain the complete name, address, and parish of residence of the person who is the subject of the

request.

3. The request may contain the nickname, initials, or other appellation by which the person who is the subject of the request is sometimes or commonly known.

4. The request shall contain the social security number or federal tax identification number of the person who is the subject of the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3654 and R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

§18119. Farm Products List and Codes

A. In accordance with R.S. 3:3655 (B) and Section 1324 of the Food Security Act of 1985, Public Law 99-198 as amended, and regulations issued thereunder as applicable, only those products listed below shall be deemed farm products by the Central Registry.

CODE	PRODUCT	CODE	PRODUCT
1010	Cabbage	1200	Peanuts
1020	Cantaloupes	1210	Peas
1030	Cauliflower	1220	Pecans
1040	Corn	1230	Peppers
1050	Cotton	1240	Rice
1060	Cucumbers	1250	Rye Grass Seed
1070	Cushaw	1260	Sorghum Grain
1080	Flowers, Shrubs & Ornamentals	1270	Soybeans
1090	Garlic	1280	Squash
1100	Grapes	1290	Strawberries
1110	Grass	1300	Sugarcane
1120	Greens	1310	Sunflower Seed
1130	Hay	1320	Sweet Potatoes (Yams)
1150	Mushrooms	1330	Sweet Sorghum
1160	Oats	1340	Tomatoes
1170	Onions	1350	Watermelons
1180	Oranges	1360	Wheat
1190	Peaches		
		3010	Alligators
		3020	Catfish
		3030	Cattle
		3040	Chickens
		3050	Crawfish
		3060	Goats
		3070	Hogs
2010	Cheese	3080	Honeybees
2020	Eggs	3090	Horses
2030	Honey	3100	Mink
2040	Milk	3110	Oysters
		3120	Quail
		3130	Prawns
		3140	Sheep (Lamb)
		3150	Shrimp
		3160	Turkeys

B. Louisiana shall be deemed to be a state that has established a Central Registry as to those farm products listed above and shall be deemed not to be such a state as to all other farm products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

§18119. Fees

A. In accordance with R.S. 3:3657, the commissioner is authorized to establish fees for the operation of the Central Registry. The fees are as follows:

1. Filing fee (for Effective Financing Statements, amendments, assignments and extensions of Effective Financing Statements and security devices accompanied by a related EFS) - \$ 8. NOTE: This includes \$5 filing fee and \$3 prepaid cancellation fee.

2. Encumbrance certificates - \$ 5 per encumbrance certificate.

3. Certified copies of security devices - \$2 plus \$.25 per page of the security device.

4. Registration (initial and renewal) - all registrations are for one calendar year.

5. NSF fee - \$10 per check returned due to insufficient funds.

FARM PRODUCTS	1-3	4-7	Over 7
1 - 10 parishes	\$ 25	\$ 50	\$ 75
11 - 30 parishes	\$ 50	\$100	\$150
31 - 45 parishes	\$ 75	\$150	\$200
46 - 64 parishes	\$100	\$200	\$300

B. Failure by any person to pay any fee as required shall result in termination of service by the Central Registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3657 and Public Law 99-198 (Food Security Act of 1985).

Bob Odom
Commissioner

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3 of Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 3.01.08.c

The board adopted the Principles of Technology Curriculum Guide (Bulletin 1812) for implementation in September, 1987.

Dr. James Meza, Jr.
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published July 20, 1987 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 2.03.03

Property management shall be in compliance with 34 Code of Federal Regulations (CFR) Part 74 of the Education Division General Administrative Regulations (EDGAR).

Dr. James Meza, Jr.
Executive Director

RULE

Department of Education Proprietary School Commission

Add Title 6 to the Advisory Commission on Proprietary Schools Louisiana Department of Education, Rules and Regulations, Bulletin 1443

Advertising Policy for Proprietary Schools

In the solicitation of students, a school shall not directly, or by implication, misrepresent the services it renders. All advertisements and promotional literature used shall be truthful, informative and constructive; and avoid conveying any false, misleading or exaggerated impressions with respect to the school, its personnel, its courses and services, or the occupational opportunities for its graduates. The true purpose and nature of a school's offerings shall be evident in all advertising. Every advertisement shall constitute to the reader a clear statement of a bona fide offer or announcement made in good faith. It shall be written to its anticipated readership, normally persons unsophisticated in the traditional word usage of the education industry. Therefore, words and emphasis must be truthful and selected with extreme care.

All advertising shall forthrightly disclose the purpose of the advertising—that education or training, not a job, is offered, and that the advertiser is a school.

Definition - Advertising includes any form of public notice however disseminated or utilized. Within this definition would be virtually all publications and promotional items and efforts which could normally be expected to be seen or encountered by significant numbers of prospective students or their sponsors. Examples include catalogs and other school publications, signs, mailing pieces, specialties, radio, television, audio-visual, newspaper or any other form of public notice resulting from the school's recruiting and promotional activities.

Name - The correct name of the school is to appear in all advertising. Blind ads are considered misleading and unethical and shall not be used.

The name itself is not to be misleading. It must clearly identify the organization as a school and have no tendency to exaggerate the size, scope, organizational status, or offerings of the school. There may be no implication the school is governmentally owned or supported, unless such is factual.

Location - The location of the available training facility shall be indicated for each advertised offering, except in limited-space media ads when the location is not subject to being easily misunderstood.

Advertising for multiple locations shall disclose which offerings, if any, are not available at each listed location.

Age - Mention of a date of founding or establishment or other reference to the age of the institution will refer only to the age of the school itself and its period of continuous operation as a school, not to its parent organization or affiliates.

Accreditation - Reference in advertising to accreditation is limited to official accreditation achieved and currently held by the school through nationally-recognized accrediting agencies and associations as defined and listed by the United States Department of Education.

An accredited school may refer to its accreditation by imprinting the official seal of the accrediting agency on or within advertising, literature or publications, or by other statements specifically authorized by the accrediting agency. The following statement may also be used immediately following authorized references:

"The (name of accrediting agency) is listed by the U.S. Department of Education as a nationally-recognized accrediting agency under the provisions of Chapter 33, Title 38, U.S. Code, and subsequent legislation."

An organization consisting of accredited and non-accredited schools or divisions may mention the fact of accreditation in joint advertising, literature, publications, or other promotions only if the accredited status of each school or division is clearly indicated.

The word accredited is not to exceed in size or boldness that of the remainder of the statement referring to the accredited status of the school.

Approval and Affiliations - Advertising of any approvals must disclose the nature of such recognition and by whom.

Schools affiliate with or owned by other organizations may not overemphasize the relationship in a manner which would tend to exaggerate the relevance or benefits which might be generally expected to accrue to the students of the school as a result of the affiliations.

Advertising affiliations with other schools or allowances of transfer credits must disclose any limitations to open transfer between the institutions and the option of the student.

When other firms or organizations are listed in advertising, it is to be done with permission and in compliance with any policies or restrictions which that organization imposes on the use of its name and may not exaggerate the nature of the relevance of the recognition.

Advertising credentials, memberships, or accomplishments of individuals associated with the school shall be identified as such and not imply endorsement of the school by other organizations.

No trade name, address, insigna, illustration, emblem, or any other names may be used when it might tend to create a false impression that the school is connected with or is an agency of government unless such is fact.

The school is responsible for knowing restrictions when mentioning a governmental department of the agency. Limitations in mentioning federal programs are apparent in the following statements issued by the appropriate federal agencies:

a. "A claim that a course is approved by the Veterans Administration is a misrepresentation of a material fact." The claim shall be "Approved for Veterans Training."

b. "Any advertising statement concerning approval for attendance by nonimmigrant students shall be limited solely to the following: This school is authorized under federal law to enroll nonimmigrant alien students.

c. "It would be inaccurate for a school to state that it has been approved for social security purposes."

Organizations with more than one type of school at the same location using the same name may find it necessary to identify the separate divisions when referring to various approvals or recognitions which would not encompass the entire organization.

Catalogs - A prospective student is entitled to sufficient data to make an informed decision on training opportunities and institutions. A school is therefore obligated to provide sufficiently detailed data in advance of enrollment to enable prospective students to clearly understand their opportunities, limitations, and obligations.

Each school shall prepare and make available a publication which is readily identifiable as a catalog. The catalog shall be designed and written to convey accurate impressions of the school. It shall avoid false, misleading, or exaggerated state-

ments.

The following items shall be listed in catalogs. If any of these items are omitted, the catalog should refer to the specific published documents containing items or data not included in the catalog:

1. name and address of school;
2. date of publication;
3. a statement of institutional philosophy;
4. the admissions requirements and procedures;
5. the educational objectives of each course, including the name, nature and level of occupations for which training is provided;
6. the number of clock and/or credit hours of instruction in each course and the length of time in weeks or months normally required for completion;
7. the scope and sequence of courses offered specifying sufficiently the subjects included in each course to clearly identify the coverage of the program;
8. a brief description of the school's physical facilities, equipment to be used in class, and the maximum or usual class size;
9. policies relative to tardiness, absences, make-up work, conduct, termination, re-entry, and other rules and regulations of the school;
10. the grading system, including a definition of ratings and credit units, if any;
11. the required levels of performance for graduation;
12. a statement of certificates, diplomas or degrees awarded upon graduation;
13. a statement of tuition and other student charges related to the enrollment, such as deposits, fees, books and supplies, tools, and equipment, room and board, transportation, and any other charges for which a student may be responsible;
14. a statement of the cancellation and refund policy of the school;
15. a detailed and explicit description of the extent and nature of part-time or full-time job placement assistance, if any, available to students and/or graduates;
16. specifics describing the availability of housing, counseling, scholarships, and the extent of other student services;
17. a school calendar including beginning and ending dates of classes and programs (if appropriate), holidays, and other dates of importance;
18. any other material facts, concerning the school and the courses of instruction, which are reasonably likely to affect the decision making of the potential student.

Advertising Space Limitations - Although it is recognized that advertising space limitation might restrict desirable explanations, the text shall avoid abbreviated claims which might tend to be easily misunderstood. If an item is considered important enough to be included in advertising, it shall be presented in a manner clearly understandable to anticipated readers.

A school may not claim space limitations as a reasonable excuse for limited disclosure which could tend to obscure, conceal, mislead, omit, deceive, confuse, distract, or otherwise contribute to create substantial misunderstanding or criticism.

Emphasis - Emphasis shall be on the education and training offered by the school.

Objectives - Impressions of objectives as read in advertising must be consistent with the school's stated objectives as based on the reasonably expected attainment of graduates.

Overstated objectives of a school and its training have been found in course and job titles, types of completion certifica-

tion, mention of credit transfer, non-offered courses, class size, and comprehensiveness of instruction.

Agents - A school's officials must accept full responsibility for advertising prepared and placed by its representatives, advertising promotional efforts, and should therefore review and approve of such advertising in advance of its use.

Disclosure - Catalogs and other brochures published by the school shall clearly disclose, in advance of enrollment, normal and traditional limitations and restrictions, if any, on admissions, such as medical requirements, licensing, internship, apprenticeship, age, education, examination, and experience requirements.

Documentation - An affirmative claim shall not be used unless there is a reasonable basis for making such a claim. Advertising claims are to be used only when they are supported by previously documented factual data or research which are available on the school premises for review by interested persons.

A relatively insignificant number of cases shall not be used as a basis for advertising claims. The incidental achievements of a few persons, which perhaps providing an aura of great promise, are not sufficient grounds for embellishments in advertising.

Overstatements, Superlatives, Exclusives - Superiority claims measurable or unmeasurable, are not considered to be appropriate for the intangible services offered by schools when the student's ultimate degree of success often depends to a great extent on factors which are not under the direct control of the school.

Irrelevant factors such as "oldest" or "largest" shall not be used.

Generally, subjective superlatives cannot be satisfactorily documented and shall not be used. Objective statements or claims which tend to imply superiority may be used only when truthful and measurements are made by independent experts in accordance with generally understood and acceptable standards, and supportive evidence is available at the school for review.

The word "the", when improperly used, has been considered as part of a claim of exclusivity when it tends to limit the offering to the advertiser. However, "one of the" might be used when appropriate and documentable.

Bait Advertising - So-called "bait-and-switch" advertising is unacceptable. No course or service may be advertised when the offer is not a bona fide effort to sell it. Course listings are to be limited to those courses which are currently available and scheduled.

Use of a recruiting plan which tends to prevent or discourage recruiting personnel from selling certain advertised services would normally indicate that such services shall not be advertised.

Even though the true facts are subsequently made known to the prospective student, the first contact or interview may not be secured by deception. For example, solicitations shall not use such words as "survey" or "research."

Free - The word "free" shall not be used for items or services provided "without additional charge," but only when there is unconditional access without cost or obligation of any type. Almost everything a school offers to its students is normally paid for, at least in part, by students.

Endorsements - A testimonial or endorsement shall be dated and must be current, factual, and contain no misleading or exaggerated claims. Segments shall not be taken out of context or combined so as to alter the meanings of the original statement. It may not be fictitious or make statements or conclusions

known by the advertiser to be incorrect. It must be from a reliable person and contain no misstatement of facts or misleading implications and it must reflect current conditions and the current opinion of the author. Documentation supporting any use of testimonials and endorsements must be maintained on the school premises for review.

Individual names and photographs may be used in advertising only when authorized by the individual person in writing.

Use of trademarks or mention of endorsements from persons or organizations may be used only as authorized after receiving written permission.

When a connection exists between the endorser and the school, and when that connection could be considered a material fact in the context of the advertisement, such connection shall be fully disclosed.

When using endorsements which are purported to be those of "typical" students and graduates, the advertising shall reflect the average and ordinary experiences of students and graduates generally.

Quotations - Statements from outside sources shall be used only when they portray an accurate reflection of opportunities available to the school's typical prospective students without need for further education or training, unless the additional requirements are clearly disclosed. Disclaimers or other qualifying limitations made by the quoted source should be disclosed.

Language Word Usage - Clarity is a most important element of school advertising. Advertising shall be directly relevant to student solicitation and is to be written to its anticipated readership. Therefore, words must be clearly selected with extreme care.

Advertising claims which might be construed as literally true must be literally true. If there is any doubt, the burden will be on the advertiser to document the claim and prove the point.

Schools shall avoid the use of sensitive words which might mislead, confuse, offend, or which might be subject to easy misunderstanding or considered to have a double meaning.

Illustrations - schools shall use no illustrations or accompanying statement which might tend to convey a false or exaggerated impression.

Illustrations and other copy should be accurately prepared and pertain directly to the institution and to its typical students and graduates.

Illustrations from any source which might incorrectly imply portrayal of the school facilities, equipment, or other conditions shall not be used unless captioned with illustration sources or other clear disclosures to avoid any false or exaggerated impressions in the minds of readers.

Unless an entire building or facility is being illustrated as normally used exclusively by the school, captions must clearly disclose the portion occupied by the school.

Financial Aid - Advertising of "outside" financial aid programs sponsored by others is to be in accordance with the advertising limitations of the sponsors and shall not be shown in a manner which indicates those programs are generally accessible and available to the readership unless such is a fact.

Tuition fees and any other costs for which students or their sponsors are responsible shall not be represented in any way as being less than they actually are.

"Student loans" shall not be used to describe financial arrangements, but only to identify specific funds available for borrowing by the student.

If third parties, such as finance or collection agencies are to be involved in advertising financial arrangements, such in-

volvements shall be disclosed.

Advertisements shall not be used to sell loans, for example: "Learn now, pay later, Government Loans Available."

Mention of institutional eligibility for federal grants, loans, or other student financial aid programs in newspaper, TV, or other common media advertising shall be limited to the announcement, "Eligible institution under the (name of program)."

Scholarship programs are to be advertised only when bona fide awards are offered with conditions and limitations being clearly disclosed.

Employment - Vocational school advertisements shall clearly indicate that training, and not employment, is being offered. There shall be no overt or implied claim of any employment guarantee either during the training or upon completion of training.

Advertisements shall not tend to imply they are "help-wanted" ads or otherwise imply that any specific jobs are available now, or will be available or offered after completion of the course.

Listing of potential employers, if used, shall include only those organizations which have previously employed students of the specific school and which can be reasonably expected to employ additional students immediately upon their graduation.

Mention of job titles in advertising shall avoid misrepresentation of the level of employment available to typical students immediately upon graduation.

Emphasis on placement assistance or other services shall clearly reveal their nature and scope, and not exaggerate the degree of aid and success which a typical student or graduate may reasonably expect.

Placement assistance or other services provided at no additional cost shall not be described as "free." Use of terms such as "nationally" and "lifetime" are generally considered to be exaggerations in describing placement assistance and shall not be used.

Disparagements - Advertising shall emphasize the merits of the school in a manner which will not cast derogatory or inaccurate implications or disparage other schools, their activities, or their students. It shall not discredit or tend to criticize directly or by implication any school, program, or person connected therewith; and shall not attack any individual, race, creed, religion, sex, organization, institution, business, profession, or occupation.

A school shall not encourage a student to leave another educational institution nor to change his plans after he has signed an enrollment agreement and paid the application or registration fee of another school.

Irrelevance - The emphasis in advertising shall be on the education and training being offered by the school, omitting irrelevant and extraneous matter.

Classified Advertising - A school shall not request a misclassification of its advertising or allow others to use its name or offerings in inappropriate classifications.

Help wanted or employment classifications shall be used only to procure employees or agents for the school, never to attract students.

Statements shall be carefully directed to those prospective students whom the specific advertising medium is expected to reach; and schools shall be prepared to verify from their own records everything said in their advertising.

Classified advertising seeking prospective students must appear under "schools," "instruction," "education," "training," or a similarly titled classification and shall not be published under

any "help wanted" or "employment" classification.

Every display-type newspaper advertisement, or other advertisement placed by the school or its representatives, through direct mail, radio, television, or directories seeking prospective students, must clearly indicate that training is being offered, and shall not, either by actual statement, omission, or intimation, imply that prospective employees are being sought.

No advertisements of any type shall use the word "wanted," "help wanted," or the word "trainee," either in the headline or the body of the advertisement, nor shall any advertisement indicate in any manner that the school has or knows of jobs or employment of any nature available to prospective students; only "placement assistance," is offered, may be advertised.

No statement or representation shall be made that students will be guaranteed employment while enrolled in the school or that employment will be guaranteed for students after graduation, nor shall any school or representative thereof falsely represent opportunities for employment upon completion of any course of study.

No dollar amount or amounts will be quoted in any advertisement as representative or indicative of the earning potential of graduates.

No statement shall be made that the school or its courses of instruction have been accredited unless the accreditation is that of the appropriate nationally recognized accrediting agency listed by the United States Office of Education.

No statement shall be made that the school or its courses of instruction have been approved unless the approval can be substantiated by an appropriate certificate of approval issued by the approving agency of the state or federal government.

No proprietary school shall advertise as an employment agency under the same name or a confusingly similar name or at the same location of the school. No representative shall solicit students for a school through an employment agency.

If student tuition loans are available at the school, the school may advertise them only with the language "student tuition loans available" in type no larger than that used for the name of the school. This does not preclude disclosure of the institution's eligibility under the various state and federal loan programs.

The executive secretary at any time shall require that a school furnish proof to the executive secretary of any of its advertising claims. If proof acceptable to the executive secretary cannot be furnished, a retraction of such advertising claims published in the same manner as the claims themselves, must be published by the school and continuation of such advertising shall constitute cause for suspension or revocation of its license.

Andrew H. Gasperec
Executive Secretary

RULE

Department of Education Proprietary School Commission

Add Title 7 to the Advisory Commission on Proprietary Schools. Louisiana Department of Education, Rules and Regulations Bulletin 1443.

Commission Regulations Relating to Agents

The agents shall refrain from discrediting other schools by imputing to them dishonorable conduct, inability to fulfill the terms of the contract, inadequate financial standing, or any other derogatory comments unless the agent has probative evidence to substantiate such statements.

The agent shall refrain from attempting to influence a student to withdraw from a school the student is currently attending or encourage a prospective student to change plans after such student has signed an enrollment application and paid the registration fee to another school.

The agent shall refrain from making exaggerated statements concerning job opportunities.

The agent shall carefully explain to the prospective students that, in addition to course completion, certain positions require that the applicant pass a state or federal examination and obtain a license prior to employment.

The agent shall provide the applicant with a receipt for money collected and a copy of the enrollment agreement. The receipt and the enrollment could be combined in one form.

The agent shall promptly remit to the school officials any funds so collected even though the school may be in arrears in its payments for an agent's services.

The agent shall cultivate a highly professional working relationship with school officials, especially school counselors, in the enrollment of students in attendance at the school.

The agent shall refrain from any attempt to obtain a list of names of prospective students still attending school in any manner other than that which is consistent with the school's policy.

The agent shall remember at all times that the school the agent represents can survive only so long as it is able to enroll, train, and place students in satisfactory positions. As one of the key persons in this enterprise, it behooves the agent, if for no other reason than job security, to conduct himself at all times in a highly professional and ethical manner.

The Proprietary School Commission must be notified in writing by the school of the dismissal or resignation of an agent or solicitor within 10 days. Every effort shall be made to return the agent's permit to the office of Proprietary Schools.

It shall be the responsibility of each school, through the media of sales manuals, bulletins, or other similar means, to see that each of its agents is fully familiar with its courses and services, prices, and terms and operating policies.

Each school must assume the full responsibility for the actions, statements, and conduct of its agents and must, therefore, select each of them with the utmost care, provide them with adequate training, and arrange for constant and proper supervision of their work.

The Proprietary School Commission will hold the schools accountable for the actions of their agents. They are to instruct each agent of their responsibility under the Louisiana law as prescribed by these rules and regulations.

All monies collected by the agent while soliciting students must be turned over to the school the agent represents. All checks received must be made payable to the school the agent represents, and receipts for cash must be given to the student in the name of the school.

The term "guidance counselor" or modifications thereof, shall not be used by anyone who solicits or enrolls students. It can be used only by an employee of the school who performs any or all of the following duties:

- a. advises students while they are pursuing training;
- b. follow up graduates to determine effectiveness of training;

- c. aids in vocational placement of trainees; may be any person who is by education a qualified professional guidance counselor.

No school or its agents shall advertise or imply that the school is "recommended" or "endorsed" by the Proprietary School Commission or the State Board of Elementary and Secondary Education. This official reference shall read "Licensed by the State Department of Education."

A guarantee of placement for graduates shall not be promised or implied by any school, agent, or representative. No school in its advertising or through its representatives or agents shall guarantee or imply the guarantee of employment before enrollment during the pursuance of the course, or after the course is completed. No school shall guarantee any certain wage or imply earning greater than the prevailing wage.

No owner, partner, officer, employee, or agent acting on behalf of any school shall make any fraudulent statement, misrepresentation, or misleading statement of fact.

As an official representative of a school, it shall be the agent's responsibility to keep the following rules in mind:

- a. It is the responsibility of the school to determine with reasonable certainty that a prospective student is fully informed

as to the nature of the course they desire to take and what the training can reasonably be expected to do for them.

- b. It is the responsibility of the school to determine with reasonable certainty that each prospective student is fully informed as to the nature of the obligation the person is entering into as to their responsibilities and their right under the contract they have signed.

- c. It is the responsibility of the school to establish the qualifications which an enrollee must have to enable them to successfully assimilate the course of instruction to be offered them and to determine with reasonable certainty, in advance of the acceptance of their enrollment, that they have the proper qualifications to take the training for which they are applying.

- d. It is the responsibility of the school to determine that an applicant has no handicap, physical, or otherwise, which could reasonably prevent their use of the knowledge or skill gained from the training they desire for successful on-the-job performance after completion of the course.

- e. All agents and solicitors shall inform the prospective student after they sign the contract that there is a three-business day cancellation cooling off period on residence courses and five calendar days on correspondence courses in accordance with our regulations. This means that the student has the right to change their mind or cancel a contract within three-business days on residence and five days on correspondence courses after it is officially signed.

- f. A proprietary school "shall not deceptively designate or refer to its sales representatives as 'registrars,' 'counselors,' 'advisers,' or by words of similar import or misrepresent in any other manner, the titles, qualifications, training, experience, or status of its salesmen, agents, employees, or other representatives."

Andrew H. Gasperez
Executive Secretary

RULE

Department of Education Proprietary School Commission

Minimum Cancellation and Tuition Refund Policy for Correspondence and Combined Correspondence Residence Training Courses.

The following rule number 6 (e) (7) under Title 5, Section 1 Louisiana Proprietary School Commission Minimum Cancellation and Refund Policy in the Advisory Commission on Proprietary Schools, Louisiana Department of Education, Rules and Regulations Bulletin 1443 is amended to read as follows:

A. Cancellation, Settlement and Collection

Each school must have an established and published policy for the settlement of cases when students request discontinuance of training.

1. The following applies as a minimum policy for home study courses without mandatory resident training:

a. An enrollment may be cancelled by an applicant student within five calendar days after midnight of the day on which enrollment agreement is signed. An applicant student requesting cancellation in whatever manner within this time must be given a refund of all money paid to the school or its representatives.

b. From five calendar days after midnight of the day on which the enrollment agreement is signed and until the time that the school receives the first completed lesson assignment from the student, upon cancellation, the school is entitled to a registration fee of either \$25 or 15 percent of the tuition, but in no case is the school entitled to a registration fee of more than \$150.

c. After the school receives the first completed lesson assignment, if the student requests cancellation, the school shall be entitled to a tuition charge which shall not exceed the following:

1. up to and including completion of the first 10 percent of the course, the registration fee plus 10 percent of the tuition;

2. after completing more than 10 percent of the course and up to and including completion of 25 percent of the course, the registration fee plus 25 percent of the tuition;

3. after completing more than 25 percent of the course and up to and including completion of 50 percent of the course, the registration fee plus 50 percent of the tuition;

4. if the student completes more than half of the course, the full tuition.

The amount of the course completed shall be completed lesson assignments received for service by the school as compared to the total lesson assignments in the course.

2. The following applies as a minimum policy for combination home study—mandatory resident training courses:

a. For a course which includes mandatory resident training, the tuition price for home study portion and the tuition price for the resident portion must be separately stated on the enrollment agreement. The total of the two is the total course price.

b. For cancellation and settlement for the home study portion of the combination course Section A Subsections 1a through c applies.

c. For the mandatory resident portion of the course, the following applies as a minimum policy:

After the student attends the first resident class session, if

the student requests cancellation, the school shall be entitled to a tuition charge which shall not exceed the following:

1. up to and including completion of the first 10 percent of the resident training, 10 percent of the tuition;

2. after completing more than 10 percent of the resident training and up to and including completion of 25 percent of the resident training, 25 percent of the tuition;

3. after completing more than 25 percent of the resident training and up to and including completion of 50 percent of the resident training, 50 percent of the tuition;

4. if the student completes more than half of the resident training, the full tuition.

The amount of resident training completed shall be the number of days the student attends resident training as compared to the total days of the resident training programs.

3. Courses which include optional resident training, seminars or resident training sessions are subject to Section A. 1a through c, above. Separate charges may not be made for optional resident training.

4. Upon cancellation, all money due the student must be refunded within 30 days.

Andrew H. Gasperec
Executive Secretary

RULE

Department of Education Proprietary School Commission

Addition to Title 1, Section 2, (c). Definition on Advisory Commission on Proprietary Schools, Louisiana Department of Education, Rules and Regulations, Bulletin 1443.

Exemption from Licensure Under Proprietary School Rules Title 1, Section 2, (c).

Proprietary School Commission Rules, Title 1, Section 2 (c) "A school or training program which offers instruction primarily in the field of recreation, health, or entertainment and which does not purport to qualify persons for employment as determined by the commission" may be exempted provided that our disclaimer is used on all of your advertisements. The disclaimer is as follows: "This course is for recreation, health, or entertainment (whichever fits your school) purposes and does not qualify persons for employment."

This disclaimer statement must be on all of the hand-out (course) materials, fliers, catalogs, radio, television, yellow pages, and newspaper advertisements so that the public will not misinterpret your program. Advertisements can be misinterpreted on some programs as being career oriented, job training, or vocational training; therefore, a disclaimer statement will clarify this.

Before you can be exempted from licensure, the commission will require proof of the above materials prior to exempting you from licensure. Copies of your course materials, hand-outs, catalogs, fliers, and advertising copies shall be mailed to the commission along with your reasons for exemption.

Andrew H. Gasperec
Executive Secretary

RULE

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq., and in particular Section 1104 B.(1), and in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that these rules are hereby adopted.

These rules establish regulations specifically for transportation of radioactive material, radiation safety requirements for wireline service operations, and licensing requirements for land disposal of radioactive waste. They also amend some existing regulations to incorporate provisions of the "suggested state regulations for the control of radiation" drafted by the Conference of Radiation Control Program Directors, Inc.

Questions concerning the rule may be directed to Michael E. Henry, Nuclear Energy Division, Department of Environmental Quality, Box 14690, Baton Rouge, LA 70898. He may be contacted at the address above, or by telephoning (504) 925-4518. Copies of these rules are available for inspection at the Louisiana Department of Environmental Quality at the address provided.

L. Hall Bohlinger
Deputy Secretary

RULE

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

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) has revised the GOEA Policy Manual to eliminate the requirement that Councils on Aging carry director's and officer's liability insurance. The effective date of this rule change is October 20, 1987.

Effective October 20, 1987, LAC 4:1167 (G) shall read as follows:

**Title 4
ADMINISTRATION
Part VII. Governor's Office**

**Chapter 11. Elderly Affairs
Subchapter C. Councils on Aging
§1167. Organization**

G. Insurance Requirements
Councils on Aging shall maintain the following minimum insurance coverage:

1. FICA on all employees;
2. workman's compensation;
3. fidelity bonding;
4. comprehensive general liability;
5. property.

Sandra C. Adams
Director

RULE

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

In accordance with the Administrative Procedure Act, R. S. 49:950 et seq., notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) has revised Section 1167 of the GOEA Policy Manual to require geographic representation on the boards of directors of parish councils on aging. Effective October 20, 1987, LAC 4:1167 (B) shall be revised to read as follows:

**Title 4
ADMINISTRATION
Part VII. Governor's Office**

**Chapter 11. Elderly Affairs
Subchapter C. Councils on Aging
§1167. Organization**

B. Membership of the Board of Directors

1. The bylaws shall contain provisions for the method used to select and elect board members, the method used to fill vacancies on the board which occur between regular elections, and termination of membership.

2. The bylaws shall provide for parish-wide representation on the board.

3. The board shall be composed of no less than 11 members and no more than 21 members, with provisions in the bylaws for staggered terms of office.

4. The term of office for each board member shall be limited to no more than three years and two consecutive terms.

5. Except for the staff director, who may be an ex-officio member with a voice in discussions but with no vote, paid staff members are prohibited from serving on the board.

6. Former council on aging staff members may not serve on the Executive Committee of the Board of Directors for a period of two years immediately following separation from employment.

Sandra C. Adams
Director

RULE

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

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) has adopted the State Plan on Aging (LAC 4:VII.1301 - 1321) for the period October 1, 1987 through September 30, 1991, effective October 20, 1987. Copies of this document may be obtained by contacting Betty Johnson, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374.

Sandra C. Adams
Director

RULE

**Office of the Governor
Department of Veterans Affairs**

**Title 4
ADMINISTRATION
Part VII. Governor's Office**

**Chapter 9. Veterans Affairs
Subchapter D. War Veterans Home
§937. Admission Requirements (Amends)**

B. The veteran must have served on active military duty 90 days or more during a wartime period; or 90 days or more consecutive service must have begun or ended during a wartime period; or 90 days or more combined service during two or more wartime periods; or if less than 90 days, discharged due to a disability in line of duty; and in receipt of a discharge other than dishonorable.

Cleo C. Yarbrough
Executive Director

RULE

**Department of Health and Human Resources
Board of Examiners for Nursing Home Administrators**

In accordance with the notice of intent published in the July 1987 *Louisiana Register*, the Louisiana Board of Examiners for Nursing Home Administrators announces the amendment of LAC 46:XLIX. Chapter 7, effective October 20, 1987:

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Nursing Home Administrators**

**Chapter 7. Administrator-in-Training
§701. Program**

An applicant must serve as a full-time (40 hours per week) administrator-in-training for a minimum of six consecutive months. The program may be completed or begun before or after taking examinations so long as it is carried out strictly according to Chapter 7. During this time the AIT must work under close, direct, personal, on-site supervision of a full-time preceptor who shall be administrator of record or licensed assistant administrator in the facility in which the AIT undertakes training.

§703. Preceptor

The preceptor is a duly licensed nursing home administrator who has completed three years of work experience as a full-time practicing nursing home administrator and/or licensed assistant administrator. The preceptor applies for board approval as a preceptor on forms provided by the board. He undergoes orientation and other designated training conducted by the executive director, a board member, or other authorized person and cannot practice as a preceptor until he has specific approval of the board.

Winborn E. Davis
Executive Director

RULE

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

The Louisiana State Board of Medical Examiners, under authority of the Medical Practice Act of Louisiana, R.S. 37:1261-1292, and R.S. 37:1204, and in accordance with the applicable provisions of the Administrative Procedure Act, has adopted the following rules governing the dispensation of medications by physicians in the state of Louisiana.

**Title 46
PROFESSIONAL AND
OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice**

**Chapter 65. Dispensation of Medications
Subchapter A. General Provisions**

§6501. Scope of Chapter

The rules of this Chapter govern the dispensation of drugs, chemicals and medications by physicians. These rules are not intended to alter or modify the effect or applicability of state and federal laws and regulations governing the acquisition, possession, maintenance, prescription, dispensation or administration of, or accounting for, legally controlled substances and other drugs and medications, but are complimentary and supplementary to such laws and regulations.

§6503. Definitions

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

Administer—With respect to a medication provided or dispensed by a physician for use by a patient, the term “administered” means directly or through an agent to give, provide or supply for immediate oral ingestion, insertion or topical application by the patient, or to insert, apply topically, or inject intravenously, intramuscularly, subcutaneously, intrathecally or extrathecally.

Board—The term “board” means the Louisiana State Board of Medical Examiners.

Bona Fide Medication Sample—The phrase “bona fide medication sample” means a medication, other than a controlled substance, packaged by the original manufacturer thereof in such quantity as does not exceed a reasonable therapeutic dosage for a period in excess of one week and provided at no cost to a physician for administration or dispensation to a patient at no cost to the patient.

Controlled Substance—The term “controlled substance” means any medication or other substance which is designated as a controlled substance and regulated as such under Louisiana or federal law or regulations.

Dispense—With respect to a drug, chemical, medication or controlled substance, the term “dispense” means to give, provide or supply for later oral ingestion, insertion, application, injection, or other use.

Drug—The term “drug” means, and is synonymous with “medication,” as defined herein.

Medical Firm—The term “medical firm” means a partnership of physicians engaged in the practice of medicine in the state of Louisiana or a corporation lawfully organized, existing and engaged in the practice of medicine in the state of Louisiana pursuant to the Professional Medical Corporations Act, as the same may be amended from time to time, as codified at R.S. 12:901-15.

Medical Practice Act—The term “Medical Practice Act” means the Louisiana Medical Practice Act, as the same may be amended from time to time, as codified at R.S. §37:1261-92.

Medication—The term “medication” means any chemical, potion, compound, mixture, suspension, solution or other substance or material, natural or synthetic, recognized and listed in the official United States Pharmacopoeia, which is lawfully produced, manufactured, sold or provided and intended and approved for medical, diagnostic, therapeutic or preventative use in and by humans.

Physician—The term “physician” means a person lawfully entitled to engage in the practice of medicine in the state of Louisiana, as evidenced by a current license or permit duly issued by the board.

Registrant—The term “registrant” means a physician who is registered with the board as a dispensing physician in accordance with Subchapter C of this Chapter.

Subchapter B. Prohibitions and Sanctions

§6505. Prohibitions

A. No physicians shall dispense any medication, other than a *bona fide* medication sample, except in strict compliance with the Louisiana and federal law and regulations applicable thereto and with the rules of this chapter.

B. On and after December 1, 1987, no physician shall dispense any medication, other than a *bona fide* medication sample, unless he is currently registered with the board as a dispensing physician, in accordance with Subchapter C of this Chapter, and the physician's dispensation of medications is within the scope of such registration.

C. No physician shall dispense any medication except in the usual and ordinary course of his medical practice for a legitimate medical purpose.

D. No physician shall dispense any medication upon the prescription of another practitioner.

§6507. Action Against Medical Licensure

Violation of the prohibitions set forth in §6505 shall be deemed to constitute just cause for the suspension or revocation of a physician's license to practice medicine in the state of Louisiana, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under R.S.37:1285(6) and 1285(29).

§6509. Action Against Registration

A. For noncompliance with any of the provisions of this Chapter, the board may, in addition to or in lieu of administrative proceedings pursuant to the preceding paragraph, suspend, revoke or cancel a physician's registration as a dispensing physician or impose such restrictions or conditions on the physician's authority to dispense medications as the board may deem necessary or appropriate.

B. The board may suspend, revoke, or cancel a physician's registration as a dispensing physician or impose such restrictions or conditions on the physician's authority to dispense medications as the board may deem necessary or appropriate, upon a finding of the existence of any of the causes enumerated by R.S. 37:1285.

§6511. Reinstatement of Registration

The board may reinstate any registration which has been suspended, revoked, cancelled, conditioned or restricted by the board; *provided, however*, that no registration which has been revoked or cancelled shall be reinstated by the board within five years of the effective date of such revocation or cancellation.

Subchapter C. Registration

§6513. Eligibility for Registration as a Dispensing Physician

A. To be eligible for registration as a dispensing physician, a physician shall:

1. possess a current, unrestricted license to practice medicine duly issued by the board; and

2. possess a current, unrestricted license to prescribe, dispense and administer controlled substances duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health and Human Resources, state of Louisiana, and be currently registered to prescribe, dispense and administer controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice.

B. A physician shall be deemed ineligible for registration as a dispensing physician who:

1. has been convicted, whether upon verdict, judgment, or plea of guilty or *nolo contendere*, of any crime constituting a felony under the laws of the United States or of any state;

2. has been convicted, whether upon verdict, judgment, or plea of guilty or *nolo contendere*, of any crime an element of which is the manufacture, production, possession, use, distribution, sale or exchange of any controlled substance; or

3. has, within the five years preceding application for registration, abused or excessively used any medication, alcohol or other substance which can produce physiological or psychological dependence or tolerance or which acts as a central nervous system stimulant or depressant.

C. The board may deny registration to an otherwise eligible physician for any of the causes enumerated by R.S. 37:1285 or any other violation of the provisions of the Medical Practice Act.

D. The burden of satisfying the board as to the qualifications and eligibility of the physician-applicant for registration as a dispensing physician 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.

§6515. Registration Procedure

A. Application for registration as a dispensing physician shall be made upon forms supplied by the board.

B. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board, Suite 100, 830 Union Street, New Orleans, LA 70112. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor.

§6517. Original Application

A. An application for registration as a dispensing physician under this Chapter shall include:

1. the applicant's full name, home address, and the municipal and post office addresses of each office or other location at which the applicant practices medicine in the state of Louisiana;

2. the name, municipal and post office address of the medical firm or firms, if any, with which the applicant is associated, and the full names of all physician partners or employees of such firm or firms;

3. the applicant's Louisiana controlled dangerous substance license number and the applicant's United States Drug Enforcement Agency (DEA) controlled substance registration number;

4. the municipal and post office addresses and telephone number of each location at which the applicant dispenses or

proposes to dispense medications;

5. a designation of the schedules, classes, types or specific medications which the applicant dispenses or proposes to dispense;

6. certification by affidavit or other proof, documented in a form satisfactory to the board as specified by the secretary, that the applicant possess the qualifications for registration set forth by this Chapter; and

7. such other information and documentation as the board may require to evidence qualification for registration as a dispensing physician.

B. The board may refuse to consider any application which is not complete in every detail and 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.

C. Each original or initial application for registration as a dispensing physician shall be accompanied by a fee of \$75.

§6519. Effect of Application

The submission of an application for registration as a dispensing physician shall have the same effect as the submission of an application for medical licensure, as provided in Board Rule 3.23 (to be codified at §1145 of these rules).

§6521. Certification of Registration

If the qualifications, requirements and procedures prescribed or incorporated by §6513 to 6517 are met to the satisfaction of the board, the board shall issue to the applicant certification of registration as a dispensing physician bearing the Dispensing Physician Registration Number (DPRN). The original of such certificate, or a duplicate thereof certified by the board, shall be maintained at each location at which the registrant dispenses medications.

§6523. Expiration of Registration

A. Registration with the board as a dispensing physician under this Chapter shall expire, and thereby become null, void and to no effect, on the last day of the year for which such registration was made and certified.

B. The timely submission of an application for renewal of registration as a dispensing physician, as provided by §6525 of this Chapter, shall operate to continue the expiring registration in effect pending certification of renewal registration or other final action by the board on such application for renewal.

§6525. Renewal of Registration

A. Registration as a dispensing physician 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 a registration renewal fee of \$50.

B. An application for registration renewal form shall be mailed by the board to each registrant on or before the first day of December of each year. Such form shall be mailed to the most recent address of each registrant as reflected in the official records of the board.

C. Registration as a dispensing physician which has expired by virtue of nonrenewal shall not be reinstated by the board except upon the applicant's satisfaction of the qualifications, requirements and procedures prescribed by this Chapter for original application for registration.

Subchapter D. Recordkeeping

§6527. Purchases, Acquisitions

A. Each registrant shall maintain current, accurate, complete and readily retrievable records of all transactions by which the registrant orders, purchases, acquires, receives or otherwise

comes into possession or custody of medications, other than *bona fide* medication samples, for dispensation or administration to patients.

B. The records required to be maintained by this Section shall include:

1. a record of each order, purchase or other acquisition made or placed by the registrant for medications, including:

a. a photocopy, counterfoil carbon copy or other duplicate of each original order or purchase form;

b. the full name and address of the person, firm or entity from whom the medications were ordered, purchased or otherwise acquired;

c. the date of the order, purchase or other acquisition; and

d. the generic chemical or trade name, quantity or amount, and dosage strength of each medication ordered, purchased or otherwise acquired; and

2. a record of the delivery or receipt by the registrant of medications ordered, purchased or otherwise acquired, including:

a. the original, photocopy, counterfoil carbon copy or other duplicate of each receiving invoice for medications;

b. the full name and address of the person, firm or entity from whom the medications were delivered or received;

c. the date of the delivery or receipt; and

d. the generic chemical or trade name, quantity or amount, and dosage strength of each medication delivered or received; and

e. the name of the person taking physical delivery or receipt of such medications on behalf of the registrant.

§6529. Medication Inventories

A. Each registrant shall maintain current, accurate and complete records, in writing or electronically recorded so as to be readily convertible into writing, of the generic chemical or trade name, and exact quantity or amount and location of all medications in the registrant's possession or custody, which records shall, not less frequently than monthly, be updated to reflect and account for all purchases, acquisitions, dispensations, transfers, losses of or other transactions involving the medications in the registrant's possession.

B. Not less frequently than quarterly during each calendar year, each registrant shall conduct or cause to be conducted a physical inventory of all medications in the possession or custody of the registrant for each location at which the registrant maintains or stores medications and shall conduct reasonable inquiry to determine and to record the nature and cause of any discrepancy between such physical inventory and the kind and amount of medications evidenced by the records required under the preceding paragraph of this Section. A record of each such quarterly physical inventory and reconciliation shall be made and retained by the registrant.

C. A registrant shall conduct or cause to be conducted a physical inventory of all medications in the possession or custody of the registrant for each location at which the registrant maintains or stores medication and shall conduct reasonable inquiry to determine and to record the nature and cause of any discrepancy between such physical inventory and the kind and amount of medications evidenced by the records required under Paragraph A of this Section, with 20 days of the date on which:

1. a registrant's license to practice medicine or registration as a dispensing physician is suspended, revoked, cancelled or expires by virtue of nonrenewal;

2. the registrant terminates, concludes, sells, assigns or

retires from his practice of medicine; or

3. medications in the registrant's possession are seized under executory process, sequestration, attachment, bankruptcy or by authority of any federal, state or local regulatory or law enforcement agency.

§6531. Dispensation Records

Each registrant shall, concurrently with the dispensation or administration of any medication, record the generic chemical or trade name of any medication dispensed or administered, other than *bona fide* medication samples, the quantity or amount and dosage strength of such medication, the date on which such medication was dispensed or administered, and the full name and address of the patient to whom or for whom such medication was dispensed or administered.

§6533. Other Transaction Records

A. A registrant shall, concurrently with the transfer or delivery of any medication in his possession to any other location or with the sale, delivery, return or other transfer of any medication to any other registrant, physician, person, firm or entity, other than by dispensation to a patient, record the generic chemical or trade name of any medication so sold, delivered, returned or transferred, the quantity or amount and dosage strength of such medication, the date on which such medication was sold, delivered, returned or transferred, and the name, address and DEA registration number of the person, firm or entity to whom such medication was sold, delivered, returned or otherwise transferred.

B. Each registrant shall, with respect to any medication intentionally disposed of or destroyed, concurrently with such destruction or disposal, record the generic chemical or trade name, quantity or amount, and dosage strength of such medication, the date of its destruction or disposal and the reasons for or circumstances surrounding its destruction or disposal.

C. A registrant shall record the generic chemical and trade name, quantity and amount, and dosage strength of any medication lost, stolen, accidentally destroyed or otherwise unaccounted for, together with the date of and reasons for or circumstances surrounding such loss, theft, accidental destruction or other such disposition.

§6535. Separate Maintenance Records for Schedule II Substances

All records required to be maintained by this Subchapter relating to medications designated as Schedule II controlled substances by state or federal law or regulations shall be maintained separately from all such records relating to other medications.

§6537. Computerized Records

Any record required by this Subchapter, other than original or duplicate order and receiving invoice forms and prescriptions, may be recorded and stored on a computerized, electronic data processing system provided that such system is designed so as to ensure that the records and information so recorded are accurate, complete, and readily retrievable and convertible to hard-copy printout and provided further that such system satisfies the standards of security prescribed by §6549-51.

§6539. Retention of Records

All records and documents required by this Subchapter shall be securely maintained, in accordance with the standards of security prescribed by §6547, for a period of not less than five years from the date on which the subject data is first recorded.

§6541. Board Access to Records

The records required by this Subchapter shall be available for examination, inspection, copying, and verification of accuracy, currency and completeness by the board or its designated

employee or agent at any reasonable time, but without the necessity of prior notice by the board. The failure or refusal of a registrant to make such records available to the board pursuant to this Section shall constitute a violation of these rules subjecting the registrant to suspension or revocation of medical licensure or registration as a dispensing physician.

Subchapter E. Labelling and Packaging

§6543. Labelling

No registrant shall dispense any medication, other than a *bona fide* medication sample, unless the bottle, package, or other container for such medication bear a securely-affixed indelible, legible, typewritten or printed label including:

1. the name and address of the registrant;
2. the name of the patient to whom or for whom dispensed;
3. the generic chemical or trade name, quantity or amount, dosage form and strength of the medication dispensed;
4. the date of dispensation; and
5. appropriate directions for self-administration, ingestion, insertion, application or injection by the patient.

§6545. Packaging for Dispensation

Medications shall be dispensed in such bottles, containers or other packages as may be reasonably necessary or appropriate to safeguard the dispensed medication against contamination, adulteration or deterioration, or spillage or other inadvertent loss.

Subchapter F. Security

§6547. Storage of Medications

A. All medications in the possession of a registrant shall be physically stored and maintained in such location and in such manner as to reasonably secure all such medications against contamination, adulteration, deterioration, loss, accidental destruction, theft and access or use by unauthorized persons.

B. Medications which are Schedule II controlled substances shall, in addition, be stored and maintained in a metal cabinet, box, safe, vault or other container of suitable strength and in such location as to safeguard such medication against loss or destruction by fire, flood or other accidental causes. Such repository shall further be equipped with a secure lock so as to prevent theft of or unauthorized access to or use of such medications.

§6549. Security for Records

A. The records and documents required under Subchapter D of these rules shall be kept, stored and maintained in such location and manner as to reasonably secure such records and documents against lost, destruction, theft or access by unauthorized persons.

B. All records and documents required under Subchapter D of these rules relating to Schedule II controlled substances shall be kept, stored and maintained in such manner and in such location as is specified by §6547 for the storage of Schedule II controlled substances.

§6551. Maintenance of Computerized Records

Records, information and data recorded and stored on computerized, electronic data processing equipment, as permitted by this Chapter, shall be periodically, and not less frequently than monthly, duplicated on electronic/magnetic media or converted to hard-copy printout, and such duplicate media or printout shall be stored and maintained separately from the central or original data memory in accordance with the standards of security prescribed by §6549.

Subchapter G. Reporting

§6553. Theft or Unexplained Loss of Controlled Substances

Any theft or unexplained loss of controlled substances in the possession of a registrant shall be reported by the registrant to the board, in writing, within 10 days of the date of the registrant's discovery of such theft or loss, but in no event later than 10 days following the completion of the quarterly physical inventory next following such theft or loss. Such written report shall state the date or estimated date of such theft or loss, the generic chemical or trade name, amount or quantity, and dosage form and strength of any medications stolen or lost and a detailed description of the circumstances surrounding the theft or loss.

§6555. Termination of Practice or Dispensation

Not later than 10 days following the date on which a registrant terminates, concludes, sells, assigns or retires from his practice of medicine or ceases dispensation and administration of medications, the registrant shall report the same to the board in writing. Upon completion of the physical inventory and reconciliation required in such event by §6529 hereof, the registrant shall deliver to the board a copy of such physical inventory record and reconciliation, together with his certificate of registration as a dispensing physician.

§6557. Diversion of Medications

A registrant shall immediately report to the board, in writing, any known or reasonably suspected instance of diversion of medications to unauthorized use or possession by any patient or any other person.

§6559. Other Reporting Requirements Unaffected

A. The reporting requirements imposed by this Subchapter do not relieve a registrant of any other reporting requirements imposed by existing state or federal laws or regulations.

B. Any report required by this Subchapter which is also required to be made in substantially the same form and content to any other regulatory or law enforcement agency by state or federal law or regulations may be made by submitting to the board, within the time prescribed by this Subchapter, a photocopy or other duplicate of the reporting form submitted or to be submitted to any such state or federal agency.

Subchapter H. Registrant Responsibilities

§6561. Personal Responsibility

A registrant is personally responsible for knowledge of and compliance with the provisions, requirements, and procedures set forth in this Chapter and with knowledge of and compliance with all other federal, state and local laws and regulations applicable to the purchase, acquisition, possession, storage, maintenance, and dispensation of and recordkeeping and reporting for medication.

Delmar Rorison
Executive Director

RULE

Department of Health and Human Resources Board of Medical Examiners

The Louisiana State Board of Medical Examiners, under authority of the Medical Practice Act of Louisiana, R.S. 37:1292, and in accordance with the applicable provisions of the Administrative Procedure Act, has adopted the following rules governing the certification and practice of radiologic technologists employed in private physician offices in the state of Louisiana.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensing and Certification

Chapter 29. Private Radiologic Technologists

Subchapter A. General Provisions

§2901. Scope

The rules of this Chapter govern the certification as to proficiency of private radiologic technologists to perform diagnostic or therapeutic radiological examinations or both in the private office of a physician or in clinics in which a physician practices as provided under R.S. 37:1292, as hereafter amended or supplemented.

§2903. General Definitions

Applicant means a person who has applied to the board for a certificate to perform diagnostic or therapeutic radiological examinations or treatments or both in the private office of a physician or in clinics in which a physician practices and under the direct supervision of a physician licensed to practice medicine by the board.

Application means a written request directed to and received by the board upon forms supplied by the board, for a certificate to perform radiological examinations or treatments in the private office of a physician or in clinics in which a physician practices in the state of Louisiana, together with all information, certificates, documents and other materials required by the board.

Board means the Louisiana State Board of Medical Examiners created pursuant to R.S. 37:1261-1291, as hereafter amended or supplemented.

Certificate means the lawful authority of a person to use radioactive materials or equipment emitting or detecting ionizing radiation on humans to perform a diagnostic or therapeutic examination or treatment or both in the private office of a physician or in a clinic in which a physician practices and under the direct supervision of a physician licensed to practice medicine by the board, said authority being evidenced by a certificate of proficiency duly issued by and under the official seal of the board.

Clinic means a facility where patients are studied or treated on an outpatient basis by physicians specializing in various or particular ailments and practicing as a group.

Direct Supervision of a Physician means pursuant to specific instructions, oral or in writing, or otherwise according to prescription given directly by the physician to the private radiologic technologist.

Education Program means a set of formally structured activities designed to provide students with the knowledge and skills necessary to perform diagnostic or therapeutic radiological examinations or treatments or both, with evaluation of student performance according to predetermined objectives.

Formal Training means training or education, including either didactic or clinical practicum or both, which has a specified objective, planned activities for students, and suitable methods for measuring student attainment, and which is offered, sponsored, or approved by an organization or institution able to meet or enforce these criteria.

Good Moral Character as applied to an applicant, means that:

a. 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. 37:1285 for the suspension or revocation of certification;

b. 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

c. 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 certification required by this Chapter.

Ionizing Radiation means any electromagnetic or particulate radiation (x-rays, gamma rays, alpha and beta particles, high speed electrons, neutrons and other nuclear particles) which interacts to produce ion pairs in matter.

Physician means a person possessing a current license to practice medicine in the state of Louisiana.

Private Nuclear Medicine Technologist means a private radiologic technologist who conducts in vivo or in vitro detection and measurement of radioactivity for medical purposes or administers radiopharmaceuticals to human beings.

Private Radiologic Technologist means a person who is authorized to perform radiological examinations or treatment or both in the private office of a physician or in clinics in which a physician practices and under the direct supervision of a physician.

Private Radiation Therapy Technologist means a private radiologic technologist who utilizes radiation-generating equipment for therapeutic purposes on human beings.

Private Radiographer means a private radiologic technologist who performs a comprehensive scope of diagnostic radiological procedures employing equipment which emits ionizing radiation and is responsible for operation of radiation generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, or other procedures which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

Radiologic Technology Board of Examiners means that agency created pursuant to R.S. 37:3200-3219, as hereafter amended or supplemented.

Radiological Examination or Treatment means the use of radioactive materials or of equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes under the direct prescription and supervision of a physician.

§2905. Necessity of Certificate; Exemptions; Information Required

A. No person may perform or attempt to perform a diagnostic or therapeutic radiological examination or treatment in the private office of a physician or in a clinic in which a physician practices unless he has in his personal possession a certificate issued to him under this Chapter or is otherwise exempted from the provisions of this Chapter pursuant to Subsections B or C of this Section.

B. The following persons are exempt from the requirements of this Chapter:

1. any physician licensed by the board to practice medicine in the state of Louisiana; or

2. any person licensed by the Radiologic Technology Board of Examiners.

C. Any person who performs the functions of a private radiologic technologist but has been employed by the supervising

physician for less than six months shall be exempt from the requirements of this Chapter only for the first six months of such employment. This temporary exemption shall not apply to anyone who has been employed previously as a private radiologic technologist or who has otherwise performed any radiological examination or treatment in the course of any previous employment.

D. Each physician who employs any person to perform diagnostic or therapeutic radiological examinations or treatments or both in his private office or in the clinic in which that physician practices shall report to the board annually as a condition of or issuance or renewal of that physician's licensure to practice medicine in the state of Louisiana the following information for each person so employed:

1. name of the employee;

2. address at which that person performs diagnostic or therapeutic radiological examinations or treatments or both;

3. initial date of employment as a private radiologic technologist;

4. any exemption claimed for any person under this Chapter; and

5. certification by the physician that the person employed as a private radiologic technologist is proficient in, and is competent to perform, the functions of a private radiologic technologist.

Subchapter B. Certification

§2907. Qualifications for Certification and Approval

A. To be eligible for certification under this Chapter, an applicant shall:

1. be at least 18 years of age;

2. be of good moral character;

3. have successfully completed a four-year course of study in a secondary school approved by the State Board of Elementary and Secondary Education, passed an approved equivalency test, or have graduated from a secondary school outside Louisiana having comparable approval;

4. have attended and successfully completed a course of radiological study and safety which meets the requirements of Section 2909 of this Chapter, or have been employed by a physician continuously since September 1, 1983 to perform diagnostic or therapeutic radiological examinations or treatments or both in the private office or clinic of that physician and under said physician's direct supervision.

§2909. Educational Requirements

A. An applicant shall have attended and successfully completed an educational program and formal training meeting either of the following standards in preparation for the position of radiologic technologist prior to making application for certification.

1. An educational program and formal training that meets the Essentials and Guidelines of an Accredited Educational Program for the Radiographer, Radiation Therapy Technologist and the Nuclear Medicine Technologists as adopted by the American College of Radiology, American Medical Association and the American Society of Radiologic Technologists and is accredited by the Committee on Allied Health Education and Accreditation and the Joint Review Committee on Education in Radiologic Technology shall be deemed adequate under the requirements of this Section. The adequacy of such program shall exist only during the term within which it remains accredited by the aforesaid accrediting entities.

2. A specific course of radiological study and safety approved by the board, pursuant to §2911 of this Chapter and

attended and completed by a potential applicant within the six months prior to making application.

§2911. Application for Approval of Course of Study

A. Any employing physician may petition the board to approve an individualized and specific course of study to be attended and successfully completed by said physician's employee as a condition precedent to making application for certification of that employee as a private radiologic technologist under this Chapter.

B. To obtain board approval, the proposed course of study must include, as a minimum:

1. specific curriculum content, including the following courses at an accredited institution of higher learning, through which the employee must complete at least 12 semester credit hours:

- a. introduction to radiologic technology;
- b. medical ethics;
- c. radiation safety and protection; and
- d. patient care and patient positioning.

2. A clinical practicum taken concurrent with, or following completion of, the curriculum identified in Subsection 2911.B.1 above. Such practicum shall involve direct training of the employee by a physician or licensed radiologic technologist for at least five hours per week for not less than eight weeks.

3. The board may impose additional course requirements or require additional curriculum and/or practicum in its discretion.

4. No petition for approval of a course of study will be considered by the board until the applicable processing fee established under Chapter 81, of this Part has been paid.

§2913. Application for Certification; Procedure

A. Application for certification as a private radiologic technologist must be made upon forms supplied by the board and must be submitted by the proposed supervising physician, and shall be required as a condition precedent to the issuance or renewal of said physician's license to practice medicine in the state of Louisiana.

B. Application for certification and approval under this Chapter must include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications set forth in Section 2907 of this Chapter;

2. affidavits, notarized and properly executed by the applicant and the proposed supervising physician, certifying the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application; and

3. such other information and documentation as the board may require.

C. All documents required to be submitted to the board must be the original or certified copy thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may reject or 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.

E. Each application submitted to the board by a proposed supervising physician shall be accompanied by a fee of \$35 of which the sum of \$25 will represent a nonrefundable processing fee, as established under Chapter 81 of this Part.

F. Upon submission of a completed application form, to-

gether with the documents required thereby, and the payment of the application fee established under Chapter 81 of this Part, the board may require the applicant and the proposed supervising physician to make a personal appearance before a member of the board or a physician designated for this purpose, to be interviewed regarding the applicant's qualifications for certification and their understanding of the authority, limitations, obligations and responsibilities imposed on private radiologic technologists and supervising physicians by laws and regulations applicable thereto.

§2915. Issuance of Certificate; Rating

A. If the qualifications, requirements and procedures of §§2907 and 2913 are met to the satisfaction of the board, the board shall certify the applicant as a private radiologic technologist.

B. Each private radiologic technologist certificate issued under this Chapter shall be endorsed as follows:

1. private radiologic technologist - nuclear medicine;
2. private radiologic technologist - radiation therapy; or
3. private radiologic technologist - radiographer.

C. Every certificate issued under this Chapter, of whatever rating, is expressly subject to the terms, restrictions and limitations set forth in the approved application. A radiologic technologist shall be restricted to the use of the ionizing radiation by the category specified by the endorsement on his certificate and at the address or location specified in the job description submitted with his application.

D. A certificate of proficiency issued under this Chapter is valid as of the date of issuance. No representation is made, nor should such certificate be construed as an acknowledgment of continued competence or proficiency beyond the date of issuance.

§2917. Obligations and Responsibilities

A. The private radiologic technologist shall:

1. at all times retain in his personal possession a copy of the certificate issued under this Chapter; and

2. comply with the reasonable request by the board for personal appearances and/or information relative to the functions, activities and performance of the private radiologic technologist.

B. Each physician who employs any person to perform diagnostic or therapeutic radiological examinations or treatments or both in his private office or in the clinic in which that physician practices shall report to the board annually as a condition of or issuance or renewal of that physician's licensure to practice medicine in the state of Louisiana the following information for each person so employed:

1. name of the employee;
2. address at which that person performs diagnostic or therapeutic radiological examinations or treatments or both;
3. initial date of employment as a private radiologic technologist;
4. any exemption claimed for any person under this Chapter; and
5. certification by the physician that the person employed as a private radiologic technologist is proficient in, and is competent to perform, the functions of a private radiologic technologist.

§2919. Causes for Nonissuance, Suspension, Revocation; or Restrictions; Fines; Reinstatement

A. The board may refuse to issue, or may suspend, revoke, or impose probationary or other restrictions on, any certificate issued under this Chapter for the following causes:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge;
2. fraud, deceit, or perjury in obtaining any certificate issued under this Chapter;
3. providing false testimony before the board;
4. habitual or recurring drunkenness;
5. habitual or recurring use of morphine, opium, cocaine, drugs having a similar effect, or other substances which may induce physiological or psychological dependence;
6. aiding, abetting, or assisting any physician in any act or course of conduct enumerated in R.S. 37:1285;
7. efforts to deceive or defraud the public;
8. incompetency;
9. immoral conduct in exercising the privileges provided for by certification under this Part;
10. persistent violation of federal or state laws relative to control of social diseases;
11. interdiction or commitment by due process of law;
12. inability to perform or function as a private radiologic technologist with reasonable skill or safety to patients because of mental illness or deficiency, physical illness, including but not limited to deterioration through the aging process or loss of motor skills, and/or excessive use or abuse of drugs, including alcohol;
13. refusing to submit to the examination and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the private radiologic technologist's physical and mental fitness and ability to perform diagnostic or therapeutic radiological examinations or treatments or both with reasonable skill and safety;
14. violation of any provision of this Chapter, or of any rules and regulations of the board or statute pertaining to private radiologic technologists;
15. misuse of any radiological equipment or materials;
16. violation of any federal or state regulation controlling the use or application of radiological materials or ionizing radiation, including, but not limited to, those regulations promulgated by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration and the Louisiana Department of Environmental Quality.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate suspended or revoked hereunder, require the private radiologic technologist and/or the supervising physician to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees, and to pay a fine not to exceed the sum of \$5,000.

C. Any certificate suspended, revoked or otherwise restricted by the board may be reinstated by the board.

§2921. Severability

A. If any rule, provision, or item of this Chapter or the application thereof is held invalid as in excess of or inconsistent with statutory or constitutional authority, such invalidity shall not affect other rules, provisions, items or applications, and to this end the rules and provisions of this Chapter are hereby declared to be severable.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice

Chapter 59. Private Radiologic Technologists
Subchapter A. Practice Requirements and Prohibitions
§5901. Necessity of Certificate; Supervision Required

A. No person may perform or attempt to perform a diagnostic or therapeutic radiological examination or treatment or both in the private office of a physician or in a clinic in which a physician practices unless he has in his personal possession a certificate issued to him under Chapter 29 of these rules or is otherwise exempted from the requirement of such certificate pursuant to §2905, Subsection B or C of that Chapter.

B. No person, not otherwise exempted under §2905, Subsection B of Chapter 29 of these rules, may perform or attempt to perform a diagnostic or therapeutic radiological examination or treatment or both in the private office of a physician or in a clinic in which a physician practices except under the direct supervision of a physician.

§5903. Physician's Responsibilities

A. A physician who employs a person to perform diagnostic or therapeutic examination or treatment or both in the private office of that physician or in a clinic in which that physician practices shall ensure that the person so employed has a certificate issued under Chapter 29 of these rules in his personal possession and that the employed person performs such examinations or treatment only under the direct supervision of a physician.

B. Each physician who employs any person to perform diagnostic or therapeutic radiological examination or treatment or both in the private office of that physician or in a clinic in which that physician practices shall report to the State Board of Medical Examiners annually as a condition for issuance or renewal of that physician's licensure to practice medicine in the state of Louisiana the following information on each person so employed:

1. name of the employee;
2. address at which that employee performs diagnostic or therapeutic radiological examination or treatment or both;
3. initial date of employment of that person with that physician;
4. any exemption claimed for that person under Chapter 29; and
5. certification by the physician that the person employed is proficient in, and is competent to perform, radiological examination or treatment or both only under the direct supervision of a physician.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXV: Medical Professions
Subpart 5. Administrative Provisions

Chapter 81. Fees and Costs
Subchapter L. Private Radiologic Technologists

§8183. Scope of Subchapter

The rules of this Subchapter prescribe the fees and costs applicable to the certification of private radiological technologists.

§8185. Certification

For processing an application for certification of a private radiological technologist as to proficiency, a fee of \$35, of which \$25 represents a nonrefundable processing fee, shall be payable to the board.

Delmar Rorison
Executive Director

RULE

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

The Department of Health and Human Resources, Office of Family Security, adopts the following rule in the Medical Assistance Program.

Previously, Intermediate Care Facilities for the Mentally Retarded and persons with other Developmental Disabilities (ICF/MR) provide services to Title XIX (Medicaid) recipients in accordance with the requirements for reimbursement under Title XIX of the Social Security Act and applicable state laws. The Medical Assistance Program has adopted standards for payment to provide ICF/MR facilities with information necessary to fulfill vendor contracts with the state of Louisiana and remain in compliance with federal and state laws. These standards are an amalgamation of federal and state laws which govern ICF/MR facility care in the state of Louisiana.

Copies of these rules can be obtained from the Office of Family Security, Box 94065, Baton Rouge, LA 70804-4065.

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

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

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register* Vol. 13, No. 8, dated August 20, 1987.

TITLE XIX PROVIDER CLAIM REQUIREMENTS

A. Definitions

Claim means a single document line identifying the services and/or charges for services for a single recipient from a single provider.

1. Providers shall submit all original claims no later than 12 months from the date of service.

2. Providers shall be allowed up to two years from the date of service to provide adequate billing information to the fiscal intermediary necessary for adjudicating the claim. Any claim for which the fiscal intermediary has not received documentation necessary for adjudication within two years from the date of service shall be denied.

3. Providers shall be required to submit any adjustments within 120 days of adjudication of a claim. This requirement shall not apply to adjustments arising from Third Party Liability or Patient Liability.

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

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

RULE

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

The Department of Health and Human Resources, Office of Family Security, adopts the following rule in the Medical Assistance Program.

Previously, psychiatric hospitals which provide services to Title XIX (Medicaid) recipients under age 21 and over age 65 are required to meet the requirements for reimbursement under Title XIX of the Social Security Act and applicable state laws. The Medical Assistance Program has adopted standards for payment to provide psychiatric hospitals with the information necessary to fulfill vendor contracts with the state of Louisiana and remain in compliance with federal and state laws. These standards are an amalgamation of federal and state laws which govern inpatient psychiatric care in the state of Louisiana.

Copies of these rules can be obtained from the Office of Family Security, Box 94065, Baton Rouge, LA 70804-4065.

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

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

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register* Vol. 13, No. 8, dated August 20, 1987.

Skilled Nursing Facilities within an Intermediate Care Facility shall maintain a nurse/patient ratio for the SNF area which is the same as any Skilled Nursing Facility. The ICF area within the facility shall maintain a nurse/patient ratio which is the same as any ICF facility. The licensed nurses in the SNF area can be shared with the ICF area regardless of the size of each unit provided the appropriate nurse/patient ratio for each area is maintained.

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

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

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register* Vol. 13, No. 8, dated August 20, 1987.

ICF I, ICF-II, ICF-MR, and SNF facilities shall be required to timely submit utilization data requested by the Department of

Health and Human Resources (DHHR), Division of Policy, Planning and Evaluation (DPPE). Providers will be given written notice when such utilization data has not been received by the due date. Such notice shall advise the provider of the date the utilization data must be received by to avoid withholding of vendor payments. The due date shall in no instance be less than 10 days from the date the notice is mailed to the provider. If the utilization data is not received by the due date provided in the notice, the Medicaid vendor payment will be withheld until the utilization data is received.

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

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

RULE

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

The Department of Health and Human Resources, Office of Management and Finance, Division of Policy, Planning and Evaluation, has adopted the following changes to the policies and guidelines for home health agencies effective October 20, 1987. These changes are made to the rule published in Volume II Number II of the *Louisiana Register*, November 20, 1985, and LAC 48:1.12701 and 12703.

The changes are as follows:

1) The section entitled Louisiana Revised Statutes 40:2009.3 - 40:2009.40 (p.4) is revised to include a second paragraph as follows:

Title 48

Public Health – General

Part I. General Administration

Subpart 5. Health Planning

Chapter 127. Policies and Guidelines for the Review of Applications to Establish New Home Health Agencies §12701. Introduction

A. Louisiana Revised Statutes 40:2009.3 - 40:2009.40

1. Louisiana Revised Statutes 40:2009.31 - 40:2009.40 mandate that the secretary of the Department of Health and Human Resources promulgate rules to require approval by the agency responsible for the implementation of Section 1122 of the Social Security Act as a condition for licensure of home health care agencies. Such approval will be required for the first licensing of all home health agencies not in existence as of April 20, 1985.

* 2. The 1987 Regular Session amended R.S. 40:2009.35B to mandate that currently licensed home health agencies requesting a change of ownership shall be eligible for expedited review. It further stipulated that only criteria related to a change in ownership would ** be subject to review.

2) The heading of the current section entitled "Notification" under "Review Procedures" (p. 9) is to be changed to "Full Review Procedures" since it describes this process. A new section entitled "Expedited Review Procedures" will be added to describe this process, as follows:

§12703. Review Procedures

***B. Expedited Review Procedures**

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

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

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

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

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

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

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

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

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

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

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

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

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

7. A finding of conformity or non-conformity with respect

to an application shall be publicized by DPPE through press releases, and made available to interested parties and organizations.

* * C. General Criteria for Need Certification Reviews...

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

RULE

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

The Department of Health and Human Resources, Office of Management and Finance, Division of Policy, Planning and Evaluation has adopted the following changes to the Louisiana State Health Plan effective October 20, 1987. These changes are made to the rule published in Volume 13, Number 8 of the *Louisiana Register*, August 20, 1987 and LAC 48:I.11523.

This amendment to the State Health Plan adds an exception to the resource goals on pages 9-72 in the ICF-MR Section of Chapter 9. That page is changed to read as follows:

Title 48

Public Health - General Part 1. General Administration Subpart 5. Health Planning

Chapter 115. Health Resource Requirements Subchapter B. Facility or Service - Specific Criteria and Standards

§11523. Long Term Care Beds

A.

B. 7.iii.(d) OFS and DLC will reflect in their subsequent monitoring reports the extent to which deficiencies were corrected and the extent to which OMR/DD was contacted for technical assistance. OFS will take appropriate action including sanctions if indicated.

8. Service Area

The service area for a proposed or existing facility is designated as the one of eight OMR/DD planning regions in which the facility or proposed facility is or will be located.

9. Resource Goals

a. In accordance with the department's policy of least restrictive environment, there is no currently identified need for additional facilities with 16 or more beds. Beds may be transferred from one existing residential facility to another.

b. The bed to population ratio for community and group homes shall at no time exceed .36 per 1000 population in each service area. In determining the bed to population ratio for a proposal, Division of Policy, Planning and Evaluation shall use population projections for the anticipated opening date (year) of the facility which in no case shall exceed two years from the date the application is declared complete.

c. The occupancy rate for community homes in the service area shall be 80 percent or greater in order for another community home to be approved.

d. The occupancy rate for group homes in the service area shall be 85 percent or greater in order for another group home to be approved.

e. In determining the occupancy rate, beds used in the calculations shall be 1122 approved and licensed beds.

If a service area is at or near the .36 beds per 1000 population resource goal and the occupancy rate in approved and licensed beds and approved but not licensed beds in the service area is equal to or exceeds 85 percent for the four most recent quarters, that number of beds which would reduce the overall occupancy rate in the service area to under 85 percent may be approved. The bed to population ratio for community and group homes may at no time exceed .36 beds per 1000 population statewide.

f. Community or group homes shall be determined to meet the above resource goals where mandated by courts.

g. A distinct part of a publicly supported facility other than an intermediate care facility shall be determined to meet the above resource goals provided that the distinct part:

i. meets all requirements for an intermediate care facility;

ii. is an identifiable unit, such as an entire ward or contiguous ward, a wing, floor, or building;

iii. consists of all beds and related facilities in the unit;

iv. houses all recipients for whom Title XIX payments are being claimed; and

v. is clearly identified.

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

RULE

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

The Department of Health and Human Resources, Office of Preventive and Public Health Services hereby amends Chapter IX (Seafood) of the Sanitary Code, State of Louisiana. This rule change amends Chapter IX to provide additional requirements and penalties relating to shellfish transplant permits.

This amendment is offered to provide the necessary deterrents mandated by the National Shellfish Sanitation Program to prevent the introduction of polluted shellfish into commerce, and to reduce the incidence of shellfish related disease outbreaks. Language in the following sections of Chapter IX is amended as follows:

9:004—TRANSPLANTING OF SHELLFISH: No person shall engage wholly or part time in the business of transplanting shellfish from waters not approved for direct market harvesting by the state health officer prior to obtaining a permit for that purpose. Applications shall be completed and filed not less than 10 days prior to the beginning of such transplanting. A \$5,000 cash performance bond made payable to the Department of Health and Human Resources shall be submitted with the completed application. Permits shall be granted only with the following conditions:

9:004—1—That shellfish relaid from polluted waters in a designated area of approved waters, as established by the state health officer from sanitary surveys of the area and bacteriological examination of the water, shall remain down in the approved area for a period of not less than 14 days.

9:004—2—That shellfish transplanted from any polluted waters shall not be laid down within 500 feet of an approved area from which shellfish are being taken, or will be taken, for sale as food within 14 days from the time when such shellfish so transplanted are laid down.

9:004—3—That sacking of shellfish, storage of empty

shellfish sacks on board permitted or authorized harvesting vessel and/or the direct marketing of shellfish taken from waters not approved for that purpose by the state health officer shall be strictly prohibited.

9:004—4—Violation of any of the above requirements or conditions shall be cause for revocation of the permit to transport and/or forfeiture of the cash performance bond.

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

RULE

Department of Labor Board of Barber Examiners

The Board of Barber Examiners gives notice in accordance with R.S. 49:950 et seq. and R.S. 37: 341-392, that it adopted the following sections in Chapter 17 of LAC 46:VII:

Chapter 17. Barber Instructors (Teachers)

§1701. Statutory Requirements:

A. No persons shall act as an instructor at a barber college and no barber college or owner or operator thereof shall hire or permit any person to act as an instructor at the barber college unless he has a current and valid certificate of registration as an instructor issued by the board. (RS 37: 362)

B. The board shall issue a certificate of registration as an instructor in a barber college to a person who complies with all of the following:

1. Files an application with the board in such forms as it may prescribe accompanied by the required fee.

2. Is of good moral character and temperate habits.

3. Holds a diploma evidencing successful completion of high school or has the equivalent education as determined by an examination conducted by the board and approved by the vocational education office of the Department of Education.

4. Has held a valid certificate of registration as a barber in Louisiana and has practiced barbering in Louisiana for at least the last two years before issuance of the instructor's certificate.

5. Has graduated from a barber college in a course embracing all theory and scientific manipulation taught in barber schools.

6. Passes satisfactorily an examination conducted by the board to determine his fitness to be an instructor. (RS 37: 363)

C. Each applicant for examination shall:

1. Apply to the board on blank forms prepared and furnished by the board. This application shall contain proof under the applicant's oath of the particular qualifications set forth in the application.

2. Furnish to the board two five-by-three inch signed photographs of the applicant, one to accompany the application and one to be returned to the applicant and to be presented to the board when he appears for examination.

3. Pay to the board the fee provided in R.S. 37:375. (R.S. 37:365)

D. Every three months the board shall conduct an examination of applicants for certificates of registration as instructors. Notice of such examinations and the times and places thereof shall be given by mail to each applicant. The examination of applicants for certificates as instructors shall include both a practical demonstration and a written and oral test and shall embrace the subjects usually taught in colleges of barbering approved by the board. (RS 37:366)

E. When the provisions of this Chapter have been complied with, the board shall issue a certificate of registration as an instructor. (RS 37:367).

§1703. Other Standards Required:

A. Proof of Employment

The Instructors examination shall be given only when the applicant shows proof to the Barber Board that they will be hired as an instructor in a barber school after passing such an examination.

B. Application Notification to Barber Board

All applicants shall furnish the Barber Board all the necessary requirements at least 30 days prior to the next examination date.

C. Application Approval

Upon receipt of all necessary requirements from applicants applying to take the next instructors examination, the Barber Board shall review all material received and notify applicants that their application has been approved or disapproved.

D. Instructors Examination Fees, License

The fee of Instructors examination is \$35 (\$25 for the examination and \$10 for National Testing), and the license fee is \$10.

E. Instructors Certificate Expiration Date

Instructors Certificate Expire January 31 of each year

F. Restoration fees for expired instructors certificate

Restoration fee for expired instructors certificate shall be \$10, plus \$10 for each year the certificate has been expired.

G. Restoration for Expired Instructors Certificate: All persons must re-apply and comply with all of the rules and regulations of Chapter 17 (Barber Instructors) for a teachers certificate if they have allowed their previous certificate to expire for two years or more.

§1705. Examination Requirements

A. Models required: All applicants are required to furnish their own models for the examination.

All applicants must have three models: two males and one female. A taper cut will be done on one of the males and a cut and style on the other male and female. Also, be prepared to do full service on models, such as, shaves, massages, perm rod wraps and any other service necessary as determined by the board.

All applicants should be prepared for an all day examination, and when called upon, models must be available immediately, regardless of the time. Any applicant delaying the examination at anytime will be disqualified.

B. Time limits:

1. Practical Examination: All applicants must complete all phases of the practical examination within a three hour period of time.

2. All applicants must complete all phases of the written examination within a one hour period of time.

C. Tools and supplies required: All applicants are required to furnish their own tools, supplies and towels and any other materials necessary to complete the entire examination.

D. Closed Examinations: The Board of Barber Examiners and its staff will conduct the examinations and no other person or persons are allowed to view the examination unless authorized by the president of the Barber Board. During the examination, all applicants shall direct their questions to board members or staff personnel only. Failure to comply may result in disqualification.

E. Grading: All instructor applicants must achieve an average score of at least 75 percent, and a minimum score in each

part of the examination of at least 65 percent.

The practical and oral segments warrants 60 percent of the total score and the written examination warrants 40 percent of the total score.

Any applicant for a teachers certificate who fails to satisfactorily acquire an average of 75 percent of the examination may continue to appear before the board for examination every three months thereafter.

Any applicant for a teachers certificate who fails to satisfactorily acquire a minimum score of 65 percent on either part of the examination, may continue to appear before the board for that portion of the examination needed to acquire a minimum of 65 percent.

Kathy Berry
Secretary

RULE

Department of Labor Board of Barber Examiners

The Board of Barber Examiners gives notice in accordance with R.S. 49:950 et seq. and R.S. 37: 341-392, that it amended the following section in Chapter 13 of LAC 46:VII.

Chapter 13. Barber Schools

§1301. Standards Required

H. Barber Course Curriculum

1. Introduction to Barbering

- a. Explain history of barbering
- b. Become oriented to the practice of barbering
- c. Discuss professional ethics
- d. Identify shop safety hazards
- e. Explain physical and mental stress

2. Louisiana Laws and Regulations

- a. Explain or discuss statutory regulations
- b. Explain rules and regulations for students
- c. Explain rules and regulations for shop management
- d. Explain rules and regulations for licensed barbers

3. Implements

- a. Identify implements
 - b. Establish proper handling of implements
 - c. Demonstrate proper use of implements
 - d. Demonstrate proper care and sanitation of implements
- ###### 4. Sanitation and safety

- a. Identify and classify types of bacteria
- b. Identify types of sterilization
- c. Describe needs for sanitation and safety
- d. Identify methods of sterilization
- e. Identify State Board requirements for sanitation

5. Shampooing

- a. Analyze clients' hair and scalp needs
- b. Determine appropriate solutions
- c. Apply appropriate solutions
- d. Perform correct shampooing and rinsing procedures

6. Taper Haircut

- a. Demonstrate proper handling of tools for tapering
- b. Describe and demonstrate side and back taper
- c. Analyze clients' hair and determine proper procedure
- d. Blend and balance haircut

7. Men's Haircutting

- a. Define style haircutting

- b. Determine style
 - c. Demonstrate basic layer cut, length and section tie-ends
 - d. Demonstrate balance and proper finish-up work
 - e. Define razor haircutting
 - f. Demonstrate proper razor haircutting techniques
 - g. Identify types of hairpieces
 - h. Demonstrate proper fit and cut of hairpiece
 - i. Demonstrate proper care of hairpiece
- ###### 8. Women's Haircutting
- a. Define women's haircutting
 - b. Describe different lengths and techniques
 - c. Analyze women's features
 - d. Determine style
 - e. Demonstrate methods of cutting and styling techniques
- ###### 9. Shaving
- a. Analyze clients' skin and beard
 - b. Define proper facial conditions for shaving
 - c. Perform proper sanitation procedures
 - d. Prepare face for shaving
 - e. Demonstrate standing position and razor strokes
 - f. Demonstrate proper finish procedures
 - g. Demonstrate different beard styles and trimming techniques
- ###### 10. Massage and Facials
- a. Identify types of massages and facials
 - b. Discuss types of masks and creams
 - c. Apply masks and creams
 - d. Demonstrate proper hand manipulations
- ###### 11. Skin and Scalp
- a. Analyze structure and function of the skin
 - b. Identify and describe types of disorders of the skin and scalp.
 - c. Identify the differences between contagious and non-contagious disorders of the skin and scalp
- ###### 12. Hair
- a. Identify functions of hair
 - b. Identify structure of hair
- ###### 13. Chemicals
- a. Identify dangers of hair chemicals
 - b. Identify the hair type and appropriate solution
 - c. Identify types of permanent waves
 - d. Demonstrate types of permanent waves
 - e. Determine rod size and demonstrate procedure for wrapping hair
 - f. Identify hair types and appropriate hair relaxer for desired effects
 - g. Identify the hair type and appropriate hair color
 - h. Demonstrate the difference between temporary hair color, semi-permanent, and permanent hair color
 - i. Perform proper mixing of colors
 - j. Demonstrate the typical uses of bleach
 - k. Demonstrate proper application and removal of hair chemicals
 - l. Demonstrate proper processing time for permanent waves, relaxers, color, and bleach
- ###### 14. Chemistry
- a. Identify types and definitions of compounds
 - b. Identify the difference between physical mixture and chemical mixture
 - c. Identify the difference between hard and soft water
 - d. Identify types of cosmetics
 - e. Apply cosmetics

- 15. Anatomy and Physiology
 - a. Identify the different cells and their functions
 - b. Identify and give the functions of each body system
- 16. Shop Management and Salesmanship
 - a. Identify State Board requirements for shop management
 - b. Identify factors involved in financing, leasing and selecting locations
 - c. Identify personal shop duties
 - d. Set up and maintain records
 - e. Discuss advertising and promotional idea for products
- 17. Employment Preparation
 - a. Explain the procedure for obtaining and renewing a license to practice
 - b. Describe the role of the barber relating to legal responsibilities
 - c. Prepare a personal resumé
 - d. Complete a job application
 - e. Describe procedure for resignation
 - f. Write a letter of resignation
 - g. Participate in a mock interview
 - h. Discuss Equal Opportunity Employment provisions and Affirmative Action policies in the work place
 - i. Promote public relations within the work place
 - j. Discuss State Board Exam review
 - k. Discuss the transition from barbering school to the work place
 - l. Establish benefits provided by the shop or available through the shop
 - m. Discuss with shop owner methods used to pay income taxes and Social Security taxes.

Kathy Berry
Secretary

RULE

**Department of Labor
Board of Barber Examiners**

The Board of Barber Examiners gives notice in accordance with R.S. 49:950 et seq. and R.S. 37: 341-392, that it amended the following sections in Chapter 1 of LAC 46:VII:

**Chapter 1. Shops
§119. Sterilization**

A. To insure proper sterilization before use on each patron, each barber shall furnish and maintain an adequate supply of tools and instruments, such as clipper blades and attachments, combs, shampoo brushes, hair brushes, styling brushes, shears, razors, tweezers, neck dusters, hones, strops, head coverings or hair trainers or any other tool or instrument used in barbering.

B. 1. Acceptable means of Sterilization and Disinfection are:

- a. Ultra Violet Lights,
- b. Household laundry bleach (100 parts per million of available chlorine),
- c. Ethyl or isopropyl alcohol (70-90 percent)
- d. Sodium Hypochlorite (100 ppm available chlorine),
- e. Phenolic germicidal detergent solution (1 percent aqueous solution of concentrate),
- f. Quaternary ammonium germicidal detergent solution (2 percent aqueous solution of concentrate),

- g. Barbicide (or its equivalent)
 - 2. Exposure time of greater than 10 minutes to any of the above chemicals is required.
 - 3. An acceptable procedure is a wash, rinse and sanitation process. This means a wash in hot water with a suitable soap or detergent; rinsing in warm water to remove detergent; then a final rinse in a disinfectant. Household laundry bleach is the most commonly available and easily used disinfectant. The disinfectant solution should be made up to strength of at least 100 parts per million (ppm) of available chlorine. The implements would then be air dried and stored in a clean enclosed cabinet or drawer.

C. There shall be a wet sterilizer and a dry cabinet sterilizer for each barber chair and proper compounds supplied for their use. Wet sterilizers must be large enough to completely immerse combs and instruments placed therein. Cabinet sterilizers shall be kept clean and orderly and must not be used for storage of supplies, letters, papers, etc., and shall be no less than 1200 cubic inches in size. Drawers that are less than 1200 cubic inches in size shall not be used as cabinet sterilizers.

D. The use of approved electrical light (two barbers may use one electric light cabinet) or chemical cabinet sterilizers are allowed in lieu of cabinet sterilizers.

E. The sterilization of all tools and instruments shall be accomplished after use on each customer and before tools and instruments are re-used. No tools shall be left exposed on work stand, but shall be cleaned and placed in a sterilizing cabinet with approved disinfectant when not in use. Combs and brushes shall not be kept in pockets of barber's uniform.

Kathy Berry
Secretary

RULE

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

Legal Division

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

BOHEMIA SPILLWAY LANDS

Under the provisions of Act 233 of the 1984 Regular Session of the Louisiana Legislature, the secretary of the Department of Natural Resources promulgated Sections I and II of certain rules and regulations to initiate the receipt of claims for the return of certain described property located in what is commonly referred to as the Bohemia Spillway. The following provisions, promulgated pursuant to the above referenced Act and Act 819 of the 1985 Regular Session of the Louisiana Legislature, comprise Section III of the rules and regulations for the return of Bohemia Spillway lands.

**SECTION III- APPLICATION PROCESSING AND
CERTIFICATION**

A. Upon termination of the period for receiving applications, the department shall conduct a preliminary review of each application to determine whether substantive processing of each application can be initiated. In reviewing the applications, the following criteria must be satisfied:

1. whether all questions on the application are answered, and/or appropriate documentation has been furnished;

2. whether the application identifies land acquired by the board and located within the Bohemia Spillway, as that designation is used in Act 233 of the 1984 Regular Session of the Legislature;

3. whether the name of the person identified on the application form as original owner is among the names of owners included on the Report-Real Estate Committee to Executive Committee, Board of Levee Commissioners Orleans Levee District Proposed Plaquemines Outlet, dated April 20, 1925; the original being on file at the administrative office of the Orleans Levee Board, Lakefront Airport, New Orleans, Louisiana, or the name of the person identified on the application form as original owner appears on other records of the board pertaining to acquisition of property in the Bohemia Spillway.

B. Upon completion of the preliminary review, the department shall notify all applicants of the results of the review. The written notification shall either state that the application is being retained for further processing, or that it failed to satisfy one or more of the three criteria listed above. In the event of failure, the application shall be returned to the applicant, accompanied by the notification which shall include a clear statement as to the reason for rejection. Applicants shall have 60 days from the date of receipt of a returned application to file an amended application form with the department. Amended applications filed more than the 60 days specified herein shall be invalid and no further processing by the department will be done.

C. During the preliminary review phase of application processing, the department shall concurrently evaluate the tracts of land described in the April 20, 1925 Report-Real Estate Committee to Executive Committee, Board of Levee Commissioners, Orleans Levee District, (identified in Subsection III A. 3., above) to identify any lands and/or water bottoms which are located in the Bohemia Spillway and are or may be owned by the state of Louisiana, and to determine the extent of any such state ownership.

D. The secretary of the Department of Natural Resources shall designate a special master, who shall undertake the substantive evaluation of valid applications. The substantive evaluation of each application shall be based upon such information as is contained in the application, and generated pursuant to Subsections III B. and C., and any additional evidence the special master might require the applicant, the board or the department to furnish. Any request for additional evidence shall be satisfied, in writing, within 60 days of written demand by the special master. Applicants failing to timely and adequately respond to any request of the special master shall have their applications invalidated, unless good cause is shown why the request was not timely or adequately responded to.

E. Upon completion of the evaluation of an application, the special master shall make one of the following determinations in writing:

1. the application does not establish an apparent valid claim for return of title to the tract indicated on the application;

2. the application establishes an apparent valid claim for return of title to the tract indicated on the application;

3. the application, and accompanying documentary evidence, establishes an apparent valid claim for return of title to the tract; however, there are heirs who remain unknown and/or unaccounted for;

4. the application is invalid for reasons set forth, above, or otherwise.

F. The appropriate written determination, made pursuant to Subsection E above, shall be attached to the application. The application and all accompanying documentary evidence shall be certified by the special master, and shall be transmitted to the board for disposition pursuant to Section 4 of Act 819 of the 1985 Regular Session of the Louisiana Legislature.

G. Preceding transmittal of the documents described in Subsection F above, the special master shall assess each application for the actual cost of administering the claim, pursuant to Act 644 of the 1987 Regular Session of the Louisiana Legislature. The costs, which shall be paid in full prior to transmittal, may be apportioned among all the applicants for an individual tract of property located within the Bohemia Spillway. The department shall adopt a fee schedule and criteria upon which all costs will be based.

B. Jim Porter
Secretary

RULE

Public Service Commission

Notice is hereby given that the Louisiana Public Service Commission has adopted a number of general orders pertaining to the regulation of public utilities and common carriers. These general orders are available for inspection at the office of the Public Service Commission, One American Place, Suite 1630, Baton Rouge, LA, 70825-1697.

Marshall B. Brinkley
Secretary

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended the plan document of benefits, effective January 1, 1988, as follows:

1. the calendar year deductible be increased to \$300;

2. remove \$10,000 annual and \$25,000 lifetime maximum reimbursement for mental health and substance abuse treatment;

3. limit in-patient confinement for mental health and substance abuse to 30 days per year with substance abuse further limited to one confinement per lifetime;

4. limit outpatient benefits for mental health and substance abuse to 50 visits per year payable at 50 percent, with a maximum of \$40 per visit; and with a maximum reimbursement of \$20.

5. restore the 80 percent coinsurance level with the stop loss at \$5,000.

James D. McElveen
Executive Director

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended the July 1, 1985, plan document as follows:

1. Schedule of Benefits

Change In-patient Hospital charges: to In-patient Hospital charges authorized through utilization review.

2. Article 3, Section I - Comprehensive Medical Benefits

C. Benefits for Eligible Medical Expenses (except non-confined alcoholism and/or substance abuse)

After paragraph 2., add:

NOTE: Hospital charges for confinement as a registered bed patient shall be subject to *Utilization Review* (Pre-Admission Certification, Continued Stay Review, and Second Surgical Opinion) as set forth in Section II below.

I. TREATMENT OF ALCOHOLISM AND/OR SUBSTANCE ABUSE AS A RESIDENT PATIENT

After first paragraph, add:

NOTE: Hospital charges for confinement as a registered bed patient shall be subject to *Utilization Review* (Pre-Admission Certification, Continued Stay Review, and Second Surgical Opinion) as set forth in Section II below.

3. Article 3, Section V - Out-Patient Surgery

A. After the last sentence, add:

The provisions of Article 3, Section V, Out-Patient Surgery are subject to the Utilization Review requirements contained in Article 3, Section II.

4. Insert as Article 3, Section II, the following:

II. UTILIZATION REVIEW

Pre-Admission Certification, Continued Stay Review and Second Surgical Opinion

A. This section, Article 3, Section II, Utilization Review, is effective April 1, 1988. The provisions of Subsection E hereof are effective July 1, 1988.

B. Pre-Admission Certification (PAC) and Continued Stay Review (CSR) refer to the process used to certify the medical necessity and length of any hospital confinement as a registered bed patient. PAC and CSR are performed by a review organization with which the program has contracted. PAC should be requested by plan members or plan member's dependents through the treating physician for each inpatient hospital admission.

C. PAC shall include a second surgical opinion when required by the utilization review organization. Such second surgical opinion shall be rendered by a physician approved by the utilization review organization and the cost for the second opinion will be covered at 100 percent. The utilization review firm may, at its option, require a third opinion which will be covered at 100 percent.

D. Expenses incurred on or after July 1, 1988, for which benefits would otherwise be paid under this plan will be reduced as set forth in Subsection E hereof unless PAC is requested:

(1) at least 14 days prior to the date of admission; or

(2) in the case of an emergency admission, within 72 hours after the date of admission.

E. Benefits otherwise payable under this plan will be re-

duced to 50 percent for:

(1) hospital charges incurred during any confinement for which PAC is not performed;

(2) hospital charges incurred during any confinement for which PAC is performed, which are made for any day in excess of the number of days certified through PAC or CSR;

(3) hospital charges incurred during any confinement for which PAC was performed, but which was not certified as medically necessary; and

(4) hospital charges incurred during any confinement for which a second or third surgical opinion was required but not obtained.

(5) out-patient surgical charges incurred for which PAC was not performed or for which PAC was performed but which services were not certified as medically necessary.

F. In any case, those expenses incurred for which payment is excluded by the terms set forth in Subsection E will not be considered as eligible expenses incurred for the purpose of any other part of this plan, except for the Coordination of Benefits provision in Article 3, Section IX.

James D. McElveen
Executive Director

RULE

Department of the Treasury Office of the State Treasurer

DEFERRED COMPENSATION PLAN

The Louisiana Public Employees Deferred Compensation Plan (the "plan") was adopted by the Louisiana Deferred Compensation Commission, effective September 15, 1982. The plan was established in accordance with R.S. 42:1301 through 42:1308 and Section 457 of the Internal Revenue Code of 1954, as amended, for the purpose of providing supplemental retirement income to employees and independent contractors by permitting such individuals to defer a portion of compensation to be invested and distributed in accordance with the terms of the plan.

Effective September 14, 1987, the plan is hereby amended and restated in its entirety. The restated plan shall supersede all plans and rules previously adopted in connection with the Louisiana Public Employees' Deferred Compensation Plan.

Article I Definitions

1. *Beneficiary* means the person or persons entitled to receive a deceased participant's interest in compensation deferred in accordance with the terms of the plan.

2. *Code* means the Internal Revenue Code of 1954, as amended (or a successor statute).

3. *Commission* means the Louisiana Deferred Compensation Commission established in accordance with R.S. 42:1302, which commission shall be comprised of the state treasurer, the commissioner of administration, the commissioner of insurance, the commissioner of financial institutions, and three participant members (elected by the participants). The commission also means the duly authorized designees of such individuals.

4. *Compensation* means all remuneration paid by the

employer to an employee or independent contractor for the taxable year, which compensation is includable in gross income, if not deferred pursuant to the plan.

5. *Deferred Compensation* means the portion of a participant's compensation which such participant and the commission agree to defer pursuant to the terms of the plan.

6. *Employee* means any individual, including an individual who is elected or appointed, providing personal services to the employer; provided, however, that an independent contractor shall not be treated as an employee.

7. *Employer* means the state of Louisiana, including any political subdivision of the state and any agency or instrumentality of the state or of a political subdivision of the state.

8. *Includible Compensation* means compensation currently includable in gross income (reduced by compensation excluded under Code Section 403(b), if any, and the plan).

9. *Interest or Interest in Compensation Deferred Under the Plan* means the aggregate of (a) a participant's deferred compensation for his or her entire period of participation in the plan, and (b) the earnings or losses allocable to such amount; such interest represents an accounting entry only and does not constitute an ownership interest in any specific fund or asset of the employer.

10. *Investment Product* means any form of investment designated by the commission for the purpose of receiving funds under the plan.

11. *Independent Contractor* means an individual who is receiving (or has received) compensation for services rendered to or on behalf of the employer in accordance with a contract between such individual and the employer.

12. *Normal Retirement Age* means the age designated by a participant, which age shall be between (a) age 55 or the earliest date on which such participant is entitled to retire under the Louisiana State Employees Retirement System, and (b) 70^{1/2} provided, however, that if a participant continues in the employ of the employer beyond 70^{1/2}, normal retirement age means the age at which the participant separates from service.

13. *Participant* means an employee or independent contractor who has executed an effective deferral authorization, provided such employee or independent contractor has not received a complete distribution of his or her interest in compensation deferred under the plan.

14. *Pay Period* means a regular accounting period designated by the employer for the purpose of measuring and paying compensation earned by an employee or independent contractor.

15. *Plan* means the Louisiana Public Employees Deferred Compensation Plan established by this document and any applicable amendment.

16. *Separation From Service or Separates From Service* means, with respect to an employee, the permanent severance of the employment relationship with the employer on account of such employee's (a) retirement, (b) discharge by the employer, (c) resignation, (d) layoff (provided the employee's reemployment rights attributable to the layoff, if any, have lapsed), or (e) in the case of an employee who is an appointed or elected officer, the earlier of (i) the taking of the oath of office of such officer's successor, or (ii) the cessation of the receipt of compensation. If an employee incurs a break in service for a period of less than 30 days or transfers among various Louisiana governmental entities, such break or transfer shall not be considered a separation from service.

With respect to an independent contractor, separation

from service means the expiration of all contracts pursuant to which services are performed for or on behalf of the employer.

17. *Unforeseeable Emergency* means a severe financial hardship resulting from (a) the sudden or unexpected illness or accident of a participant or a participant's dependent, or (b) the loss of a participant's property due to a casualty or other similar extraordinary and unforeseeable circumstance beyond the control of the participant. A financial need created by an educational expense, a participant's desire to purchase a home or other foreseeable expense which is under the control of the participant shall not constitute an unforeseeable emergency.

Article II Eligibility and Participation

1. Deferral Authorization

For purposes of this Article, the term deferral authorization means a form, provided by the commission, which provides for:

- a. the designation of an amount (or percentage) of compensation to be deferred by a participant;
- b. the designation of an investment product or products and the amount (or percentage) of deferred compensation to be allocated to each such investment product or products;
- c. the designation of a participant's beneficiary;
- d. such additional elections or information as may be required by the commission.

The commission shall be entitled to rely on the information provided by the participant in connection with his or her deferral authorization; the commission shall have no obligation to verify, at any time, the accuracy of such information.

2. Eligibility

All employees and independent contractors receiving compensation shall be eligible to participate in the plan, including employees who are members of the commission.

3. Participant

An employee or an independent contractor eligible to participate in the plan shall become a participant upon the acceptance by the commission of his or her completed deferral authorization.

Article III Deferrals

1. Amount of Deferral

The following special rules apply to compensation deferred under the plan:

a. A participant may not defer any compensation for a calendar month unless a deferral authorization providing for such deferral has been completed by the participant and accepted by the commission prior to the beginning of such month.

b. The minimum amount of compensation deferred under a deferral authorization shall be no less than \$20 each month; provided, however, that such minimum deferral shall not apply to a participant whose deferral authorization (or similar form) in effect on October 1, 1984, permitted a smaller deferral.

c. The maximum amount of compensation which may be deferred during a calendar year shall not exceed the lesser of (i) 33-¹/₃% of a participant's includible compensation, or (ii) \$7,500. Such amount shall be reduced by compensation excludable from a participant's gross income under Code Section 403(b), if any, which is attributable to contributions made by the employer.

2. Catch-Up

Notwithstanding any provision of the plan to the contrary, for each of the three calendar years prior to the calendar year in

which a participant reaches his or her designated normal retirement age (or a lesser period of years designated by the participant), a participant may elect to defer an amount equal to the lesser of:

a. \$15,000 (reduced by amounts excludible from compensation, if any, under Code Section 403(b) which are attributable to contributions made by the employer); or,

b. The sum of (i) the limitation set forth in Paragraph 1, above, for the current taxable year, and (ii) the limitation set forth in Paragraph 1, above, for prior taxable years less deferred compensation attributable to such prior taxable years.

For purposes of this Paragraph 2, the term *prior taxable year* means a calendar year beginning after 1978, provided (a) the participant was eligible to participate in the plan during all or a portion of such year, and (b) deferred compensation, if any, attributable to such year was subject to the limitation set forth in Paragraph 1, above.

3. Modification of Deferral Authorization

The following special rules apply to the modification of a participant's deferral authorization:

a. Amount. A participant shall be entitled to reduce the amount (or percentage) of deferred compensation allocable to an investment product once each calendar year. A participant shall be entitled to increase deferred compensation allocable to an investment product at any time during a calendar year.

b. Designation of Investment Products. A participant shall be entitled to modify his or her designation of investment products once each calendar quarter.

c. Form of Modification. A modification permitted under this Paragraph 3 shall be made, in writing, on forms provided by the commission. Any such modification shall become effective no later than the commencement of the first pay period which begins at least 30 days after receipt and approval by the commission; provided, however, that the commission shall not be liable for any delay which occurs despite its good faith efforts.

d. Authority of the Commission. Notwithstanding the provisions of this Paragraph 3, the commission, in its sole discretion, may prohibit (i) the modification of the amount (or percentage) of deferred compensation allocable to an investment product, and (ii) the modification of the investment product or products selected by the participant, during the 12-month period commencing on the date the investment product or the amount of deferred compensation allocable to an investment product is designated. Further, the commission, in its sole discretion, may authorize more frequent modifications of (i) the investment product or products, and (ii) the amount of deferred compensation allocable to the investment products.

e. Normal Retirement Age. If a participant separates from service before he or she attains age $70\frac{1}{2}$, such participant shall be entitled to modify his or her designation of a normal retirement age in accordance with the limitations set forth in Article I, Paragraph 12. Any such modification shall be made, in writing, on forms acceptable to the commission and shall be filed with the commission on or before the ninetieth day following the participant's separation from service. The designation of a participant's normal retirement age shall become irrevocable at the close of the ninetieth day after the participant separates from service.

4. Revocation of Deferral Authorization

A participant may, at any time, revoke his or her deferral authorization by notifying the commission, in writing, on forms acceptable to the commission. Upon the acceptance of such notification, deferrals under the plan shall cease no later than the

commencement of the first pay period beginning at least 30 days after acceptance; provided, however, that the commission shall not be responsible for any delay which occurs despite its good faith efforts.

In no event shall the revocation of a participant's deferral authorization permit a distribution of deferred compensation, except in accordance with the provision of Article IV.

5. Duration of Deferral Authorization

A deferral authorization shall continue in effect until (a) a participant experiences a separation from service, or (b) such deferral authorization is modified or revoked in accordance with the provisions of this Article III.

Article IV Distributions and Withdrawals

1. Distribution Events

If a participant (a) incurs a separation from service, or (b) receives a determination of unforeseeable emergency, all or a portion of the interest of such participant in compensation deferred under the plan shall be distributed to such participant in accordance with the provisions of this Article IV.

2. Form of Distribution

A participant shall be entitled to select the method of distribution of his or her interest in compensation deferred under the plan in accordance with this Paragraph 2; provided, however, that a single-sum distribution shall be made if a participant's (or beneficiary's) interest is \$2,000 or less.

A participant shall initially designate the method of distribution applicable to his or her interest in compensation deferred under the plan, in writing, on forms acceptable to the commission; a participant may designate a separate form of distribution for each investment product in which his or her interest is invested. A participant shall be entitled to modify such designation, in writing, on forms acceptable to the commission. Any such modification must be filed with the commission on or before the thirtieth day prior to the date on which distributions are scheduled to commence in accordance with the provisions of Paragraph 4. An election as to the method of distribution shall become irrevocable at the close of the thirtieth day prior to the date on which distributions are scheduled to commence. If the participant does not make an election, a single sum payment will be made.

Distributions shall be made in the form of:

a. a single-sum payment; or

b. monthly, quarterly, semi-annual or annual installment payments for a designated term which is not in excess of (i) the life expectancy of the participant or (ii) the joint and last survivor life expectancy of the participant and his or her spouse. If a participant elects installment payments as a method of distribution, the minimum distribution shall be no less than \$100 per check, and the payments made annually must be no less than \$600;

c. annuity payments of a specified amount, specified period, fixed life annuity with guaranteed payments, fixed life annuity, joint and one-half survivor fixed annuity, and any other form acceptable between the commission and administrator.

3. Amount of Distribution

In the case of a distribution beginning before the death of the participant, such distribution will be made in a form under which at least two-thirds of the total amount payable with respect to the participant will be paid during the life expectancy of such participant (determined as of the commencement of the distribution), and any amount not distributed to the participant during

his life will be distributed after the death of the participant at least as rapidly as under the method of distributions being used as of the date of his death.

4. Time of Distribution

If a participant separates from service before he or she attains age 70^{1/2}, the distribution of such participant's interest in compensation deferred under the plan shall be made no later than 60 days following the close at the calendar year in which the participant separates from service; provided, however, that such participant shall be entitled to irrevocably elect to defer the commencement of distributions by modifying his or her designation of a normal retirement age in accordance with Article III, Paragraph (3)(e). The deferred distribution of such participant's interest in the plan shall commence on the date designated by the participant which shall be no later than 60 days after the close of the calendar year in which the participant attains his or her designated normal retirement age.

If a participant separates from service on or after the date on which he or she attains age 70^{1/2}, the distribution of such participant's interest in the plan shall commence on 60 days following the close of the calendar year in which the participant separates from service.

If the participant is an independent contractor, (a) in no event shall distributions commence prior to the conclusion of the 12-month period beginning on the date on which all such participant's contracts to provide services to or on behalf of the employer expire, and (b) in no event shall a distribution payable to such participant pursuant to this Paragraph (4) commence if, prior to the conclusion of the 12-month period, the participant performs services for the employer as an employee or independent contractor.

5. Unforeseeable Emergency

The emergency committee may authorize the withdrawal of all or a portion of a participant's interest in compensation deferred under the plan subject to the limitations set forth in Article VII, Paragraph 2, provided such participant establishes that he or she has experienced an unforeseeable emergency.

6. Leave of Absence

An approved leave of absence with pay shall not affect a participant's interest in compensation deferred under the plan. If a participant obtains an approved leave of absence without pay, he or she shall be treated as an inactive participant during the period of such leave. Upon returning to active status, the participant shall be entitled to execute a new deferral authorization.

7. Inactive Participants

If a participant is treated as an inactive participant and his or her interest in compensation deferred under the plan is \$500 or less, the commission, in its sole discretion, may, at any time after approval of this Paragraph (7) by the Internal Revenue Service, elect to pay-out such interest in a single-sum payment.

8. Definition

For the purposes of this Article, the term *inactive participant* means a participant who does not have a current deferral authorization and has not contributed in the last 60 days.

Article V **Death Benefits**

1. Designation of Beneficiary

A participant shall initially designate his or her beneficiary on the deferral authorization provided by the commission. A participant may, at any time, modify his or her designation of beneficiary on forms acceptable to the commission; such modification shall become effective upon acceptance by the commission and

shall constitute a revocation of all previous designations.

If no designated beneficiary survives the participant, the interest of the participant in compensation deferred under the plan shall be distributed to the legal representative of the participant's estate or to a successor in accordance with a Judgment of Possession.

2. Form of Distribution

If a participant dies before his or her entire interest in compensation deferred under the plan has been distributed, the distribution of the participant's remaining interest shall commence 60 days after the participant's death. Such distribution shall be made in the form of:

a. a single-sum payment;

b. if the beneficiary is the participant's surviving spouse, substantially equal monthly, quarterly, semi-annual or annual installment payments for a designated term not in excess of such surviving spouse's life expectancy or annuity payments of a specified amount, specified period, fixed life annuity with guaranteed payments, fixed annuity, joint and one-half survivor fixed annuity, and any other form acceptable between the commission and administrator; or

c. if the beneficiary is not the participant's surviving spouse, substantially equal monthly, quarterly, semi-annual or annual installment payments for a designated term not in excess of 15 years; or annuity payments of a specified amount, specified period, and fixed life annuity with guaranteed payments, and any other form acceptable between the commission and administrator for a designated term not in excess of 15 years.

A beneficiary shall be entitled to select a method of distribution if the participant dies prior to making an election or to modify the participant's designation of the form of distribution during the period which commences as of the participant's death and ends at the close of the thirtieth day after the participant's death provided that the investment product allows these changes to be made.

Any such modification shall be made, in writing, on forms acceptable to the commission and shall be filed with the commission during the period described above. The designation of the method of distribution shall become irrevocable at the close of the thirtieth day following the participant's death.

3. Amount of Distribution

If installment payments are designated as the method of distribution, the minimum distribution shall be no less than \$100 per check, and the payments made annually must be no less than \$600.

Article VI **Funding**

1. Fund

No fund or other account shall be established to provide benefits under the terms of the plan. All (a) deferred compensation, (b) property and rights purchased with such deferred compensation, and (c) income or earnings attributable to such deferred compensation, property or rights shall constitute assets of the state of Louisiana and remain (until made available to a participant or beneficiary) the property of the state of Louisiana, subject only to the claims of the general creditors of the state of Louisiana.

2. Investment Products

Notwithstanding any provision of the plan to the contrary, the state of Louisiana shall be the owner and sole beneficiary of any investment product obtained in connection with the plan.

Article VII Administration

1. Powers

The commission shall have full power and authority to adopt rules or policies required to implement the plan and to interpret, amend or repeal any such rule or policy.

In addition, the commission shall have full power and authority to administer the plan or to arrange for the administration of the plan through appropriate contracts or agents in accordance with applicable state law. The power and authority of such agents shall be limited to the powers enumerated in the contractual agreements between the commission and such agents.

2. Emergency Committee

The commission shall appoint an emergency committee comprised of three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee.

A participant shall furnish medical or other evidence to the emergency committee to establish and substantiate the existence of an unforeseeable emergency.

If an application for a withdrawal based on unforeseeable emergency is approved, the amount of the withdrawal shall be limited to the amount required to meet such emergency. Payment shall not be made to the extent such emergency is relieved:

- a. through reimbursement or compensation by insurance or otherwise;
- b. by the liquidation of the participant's assets, provided the liquidation does not cause a financial hardship; or,
- c. by the revocation of the participant's deferral authorization.

3. Actions

The commission shall act with reasonable prudence, due diligence, and care. All actions of the commission shall be made in a uniform and nondiscriminatory manner.

No member, if a participant, of the commission or a committee shall make any determination (other than a policy decision which affects all participants) with respect to his or her specific interest in compensation deferred under the plan.

4. Liability

Neither the commission nor the employer guarantee compensation deferred pursuant to the plan from loss or depreciation in value. Neither the commission nor the employer shall be liable to anyone for any action or inaction taken in good faith in accordance with the terms of the plan or applicable law.

5. Cost of Administration

The commission may, in its sole discretion, use one or more of the following methods to meet the costs of administering the plan:

- a. the commission may establish a reasonable monthly or annual administrative charge;
- b. the commission may deduct an allocable portion of administrative costs from deferred compensation;
- c. the commission may deduct an allocable portion of administrative costs from the income or earnings of investment products;
- d. the commission may authorize any duly appointed administrator to accept commissions from providers of investment products; provided, however, that the amount of such commissions may not exceed the amount of similar commissions paid to unrelated third parties;
- e. the commission may deduct administrative costs from funds on deposit in financial institutions; and/or,

f. any other reasonable fee or commission required to defray the costs of administering the plan.

6. Investment Products

The commission, in its sole discretion, shall be entitled to select the various investment products available under the plan.

Notwithstanding any provision of the plan to the contrary, the commission, in its sole discretion, may direct the investment of all funds attributable to the plan. If practicable, however, investments shall be made in accordance with the deferral authorization executed by each participant.

In the event funds are invested in an investment product designated by the participant or the commission and the commission elects to discontinue the availability of the investment product, the commission, in its sole discretion, shall be entitled to substitute a reasonable alternative.

7. Participant Statements

The commission shall provide each participant with a statement of the amount of his or her deferred compensation and the earnings or losses attributable to such amount. These statements will be done at least once each calendar year and be issued within a reasonable time.

Such statements shall be for information purposes only and shall not represent a secured interest in any identifiable assets of the state of Louisiana.

8. Custodian

The commission or any duly appointed agent shall be the custodian of all evidence of ownership in investment products acquired pursuant to the plan.

9. Form of Distribution

The commission, in its sole discretion, shall select the methods of distribution available under the plan. In the event a participant's deferral authorization (or other similar election form) provides for a method of distribution not available under the terms of the plan as of the earliest date on which distributions to such participant may commence, the commission, in its sole discretion, may substitute another method of distribution.

Article VIII Miscellaneous

1. Employment Rights

Nothing contained in the plan shall be deemed to constitute an employment agreement or contract between a participant and the employer. Further, nothing contained in the plan shall be deemed to give a participant any right to be retained in the employ of the employer.

2. Nonassignability

Neither the deferral authorization executed pursuant to the terms of the plan nor the benefits, proceeds or payments attributable to such authorization can be sold, assigned, anticipated, pledged, commuted, transferred or otherwise conveyed by a participant or beneficiary. The commission shall not recognize any attempt to assign or transfer such amounts.

A participant's or beneficiary's interest in compensation deferred under the plan shall not be subject to attachment, garnishment, execution or transfer by operation of law in the event of the bankruptcy or insolvency of a participant or beneficiary.

3. Headings and Subheadings

The headings and subheadings are inserted for convenience only and are to be ignored in the construction and interpretation of the plan.

4. Severability

If a provision of the plan is deemed to be invalid or unenforceable, the remaining provisions shall continue in force and effect.

5. Days and Dates

Whenever time is expressed in terms of a number of days, the days shall be consecutive calendar days, including weekends and holidays; provided, however, that if the last day of a period occurs on a Saturday, Sunday or other holiday recognized by the employer, the last day of the period shall be deemed to be the following business day.

6. Conflicts

In the event any form or other document used in connection with the plan (including, but not limited to, deferral authorizations and investment products) conflicts with the terms of the plan, the terms of the plan shall govern.

7. Copy of Plan

A copy of the plan shall be made available to each participant or employee eligible to participate in the plan.

8. Amendment or Termination of Plan

The commission, in its discretion, shall have the authority to (a) amend the plan, (b) terminate the plan, or (c) substitute a new plan for the plan.

Emery J. Bares
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Dairy Division

The Louisiana Department of Agriculture and Forestry, Dairy Division, advertises its intent to repeal 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 issued a notice of intent to amend 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 for the amount of security required; or (2) negotiable bonds or securities in the amount required; or (3) a

first mortgage on real estate and/or plant equipment.

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.

A public hearing has been scheduled on the following date: November 5, 1987 at 10 a.m. in House Committee Room #6, of the State Capitol Building, Baton Rouge, LA. Comments will be accepted at the public hearing or by writing to Bob Simon, Director, Dairy Division, Box 44456, Capitol Station, Baton Rouge, LA 70804. Comments will be accepted through November 13, 1987.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Title 7, §5303

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This amendment may make it less expensive for dairy processors in the state of Louisiana to provide security as required by law.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Richard Allen
Assistant Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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 intends to amend Subchapter B of Chapter 19 of Part I of Title 10 comprising Sections 1921 through 1929, con-

cerning mortgage corporation subsidiaries of bank holding companies and state banks.

SUMMARY

Present rule authorizes state banks to operate subsidiary mortgage corporations, with prior approval of the commissioner.

Proposed rule expands this regulatory concept to include subsidiary mortgage corporations of bank holding companies and authorizes the establishment of mortgage corporation offices in parishes other than those of the domicile of the bank. The proposal generally rewrites the entire rule and prohibits the use of automatic teller machines on the premises of the mortgage corporation and the use of certain terminology in the name and advertising of the mortgage corporation. Further, it authorizes the commissioner to order a state bank or a holding company having a state bank subsidiary to divest itself of the subsidiary mortgage corporation if it is operated in violation of law or is detrimental to the bank.

Interested parties may request copies of the proposed amendment, submit written comments or make written inquiries concerning the proposed amendment to the Rule until 4:45 p.m., November 9, 1987 at the following address: Fred C. Dent, Commissioner, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095. Commissioner Dent is the person responsible for responding to inquiries concerning the proposed amendment to the rule.

Title 10

BANKS AND SAVINGS AND LOANS

Part 1: Banks

Chapter 10. 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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Chapter 10. Related Organizations
and Services. Subchapter B.
Subsidiary Mortgage Companies**

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

There are no implementation costs (savings) to the Agency as the result of implementation of the proposed amendments. There is no increase in personnel or associated expenditures associated with the adoption of the proposed rule.

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

The adoption of the proposed amendment will have no effect on revenue collections of the Agency.

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

The affected persons would be authorized to open subsidiary mortgage corporations in areas now prohibited. There is no requirement that they do so. Those institutions that take advantage of the opportunity will reap economic benefits associated with operating a business in a profitable manner. Other mortgage lenders would experience additional competition if a new subsidiary mortgage corporation subsidiary is approved in their area.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule will also allow subsidiary mortgage corporations to operate on a statewide basis. The adoption of this amendment could result in increased competition and higher employment because of increased opportunity for regulated institutions.

Fred C. Dent
Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Commerce
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend rule LAC 35:1507E, as follows.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 15. Permitted Medications

§1507. Bleeder Medication - Paragraph E Only (Amends)

E. - When a horse is placed on the bleeder's list for the first time, it shall be eligible to enter 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. Should a horse bleed 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.

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

Albert M. Stall
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bleeder Medication**

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

There are no costs/savings to state or local governmental units.

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

There is no effect on revenue collections of state or local governmental units.

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

There are no costs, however, there is a benefit to horsemen since owners and trainers may enter their horses sooner for a first time bleeding. Previously, there was a 21-day wait, now it is 14 days (first time only); also, subsequent bleedings would have to occur within one year before they would be penalized additional waiting periods.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition, nor employment.

Albert M. Stall
Chairman

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

In accordance with R. S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Division of the Arts intends to revise and amend the *Guide to Art Programs*, the Division's rule governing the administration of arts grants.

Interested parties may comment on the proposed revised and amended rule in writing until 4:30 p.m., November 4, 1987, at the following address: Division of the Arts, Box 44247, Capitol Station, Baton Rouge LA 70804.

A public hearing will be held at 10 a.m., November 5, 1987, at the Division of the Arts, 666 North Foster Drive, Baton Rouge, LA.

Derek E. Gordon
Director

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

Rule Title: Guide to Art Programs

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

There will be no implementation cost or saving to state or local government units. Programs covered by the rules are already administered by the Division of the Arts, Office of Cultural Development.

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 as a result of these changes. No fees are required from grant applicants; therefore, no revenues are generated.

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

The proposed rule will require minimal additional costs to individuals applying for fellowships in some disciplines since applicants will be required to provide multiple copies of samples of work. Previously, the Division of the Arts has provided that service. No other persons or organizations will be affected by the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition or employment in the public and private sectors.

Derek E. Gordon
Director

David W. Hood
Legislative Fiscal Analyst

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NOTICE OF INTENT

Board of Elementary and Secondary Education

Biology II Curriculum Guide

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the Biology II Curriculum guide. Copies of the guide may be seen in its entirety at the Office of the State Register or Office of the State Board of Elementary and Secondary Education, Room 104 of the Education Building located at 626 North Fourth Street, Baton Rouge, LA.

Interested persons may comment in the proposed policy change and/or additions, in writing, until 4:30 p.m., December 8, 1987 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: Statewide Curriculum Standards**

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

The estimated cost to the Department of Education will be \$8,291. The itemized costs are as follows: Regional Implementation Workshops for 67 teachers at \$100 per day (includes mileage, meals, and substitute teachers) - \$6,700, Printing of Curriculum Guide - 1,000 Copies - \$1,591, TOTAL COST \$8,291.

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

No effect on revenue collections is involved in the proposed action.

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

The goal of the Competency-Based Education Program is to ensure that every student in the public elementary and secondary school of the state has an opportunity to attain and to maintain skills that are considered essential to further learning and social functioning.

Costs involved include funds required to print and implement the curriculum guide for Biology II.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of this rule.

Joseph F. Kyle
Deputy Superintendent of Education

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 741, Standard 1.010.02

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 adopted the following amendment to Bulletin 741, Standard 1.010.02 to add the following as a new policy:

"K. Equal access by all Louisiana colleges and universities to schools for the purpose of college recruitment."

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m. December 8, 1987 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: Legal Committee Motion 3**

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

Revisions to Nonpublic School Standards

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 revisions to the nonpublic school standards as follows:

1. On page 8, Standard 6.037.10 - change 360 minutes to 330 minutes, and change 180 minutes to 165 minutes.

2. On page 8, Standard 6.037.11 - change 360 minutes to 330 minutes.

3. Add the following standard:

“Each school may include in its calendar, a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time. (effective 1987-88 school year)”

4. Add the following to the nonpublic program of studies (Bulletin 741):

“Publications course offerings shall be as follows:

Course Title	Units
Publications I (yearbook)	1
Publications II (yearbook)	1
Publications I is a prerequisite to Publications II	

Teachers in the areas of Journalism, English, and/or Business Education are qualified to teach Publications I and II, effective date: 1987-88 school year.”

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m. December 8, 1987 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: Nonpublic Commission Motion I

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

This change would cost \$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)

There would be unity of standards between the public and nonpublic schools of our state.

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

Revisions to Bulletin 1191, School Transportation Handbook

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 revisions to Bulletin 1191, School Transportation Handbook. The document may be seen in its entirety at the Office of the State Register or the Office of the State Board of Elementary and Secondary Education, Room 104, State Department of Education Building, Baton Rouge, LA.

A. Page 9, #10 - Role of Bus Driver

Avoid the use of alcohol, tobacco, obscene language and narcotic drugs while transporting students.

B. Page 11 - Rules for School Bus Riders

An undisciplined school bus is a hazardous bus. Student misbehavior can lead to accidents. The driver must concentrate on the driving task at hand and cannot be expected to constantly supervise the students while the bus is in motion. Therefore, for the safe operation of the school bus, students should be aware of and obey the following safety rules as a minimum:

1. cooperate with the driver (your safety depends on it);
2. be on time—the bus will not wait;
3. cross the road cautiously when waiting for and leaving the bus;
4. follow driver’s instructions when loading and unloading;
5. remain quiet enough not to distract the driver;
6. have written permission and be authorized by the principal to get off at a stop other than your own;
7. be courteous, be safety-conscious, protect your riding privilege—enjoy your ride;
8. do not stand when a seat is available and the bus is in motion;
9. do not extend arms, head or other objects out of the windows and doors;
10. do not throw objects in the bus nor out windows or doors;
11. do not use the emergency door except for emergencies;
12. do not eat or drink on the bus;
13. do not damage the bus in any way;
14. do not use the following items on the bus: tobacco, matches, cigarette lighters, obscene material;
15. the following items are not allowed on the bus: alco-

hol, drugs, pets (cats, dogs, etc.), glass objects (except eye-glasses), weapons (including knives), and objects too large to be held on your lap or placed under your seat.

C. Page 13, revised the following paragraph to clarify wording of certification requirements:

R.S. 17:491 mandates that any employee of any city or parish school board whose duty it is to transport students in any city or parish school bus or activity bus to and from any school or school related activity must be certified. Certification is granted by the State Department of Education upon successfully completing 40 hours of preservice training and passing the psychological and physical examinations. All drivers are required to take eight hours inservice every other year.

D. Page 12, delete #5 - Use of Drugs.

E. Page 14, revised to read - driver must have 20/40 vision in both eyes.

F. Page 16, revised to read - all bus drivers must be between the ages of 21 and 70.

G. Page 21, revised to read - 8 hours inservice training for regular drivers every other year.

H. Page 21, change to four-year cycle of inservice training.

I. Page 23, Add - Additional training may be required by the local school system in addition to that training prescribed by the State Board of Elementary and Secondary Education.

J. Page 25, under item #6 add - or the local school system has the option to permit loading and unloading on the shoulder of the road when sufficient room already exists on the shoulder or the adjacent state property or private property when permission can be obtained from the owners and when no children are to cross the highway to load or unload.

K. Page 29, under miscellaneous, add #3 as follows - The driver shall not leave the bus while children are on board unless there is an extreme emergency.

L. Page 30, under Section VI, add - Reinspection of new buses may be made by the local transportation supervisor.

M. Page 51, Section XI - State Board Policies - add - Act 6 of the 1986 Special Legislative Session allows 15 local school systems to transport within one mile if hazardous conditions exist, but at no cost to the state.

N. Page 62 - Appendix A - revised to include all statutes passed or changed since 1982 pertaining to school bus transportation.

O. Page 40 - Section X - School Bus Routes - this Section changed as follows:

Section X School Bus Routes

The statutory authority governing the establishment and continuation of school bus routes in Louisiana is R.S. 17:158 and R.S. 17:497. The State Board of Elementary and Secondary Education (BESE) has been granted the authority under the provisions of R.S. 17:164 to establish and adopt regulations relating to the operation of school buses used in the transportation of students to and from school. The State Board (BESE) also adopts overall regulations relative to pupil transportation programs. The following policies were adopted by BESE to provide guidelines in setting up and continuing school bus routes in the state.

There are two general types of school bus routes — regular education and special education. In addition to these broad categories, students attending approved schools in Louisiana are provided several other means of transportation. Among the other modes of transportation provided are: feeder routes, pla-

toon routes, routes set up to achieve desegregation goals (e.g., majority to minority transfers, etc.), reimbursement to parents who transport their own children to and from approved special educational schools and centers (both residential and nonresidential), and reimbursement to parents who transport their own children to and from approved regular schools (Act 18 of 1977 E.S.). (The 1986 Legislature did not appropriate funds for this purpose for the 1985-86 school year.)

The primary responsibility for establishing and continuing school bus routes rests with the local school board. Local school boards are responsible for maintaining efficient, economical school transportation programs by establishing and continuing only those routes that are needed to assure timely arrivals and departures (i.e., within the framework of established school hours); by designing routes to achieve maximum utilization of buses and the elimination of unnecessary and duplicated mileage; and by consolidating and eliminating bus routes when no longer needed. The establishment of new bus routes and the continuation of existing routes shall be governed by the following policies:

Accurate Measurement of Bus Routes

The measurement of school bus routes is the one-way mileage. The one-way mileage is the number of miles driven from the point the first student is picked up in the morning until the bus reaches its final school. The following must be used in the determination of one-way mileage:

1. Routes begin at the farthest point from the school or schools served and proceed on the shortest charted course. Exceptions exist when local school officials determine it is more economical to do otherwise and/or when there are other exceptional circumstances such as unsafe or hazardous conditions.

2. One-way mileage begins when the first child is picked up.

3. One-way mileage ends when the final destination or school is reached.

4. When one-way mileage differs in the afternoon from that of the morning route, total the one-way mileage for morning and afternoon and divide by two. The result is the one-way mileage for that particular route.

5. Although the standard of measurement is the one-way mileage, under normal circumstances the one-way mileage is doubled in the state office, providing payment to the local system for both the morning and afternoon routes.

Claiming Reimbursement from State for Bus Routes

Reimbursement claims, T-forms, must be submitted to the Bureau of School Finance by October 15 of each school year. The following information must be provided with claims:

1. The affidavit certifying that all bus routes have been measured and the mileage reported correctly during the first 30 days of school which must be signed by the local superintendent (form must be notarized).

2. As many SDE forms T-1, T-2, T-2A, T-2B, T-2C, and T-3 are necessary to show actual school transportation operations for the local system (following instructions provided annually by Bureau of School Finance Circular).

3. Completed SDE forms T-9, as necessary to show number of drivers on guaranteed (frozen) mileage. SDE forms T-11, T-12, and T-S are summary sheets and should be filled out when all other forms are complete.

4. Approved forms T-5, T-5a, T-5b, T-5c, T-6, etc. for changeovers and new routes issued by the Director of School Transportation within the last seven years.

Operational costs cannot be claimed under any circumstances for mileage to and from the driver's home when students

are not being transported.

Requests by Local School Systems to State Department of Education

The following forms shall be used in requesting additions and/or changeovers from the Bureau of School Transportation. Forms are provided by the Bureau of School Transportation upon request. Only the latest edition should be used. Forms must be completed and submitted as outlined below:

T-5 — Request for Changeovers

This form is used to request approval for any proposed or actual changes of the status of an approved route. Required actions include change of a driver, replacement of a bus, major route extensions (i.e., 5 miles or more), or a change in bus length. Requests must be submitted to and approved by the Director of School Transportation before actual changes are made. Only those actions that cannot be anticipated (e.g., death of a bus driver) will be approved after-the-fact; all other changes must be approved before the changeover. The protected (frozen) mileage date for contract drivers is the date on which the bus is purchased as indicated on form T-10.

T-5a — Request for Additional Buses

This form is to be submitted when it is anticipated that additional bus capacity is needed that cannot be adequately handled by existing buses. The form must be submitted and approved before the actual purchase of a vehicle or the employment of personnel. This form is used for approval of additional buses only. Protected mileage begins on the date the bus is purchased.

T-5b — Request for Transportation of Special Education Students

This form provides for the reimbursement to parents who transport their own special education students to and from approved non-residential (daily) and residential schools. The form will be submitted at the time the special education student is identified and it is determined that public transportation cannot be provided. The student(s), the program (name of school, center or class), the kind of handicap, and the number of one-way miles must be clearly identified. For nonresidential students, local school systems are reimbursed at the (current) rate of \$0.21 per mile daily, and they are reimbursed \$0.21 per mile for nine round trips per year (in-state), and for two round trips per year (out-of-state) for residential students. Since the form is used to report both residential and nonresidential students, it is the local school system's responsibility to determine the status of the special education child (residential or non-residential). It is imperative that the local transportation supervisor and the local supervisor of special education work cooperatively in determining transportation needs of special education students. (Do not double mileage — mileage will be doubled in the state office.)

Forms should be received in the bureau office no later than March 15 each year. If forms are submitted after October 15, they must be accompanied by an applicable T-2 (A or C) form showing computed state salary schedule (i.e., cost to state). Forms submitted before October 15 need not be accompanied by an appropriate T-2 form, however, once approval is obtained, information must be included on the T-2 before T-forms are submitted to the Bureau of School Finance.

Payment will be made only for those handicapped students for whom public transportation cannot be provided. Parents of regular or gifted and talented students cannot be reimbursed under this program.

T-5c — Request for Platoon Routes

A platoon route can best be described as a route which is

operated for the purpose of transporting students from the base school to a distant school or center (usually on a daily basis). The usual purpose for operating platoon routes is to provide enrichment programs not available at the base school. These services are usually above and beyond the normal curricular requirements and are not provided for in the State Minimum Foundation Program. School systems should make every effort to provide platoon routes using locally generated funds.

When it is determined that a platoon route is in the best interest of the students, and local funds are not available, or an emergency exists (school building fire, a flood, etc.), the following procedure shall be followed:

1. No action should be taken before obtaining approval from the State Department of Education.

2. Platoon route operation rate is based on the one-way mileage and length of the bus that will be used to transport students. The one-way mileage is calculated as the distance between the base school and the distant school or center. If the same bus is to remain at the distant school and return the students to the base school upon completion of training, the one-way mileage between the two points is reported. If, however, the same bus does not return the students (e.g., the distant point is the end of the route or the driver goes home), one-half the one-way mileage is reported.

3. The school or schools served by this route must be identified.

4. The number of students that will be transported on this route must be clearly determined.

5. The date the route is to be put into operation must be determined. (Allow approximately two weeks to obtain approval from the State Department of Education.)

T-6 — Request for School Bus Attendant for Special Education Bus

School bus attendants (aides) are provided on special education buses that transport handicapped students who require assistance in getting on and off the bus or who require close supervision while going to and from school. Special Education school buses transporting students who are under the age of five may also be provided school bus attendants.

The T-6 form will be used to request funding for school bus attendants for special education school buses. No action should be taken to fill the position until approval has been received from the Department of Education. Since the approval of requests is based on actual need, all exceptionalities must be clearly recorded (e.g., a bus transporting only EMH students may not require an attendant, while a bus which transports physically handicapped students may require an attendant). The length of the bus, the name of driver, the number of students and their exceptionalities, and the one-way mileage must be specified. The approval date will be the date the form is signed by the state director of school transportation. By signing the form, the local superintendent certifies that the attendant will be employed on a school bus which transports a student or students whose I.E.P. indicates a need for an attendant.

T-10 — Selling of School Buses

This form is used to verify the purchase of a school bus. It verifies that the bus meets the minimum standards for school buses in Louisiana. The date of purchase is the date frozen mileage begins and the guaranteed (frozen) mileage should be placed on this form when applicable to contract drivers.

Requests for Reimbursement by Parents of Regular School Students (Act 18)

R.S. 17:158 provides that local school boards shall pro-

vide transportation for students attending schools approved by the State Board of Elementary and Secondary Education if the students reside more than one mile from school and the schools are within the jurisdictional boundaries of the school board. The law further provides that if transportation is not provided for economically justifiable reasons, the Department of Education shall reimburse the parents of students who reside more than one mile from the school which they attend. Forms to be filed for this reimbursement are provided by the Bureau of School Transportation and are normally distributed by the local school boards to approved schools, as requested, annually. The deadline for submitting affidavits by parents is July 1 of each year for reimbursement claims for the previous school year. No claims can be accepted after the deadline for filing. Forms that are submitted with incorrect data will be processed according to information submitted on or before July 1 provided the incorrect data do not exceed the limits of the program (e.g., more than 180 days, more than three students, etc.). R.S.17:158 further provides that the Department of Education shall begin issuing checks payable to parents within 60 days after the beginning of the fiscal year. The amount of the reimbursement shall be as provided by law. Schools which discriminate on the basis of race, creed, color or national origin cannot participate in the program. (NOTE: The 1986 Legislature did not appropriate funds for reimbursement under Act 18 for the 1985-86 school year. The law itself was not repealed.)

Nonsalaried Buses (Feeder Routes)

There are in operation several nonsalaried buses (feeder routes) which are used to transport students from home to meet the bus at a given point on an established route. Generally, these feeder routes operate in remote, out-of-the-way areas which regular school buses cannot reach, and the routes are run by private automobile or station wagon (usually by the parents of the children concerned). The majority of these routes were set up before the passage of Act 18 in the 1977 Extraordinary Session of the Louisiana Legislature. Since this statute provides for reimbursement to parents who transport their own students, feeder routes will no longer be approved unless it can be clearly demonstrated that not to do so would cause unusually severe hardship on the parents. Parents who live in these remote areas are advised to apply for reimbursement. (Since Act 18 was not funded by the 1986 Legislature for the 1985-86 school year, feeder routes will be funded pending approval on an individual basis with sufficient justification.)

Transportation of Chapter I Students

Chapter I grants provide enrichment programs to students who are economically or academically deprived. Funds from Chapter 1 grants provide for auxiliary services required by these programs. In 1985, the U. S. Supreme Court ruled that publicly paid Chapter 1 teachers could not be used to provide services to nonpublic school students in the nonpublic schools (i.e., nonpublic school students would have to be transported to the public school or to a neutral site). However, funds are available to the local school systems from Chapter I to provide any required transportation. Therefore, regular school transportation funds provided by the state shall not be used for transporting nonpublic Chapter I students who are being transported to the public schools or to a neutral site to receive enrichment programs.

Routes Set Up to Achieve Racial Balance

Some school systems are required to provide transportation to students in order to achieve the racial balances prescribed by U. S. District Courts. While it is recognized that, in some cases, these court ordered routes may cause a hardship for the

school system involved, it nevertheless is a local matter, and these routes do not come under the purview of the Minimum Foundation Program. Therefore, unless the state of Louisiana is made a party to the desegregation court order, the responsibility for providing court-ordered transportation rests solely with the local school system. Requests for additional routes or route extensions for this purpose will not be approved.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m. December 8, 1987 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804.

Dr. James Meza, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Revision of Bulletin 1191**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revision of Bulletin 1191 will result in state costs of approximately \$600 for printing 500 copies. Act 6 of 1986, First Extraordinary Session allows selected local school districts to transport students who reside less than one mile from school, but at no cost to the state. To the extent that the districts do this, they may incur greater expense themselves.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated effects on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition and employment.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

8(g) Policy and Procedure Manual

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the 8(g) Policy and Procedure Manual for Louisiana Quality Education Support Fund - 8(g) for elementary, secondary and vocational-technical education. Copies of the document may be seen in its entirety at the Office of the State Register or Office of the State Board of Elementary and Secondary Education, Room 104 of the Education Building located at 626 North Fourth Street, Baton Rouge, LA.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., December 8, 1987 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: 8(g) Policy and Procedure Manual**

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

The implementation costs of this program correspond directly to deposits into the Louisiana Education Quality Support Fund. The State Board of Elementary and Secondary Education will annually adopt a program and budget to provide for the implementation of projects to be funded by one-half of the deposits into the fund. There will be no implementation 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 by implementing this rule. It must be noted, however, that state agencies and local units of government will receive funds to operate programs approved by the State Board of Elementary and Secondary Education, all in accordance with Acts 949 and 1020 of 1985.

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

There will be no costs to directly affected persons or non-governmental units. Although benefits cannot yet be measured, the groups to benefit are students in the public and private school systems in this state, and students in post-secondary vocational technical schools.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

James Meza, Jr.
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revisions to 8(g) Policy and Procedure Manual

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 revisions to the 8(g) Policy and Procedure Manual:

Section 101

Sections A-D - - Change the word "designee" to "Vice-

chairman"

Section E - - - Delete the State Superintendent of Education

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., December 8, 1987 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: Amendment to the 8(g) Policy
and Procedure Manual**

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

There are no implementation costs or savings to state or local governmental units associated with this rule.

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

There are no effects on revenue collections of state or local governmental units associated with this rule.

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

There are no costs or economic benefits to directly affected persons or non-governmental units associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment associated with this rule.

Dr. James Meza, Jr.
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

State Plan for the Nutrition Education
and Training Program, FY 1988-89

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the State Plan for the Nutrition Education and Training Program, FY 1988-89. Copies of the plan may be seen in its entirety in the Office of the State Register and Office of the State Board of Elementary and Secondary Education.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., November 9, 1987 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: State Plan for the Nutrition
Education and Training Program**

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

Current projections for FY 88 and 89 are based on the assumption that we will receive funding through the Nutrition Education and Training Program. If this Program is not funded for FY 88 and 89, then the budget will be reduced by \$88,111 for FY 88 and \$87,761 for FY 89. The total cost of the program for 1987-88 is \$140,838 and is Federal funds. These federal funds are already budgeted within our agency. Expenditures for 1988-89 and 1989-90 will be approximately the same and will depend on the number of children in the state.

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

There is no estimated effect on revenue collections, as the Nutrition Education and Training Program is not a revenue-generating program. However, approximately \$10,000 will be available to local education authorities and Child Care Food Program sponsors in the form of mini-grants. The receipt of federal funds available to the state is contingent upon approval of the state plan for the Nutrition Education and Training Program.

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

There would be no estimated cost effect on the recipient agencies. Teachers, food service personnel and children in child care centers and schools statewide receive training in the area of nutrition education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment in the public and private sectors as a result of this action.

Joseph F. Kyle

Deputy Superintendent of Education

David W. Hood

Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Occupational Therapy and Physical Therapy Eligibility Criteria:

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 accepted the following recommendations of the Department on the Occupational Therapy and Physical Therapy Eligibility Criteria as an addendum to Bulletin 1508:

Physical Therapy

I. Definition

Physical therapy means:

1. Evaluating handicapped students by performing and interpreting tests and measurements of neuromuscular, musculoskeletal, cardiovascular, respiratory, and sensorimotor functions.

2. Planning and implementing treatment strategies for students based on evaluation findings.

3. Maintaining the motor functions of a child to enable him to function in his educational environment.

4. Administering and supervising therapeutic management of handicapped students and providing inservice education to parents and educational personnel.

NOTE: Each school system shall identify, locate, and evaluate each suspected handicapped child, birth through 21 years of age, but is responsible for providing PT services only to those eligible students ages 3 through 21. The provision of services shall be determined at the IEP Committee meeting using the input of the evaluator and the results and recommendations of the therapy evaluation. The continuation of services shall be determined at the annual IEP review using the input of the therapist.

II. Criteria For Eligibility

Both A and B must be met.

A. The student is classified and eligible for a special educational program. There is documented evidence that physical therapy is required to assist the student to benefit from special education.

B. The student demonstrates gross motor impairment in either of the following categories. (Developmental Delay or Motor Function)

Developmental Delay - Students (excluding those with neurophysiological impairments) who demonstrate a gross motor delay as follows:

1. Handicapped students aged 3-5

Students who demonstrate a gross motor delay of 6 or more months below level of functional abilities as measured by an appropriate assessment instrument.

2. Handicapped students aged 6-9

Students who demonstrate a gross motor delay of 12 months or more below level of functional abilities as measured by an appropriate assessment instrument.

3. Handicapped students aged 10-21

Students who demonstrate a gross motor delay of 18 months or more below level of functional abilities as measured by an appropriate assessment instrument.

Comment: Functional abilities are defined as the students' overall educational performance in the areas of cognition, communication, social, self help and fine motor.

Motor Function - According to clinical and/or behavioral observations, the student exhibits neuromuscular or joint limitations which affect his physical functioning in the educational setting. In addition to PT assessment, current student information must indicate 1) an ability to improve motor functioning with physical therapy intervention, or 2) an ability to maintain motor functioning with therapeutic intervention (if the student maintains motor functioning without therapeutic intervention, PT would not be required in the educational setting), or 3) an ability to slow the rate of regression of motor function with therapeutic intervention (if the student has a progressive disorder). A physical therapist's expertise may be needed to recommend and demonstrate activities or techniques, but may not be needed to intervene on a direct basis. This information may include, but is not limited to, current medical information, medical history and/or progress reports from previous therapeutic intervention.

III. Procedures For Screening

Screening shall include:

A. Review of available medical information.

B. Review of anecdotal records or observations of motor

skills conducted by appropriately trained personnel which document the specific concerns causing the referral.

IV. Procedures For Evaluation

An evaluation of motor abilities shall be conducted by licensed physical therapist and shall include evidence of deficits in motor functioning that document the need of physical therapy for the student to benefit from his/her special education program.

OCCUPATIONAL THERAPY

I. Definition

Occupational therapy means:

1. Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation.
2. Improving ability to perform tasks for independent functioning when functions are impaired or lost.
3. Preventing, through early intervention, initial or further impairment or loss of function.

Note: Each school system shall identify, locate, and evaluate each suspected handicapped child, birth through 21 years of age, but is responsible for providing OT services only to those eligible students ages 3 through 21. The provision of services shall be determined at the IEP Committee meeting using the input of the evaluator and the results and recommendations of the therapy evaluation. The continuation of services shall be determined at the annual IEP review using the input of the therapists.

II. Criteria For Eligibility

Both A and B must be met.

A. The student is classified and eligible for a special educational program. There is documented evidence that occupational therapy is required to assist the student to benefit from special education.

B. The student demonstrates fine motor impairment in either of the following categories. (Developmental Delay or Motor Function)

Developmental Delay - Students (excluding those with neurophysiological impairments) who demonstrate a fine motor, sensory motor, visual motor, oral motor or self help delay as follows:

1. Handicapped students aged 3-5

Students who demonstrate a fine motor, sensory motor, visual motor, oral motor or self help delay of 6 months or more below level of functional abilities as measured by an appropriate assessment instrument.

2. Handicapped students aged 6-9

Students who demonstrate a fine motor, sensory motor, visual motor, oral motor or self help delay of 12 months or more below level of functional abilities as measured by an appropriate assessment instrument.

3. Handicapped students aged 10-21

Students who demonstrate a fine motor, sensory motor, visual motor, oral motor or self help delay of 18 months or more below level of functional abilities as measured by an appropriate assessment instrument.

Comment: Functional abilities are defined as the students' overall educational performance in the areas of cognition, communication, social, self help and gross motor.

Motor Function - According to clinical and/or behavioral observations, the student exhibits neuromuscular limitations, joint limitations or inability to effectively integrate sensory stimuli which affect his physical functioning in the educational setting. These might include abnormalities in the area of fine motor, sensory motor, visual motor, oral motor or self help skills. In addition

to OT assessment, current student information must indicate 1) an ability to improve motor functioning with occupational therapy intervention, or 2) an ability to maintain motor functioning with therapeutic intervention (if the student maintains motor functioning without therapeutic intervention, OT would not be required in the educational setting, or 3) an ability to slow the rate of regression of motor function with therapeutic intervention (if the student has a progressive disorder). An occupational therapist's expertise may be needed to recommend and demonstrate activities or techniques but may not be needed to intervene on a direct basis. This information may include, but is not limited to, available current medical information, medical history and/or progress reports from previous therapeutic intervention.

III. Procedures For Screening - Screening shall include:

- A. Review of available medical and educational information.
- B. Review of anecdotal records or observations of motor skills.

IV. Procedures For Evaluation - An evaluation of motor abilities shall be conducted by licensed occupational therapist and shall include evidence of deficits in motor functioning that document the need of occupational therapy for the student to benefit from his/her special education program.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., December 8, 1987 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: Eligibility Criteria for Occupational and Physical Therapy

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated cost to the Department of Education, Office of Special Educational Services if \$500.00 for printing and distribution of the Eligibility Criteria for Occupational and Physical Therapy in the Educational Setting to local school systems and related agencies.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Adoption of this rule will not impact revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no economic benefit or cost to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Adoption of this rule will not effect competition and employment.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Vo-Tech Bus Transportation

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 as policy 4.03.62:

“Vocational-technical schools are allowed to contract to provide bus transportation subject to Board approval of the contract.”

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., December 8, 1987 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: Board of Elementary and Secondary Education, Policy 4.03.62

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, as this is only a change in Board of Elementary and Secondary Education Policy 4.03.62, to comply with Act 368 of the Regular Session of 1987.

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

Implementation of this policy will have little or no effect on revenue collections as the individual schools are already collecting fees from students who ride the buses. Revenue collections would be affected only if new routes are added or existing routes are terminated. Estimates of the number of possible new routes, if any, cannot be made.

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

The total cost of any contracted routes will be borne by the students riding the buses through assessed student fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This will have no effect on competition or employment.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Policy for Vo-Tech Student Admission

In accordance with R.S. 49:950, et seq., The Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following

policy for student admission under special provisions presented by the Trade and Industrial Education Bureau, State Department of Education and the Vocational Technical Directors' Association:

**STUDENT ENROLLMENT
(Special Scheduling Provisions)**

It shall be the policy of the Board of Elementary and Secondary Education to accommodate students who are employed, and whose work schedule does not permit attendance at a vocational technical school within the existing policies of the board, to attend under a special scheduling provision. This special scheduling shall be left to the discretion of the local vocational technical school director. Judgement shall be used in this scheduling process to maximize student contact hours. Tuition shall be collected within the existing policy and shall not be less than tuition charged for a half-time student. Veterans wishing to receive VA benefits shall comply with the attendance requirements established by the Veteran's Administration.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., December 8, 1987 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: Student Enrollment

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

There will be no implementation costs.

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

It is estimated that approximately \$25,000 will be collected in additional tuition fees.

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

The only costs to directly affected persons will be \$25,000 in tuition fees to students attending vocational technical schools under the Special Scheduling Provisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This will have no effect on competition or employment.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Board Policy 4.03.48

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

amendments to Board Policy 4.03.48:

Under Item 1, add the following:

d. Each vocational-technical director may recommend for the board's consideration, changes in the established fee schedule in order to establish night courses and to fund current and new courses.

e. Changes in tuition fees are subject to Board approval. Under item 12, change to read:

"Any funds derived from fees collected by a school may be expended by that school for operational and capital needs of the school subject to approval of BESE and in compliance with state law."

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., December 8, 1987 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: Tuition Fees for Vocational- Technical Schools

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

There shall be no implementation costs as a fee schedule is already in effect. This is to adopt a procedure for bringing the Board of Elementary and Secondary Education Policy in compliance with Act 905 of the Regular Session, 1987.

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

It is impossible at this time to estimate the effect on revenue collections, as none of the schools have submitted their proposed new fee schedule for approval by the Board of Elementary and Secondary Education.

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

It is possible that many students will be affected; but, since no schedules have been approved, it is impossible to estimate any additional costs or savings to the individual students.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT (Summary)

This will have no effect on competition or employment.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Environmental Quality Board of Certification and Training for Solid Waste Disposal System Operators

Under the authority of R.S. 37:3151 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Certification and Training

for Solid Waste Disposal System Operators (board) hereby gives notice that rulemaking procedures have been initiated to amend the rules of procedure for the solid waste operator certification and training program (rules).

Proposed amendments to the rules of procedure for the solid waste operator certification and training program (rules) occur throughout the rules. The proposed revisions add specific language to clarify the meaning or intent of the rules to provide more precise regulations. Provisions have been added to the rules regarding the maintenance of board records, adoption of the rules, and petitions for exemptions from the rules. In addition, the educational qualification requirements as currently provided in the rules, have been eliminated for level B and C operators in all classes.

§101. Authority

The Louisiana Solid Waste Operator and Certification Training Program Act, R.S. 37:3151 et seq., creates the Board of Certification and Training for Solid Waste Disposal System Operators, and authorizes the board to adopt rules of procedure and establish fees for training and certification of solid waste operators.

§105. ...

H. To establish appropriate fees for examination, training, certification and recertification to be paid by the applicant.

§107. ...

E. *Classify* means the process and act of the board that designates a specific type of solid waste disposal facility which is required to employ certified operators.

§109. Filing of Documents

A. Any notice, petition, document, or other correspondence, which is required to be filed with the board shall be addressed and mailed or delivered to: Board of Certification and Training, State Land and Natural Resources Building, 625 North Fourth Street, Box 44307, Baton Rouge, LA 70804.

Chapter 3. Board of Certification and Training for Solid Waste Disposal System Operators

§309. Board Records: Custodian

The Secretary of the Department of Environmental Quality, shall serve as the official custodian of all records of the board. All records of the board meeting notices, agendas, and other documents relating to the board shall be maintained in a central location within the Solid Waste Division. All such records shall be available for public inspection in accordance with the provisions of appropriate state or federal law.

§311. Adoption and Amendment of Rules

These rules of procedure shall be reviewed and revised as determined necessary by the board. All rulemaking authority shall be exercised by the board. In the exercise of the rulemaking authority to adopt or amend rules, a two-thirds vote cast by the board is required. The procedure set forth in the Administrative Procedure Act, R.S. 49:950 et seq., shall be followed in the adoption or amendment of the rules.

§509. Certification Required

No person shall perform the duties of operator without being duly certified under the provisions of R.S. 37:3151 et seq. and these rules.

§901. Certificate

The board shall certify persons as to their qualifications established by testing, training, education, and experience to operate a classified solid waste disposal facility. A certificate, suitable for framing, shall be provided to each successful candidate by the board. This certificate shall clearly show the name of the operator, type of certification, any limitations imposed, the expi-

ration date, and any other data deemed appropriate by the board.

§911. Facility Types

Facilities are required to have certified operators according to the following schedule:

A. Class I

1. Each facility providing solid waste disposal for a particular parish or region shall have a level "A" operator in responsible charge of the overall solid waste disposal facility.

2. Each facility shall have either a level "A" or level "B" operator in direct charge of the day-to-day operation of the facility.

3. Each disposal facility shall have at least one level "C" operator for each 10 operational people for any given shift. (Operational personnel does not include personnel solely conducting clerical duties).

B. Class II

1. Each surface impoundment shall have a level "A" operator in responsible charge of the solid waste disposal facility.

C. Class III

1. Each facility providing solid waste disposal for a particular parish or region shall have a level "A" operator in responsible charge of the overall solid waste disposal facility.

2. Each facility shall have either a level "A" or level "B" operator in direct charge of the day-to-day operation of the facility.

3. Each disposal facility shall have at least one level "C" operator for each 10 operational people for any given shift. (Operational personnel does not include personnel solely conducting clerical duties).

D. Class IV

1. Each facility providing solid waste disposal for a particular parish or region shall have a level "A" operator in responsible charge of the overall solid waste disposal facility.

2. Each facility shall have either a level "A" or level "B" operator in direct charge of the day-to-day operation of the facility.

3. Each disposal facility shall have at least one level "C" operator for each 10 operational people for any given shift. (Operational personnel does not include personnel solely conducting clerical duties).

§913. Level of Operator Competency

A. Each certification shall specify the level of competency for which the certificate is issued. Level "A" represents the highest level of competency, level "B" is somewhat lower, and so forth. As an example, the certificate for the highest level of competency for the operation of a sanitary landfill would be designated, I-A. Classifications are hereby established as "A", "B", and "C". Additional classifications may be added by amendment to these rules.

B. A level "A" certificate shall encompass all of the technical, regulatory, administrative, and management knowledge needed to perform all of the duties necessary to the proper operation of the entire solid waste or facility and shall encompass both procedural and operational aspects of a disposal facility (all technical, regulatory, administrative and management duties necessary for the proper operation of the disposal facility).

C. A level "B" certificate shall encompass all of the technical and regulatory, administrative and management knowledge needed to perform the duties necessary for the proper operation of a portion of the solid waste facility as determined by assigned duties and customary practice, and operational knowledge needed to operate the disposal facility (i.e. equipment selection,

maintenance, waste handling procedures, safety procedures, personnel hiring and training, reports and special or hazardous waste identification).

§915. Qualification Requirements

A. . . .

2. a. Have a minimum of three years of appropriate and responsible experience as described in Section 913.B. of these rules in the field of solid waste management; or

b. Have a minimum of one year of appropriate and responsible experience as described in Section 913.B of these rules in the field of solid waste management and have a minimum of three years experience as a supervisor in the construction field relating to the use of heavy equipment, good drainage practice and other skills to insure proper operation of a disposal site; or

c. Have a minimum of one year of appropriate and responsible experience as described in Section 913.B. of these rules in the field of solid waste management and have either an engineering degree or a degree from an accredited college or university in a four-year program related to soils management, and equipment operation and maintenance; or

d. Have a minimum of one year of appropriate and responsible experience as described in Section 913.B. of these rules in the field of solid waste management and having held a certificate as a level "B" operator for a minimum of one year.

3. Be of good character.

B. A level "B" operator shall have the following qualifications:

1. a. Have a minimum of two years of appropriate and responsible experience as described in Section 913.C. of these rules in the field of solid waste management; or

b. Have a minimum of one year of appropriate and responsible experience as described in Section 913.C. of these rules in the field of solid waste management and have a minimum of two years experience as a supervisor in the construction field relating to the use of heavy equipment, good draining practice and other skills to insure proper operation of a disposal site; or

c. Have a minimum of one year of appropriate and responsible experience as described in Section 913.C of these rules in the field of solid waste management and have either an engineering degree or a degree from an accredited college or university in a four-year program related to soils management, and equipment operation and maintenance; or

d. Have a minimum of one year of appropriate and responsible experience as described in Section 913.C. of these rules in the field of solid waste management and having held a certificate as a level "C" operator for a minimum of one year.

2. Be of good character.

C. A level "C" operator shall have the following qualifications:

1. a. Have a minimum of one year of appropriate and responsible experience as described in Section 913.D. of these rules in the field of solid waste management; or

b. Have a minimum of one year experience in the construction field relating to the use of heavy equipment, good drainage practice and other skills to insure proper operation of a disposal site; or

c. Have either an engineering degree or a degree from an accredited college or university in a four-year program related to soils management, and equipment operation and maintenance.

2. Be of good character.

§917. Regular; Conditional Certification

A. Certification shall be either regular or conditional. A regular certificate shall allow an operator to operate any facility of the type for which the certificate is issued. A conditional certificate shall allow an operator to operate only the facility at which he is employed at the time of certification.

§919. ...

E. Within 30 days of the examination, the applicant shall be notified of the results of his or her examination. Graded examinations shall be maintained by the board for a period of 30 days after the notice of results is distributed and thereafter destroyed.

§923. Recertification

A. Regular certificates shall be valid four years after issuance. An operator may be recertified upon recommendation by the board for a new four-year period after timely submission of satisfactory evidence that the operator has met the continuing training requirements as specified by Section 1103.E. Upon recertification, the board shall issue a new certificate.

§927. Exemptions

Any person subject to these rules may petition the board for exemption from these rules or any portion thereof.

§1103. . . .

C. The procedures outlined in Section 1103.B. shall be reviewed and updated as needed.

§1303. Method of Payment

Fee payment shall be by check, draft or money order made payable to the Board of Certification and Training at the following address: Board of Certification and Training, Box 44307, Baton Rouge, LA 70804.

All interested persons are invited to submit written comments on the proposed amendments. Such comments should be submitted to Joan Lee, Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, Box 44307, Baton Rouge, LA 70804. She may be contacted at the address above or telephone (504) 342-1216. A copy of the proposed amendments may be obtained from the Solid Waste Division at the address provided.

John Koury
Board Member

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

Rule Title: Rules of Procedure for the Operator Certification and Training Program

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

No implementation costs or savings to state or local governmental units should be experienced as these rule changes primarily clarify the intent of the regulations.

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

Revenue collections of state or local governmental units will not be affected as rule changes primarily clarify the intent of the regulations.

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

The proposed amendments will not result in any additional cost or economic benefits to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There could be an effect on competition and employment as a result of these rule changes. The proposed amendments will allow an individual who does not possess a high school diploma or equivalency certificate the opportunity to obtain a level B or level C certification. By possessing this certification, the possibility of an individual being hired for a position or receiving a promotion will increase.

John Koury
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**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 gives notice that rulemaking procedures have been initiated to amend the Louisiana Air Quality Regulations.

The proposed re-adoption of the Louisiana Air Quality Regulations is being done 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.

No changes were incorporated to alter the emissions limits required or the applicability of the regulations. Some minor revisions were made in the Division's Source Test Manual portion of the regulations to reflect the most current test methods and alternates allowed under the New Source Performance Standards (NSPS) Program.

The proposed amendments are to become effective on December 20, 1987 or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held at 1 p.m. on November 6, 1987 in the Mineral Board Hearing Room. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the regulations. Such comments should be submitted no later than November 6, 1987 to Atly Brasher, Technical Services Program Manager. Mr. Brasher may be contacted at the address above, or telephone (504) 342-9029. A copy of the regulations may be viewed at the Air Quality Division at the following addresses from 8 a.m. until 4:30 p.m.: State Land and Natural Resources Building, Room 615, 6th Floor, 625 North Fourth Street, Baton Rouge, LA; Dept. of Environmental Quality, 1155 Ryan Street, 2nd Floor, Lake Charles, LA; State Office Building, 1525 Fairfield Avenue, Shreveport, LA; Dept. of Environmental Quality, 3945 North I-10 Service Road, Metairie, LA; Dept. of Environmental Quality, 804 31st Street, Monroe, LA; Dept. of Environmental Quality, 100 Eppler Road, Lafayette, LA.

Martha A. Madden,
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Air Quality Regulations**

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

There are no estimated implementation costs (savings) involved to state or local governmental units. This is a re-adoption only of existing regulations for codification purposes.

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

There is no effect on revenue collection of state or local governmental units.

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

There are no costs and/or economic benefits which will directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Annette B. Sharp
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

Regulations on Inactive and Abandoned Hazardous Waste Sites

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Environmental Quality intends to promulgate rules and regulations for inactive and/or abandoned waste sites. The regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held at 10 a.m. on Friday, November 6, 1987, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed regulations.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than 4:30 p.m. on Thursday, November 5, 1987 to William B. De Ville, Administrator, Inactive and Abandoned Hazardous Waste Site Division, Department of Environmental Quality, Box 44307, Baton Rouge, LA 70804-4307. He may be contacted at the above address or telephone (504) 342-8925. A copy of the proposed regulations may be obtained from the IAS Division in Baton Rouge. In addition, copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.:

Capitol Regional Office, 11720 Airline Highway, Baton Rouge, LA 70817-1720, 504-295-8900, LINC: 8-427-8900.

Northeast Regional Office, 804 N. 31st Street, Monroe, LA 71201, 318-362-5439, LINC: 8-266-5439.

Acadiana Regional Office, 100 Eppler Road, Lafayette, LA 70505-0100, 318-265-5584, LINC: 8-328-5584.

Bayou Lafourche Regional Office, 302 Barataria, Lockport, LA 70374-0302, 504-568-8699, LINC: 8-621-8699.

Southwest Regional Office, 1155 Ryan Street, Lake Charles, LA 70601-3047, 318-491-2082, LINC: 8-361-2082.

Northwest Regional Office, 1525 Fairfield, Room 11, Shreveport, LA 71130, 318-226-7476, LINC: 8-521-7476.

Southeast Regional Office, 3945 North I-10 Service Road/West, Metairie, LA 70002-3945, 504-838-5361, LINC: 8-637-5361.

Central Regional Office, Box 278, Tioga, LA 71477-0278, 318-487-5656, LINC: 8-221-5656.

Martha A. Madden
Secretary

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

Rule Title: Regulations on Inactive and Abandoned Hazardous Waste Sites

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

There will be no additional implementation costs or savings to the state or local governmental units as a result of these proposed rules and regulations. These new regulations formalize the current policies and activities of the Inactive and Abandoned Hazardous Waste Sites Division. Existing staff can accomplish the regulatory requirements of these proposed regulations.

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

There is no effect estimated on revenue collections for the state or local governmental units as no fees are included in the proposed regulations.

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

Implementation cost to collect the required information for notification and to take the necessary steps of remediation will vary by individual site. There will be some minimal costs associated with filing the notification letter. Additionally, cost to record the remedial action undertaken at the site in the parish record will vary by court filing fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment as a result of these regulations.

Annette H. Sharp
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

Under the authority of the Louisiana 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 of the Department of Environmental Quality gives notice that rulemaking procedures have been initiated to

amend the Louisiana Solid Waste rules and regulations (LSWRR).

The proposed amendments to the LSWRR 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 personnel certified by the Louisiana Solid Waste Certification Program.

Proposed Amendments

Section 3.0 (*LAC 33:VII Chapter 5)

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 by-products.

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

Section 6.4.3.D.1.b (*LAC 33:VII. 1107 C.4.a.ii.)

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.).

Section 7.3.2.C.3 (*LAC VII. 1305.B.3.c.)

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

*As will appear in the recodified version of the Louisiana Solid Waste rules and regulations to be effective December 20, 1987.

A public hearing will be held at 10 a.m. on November 2, 1987, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed amendments. Such comments should be submitted to Joan Lee, Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, Box 44307, Baton Rouge, LA 70804. She may be contacted at the address above, or telephone (504) 342-1216.

Martha A. Madden
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Louisiana Solid Waste Rules and Regulations

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

There will be no estimated costs to this agency as the verification of certified operators at sites receiving residential/commercial waste is presently being conducted by our field representatives as part of their routine compliance inspections.

With regard to costs to be experienced by governmental entities, R.S. 1073.E.2. provides the Department with the authority to assess civil penalties for non-compliance. In the event that a governmental entity refuses to obtain compliance, a penalty could be assessed as provided by law.

Savings to local government and the state cannot be quantitatively calculated as the improper operation of a site can result in contamination to our invaluable environment.

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

As the law allows for the assessment of penalties, the state could receive revenues in the form of penalties from those members of the regulated community that refuse to employ the proper number and levels of certified operators.

Since it is unknown the number of sites that will be in non-compliance, it is difficult to project the effect on state revenue collections.

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

R.S. 1073.E.2. provides the department with the ability to assess civil penalties for non-compliance.

Should a person or non-governmental group that is operating a site receiving commercial and/or residential waste refuse to obtain compliance, a penalty could be assessed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

As these rule changes are currently provisions of the Rules of Procedure for the Solid Waste Operator Certification and Training Program, no additional effects on competition and employment should be experienced.

Annette H. Sharp
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

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. 49:490 et seq., the Secretary of the Department of Environmental Quality gives notice that rulemaking procedures have been initiated to amend the Louisiana solid waste rules and regulations (LSWRR).

The proposed revisions to the LSWRR provide for the regulation of solid waste construction/demolition debris sites receiving wastes such as metals, roofing materials, sheet rock, plaster, and lumber. The definition of the term *construction/demolition debris* has been clarified and definitions for the terms *white goods* and *trash* have been added. The amendments to the regulations also provide for the assessment of a permit application review fee and the assessment of an annual permit maintenance and monitoring fee for construction/demolition debris sites. These fees will provide funding for the regulation of construction/demolition facilities.

The proposed amendments to the LSWRR are as follows:

Proposed Amendments Definitions

***LAC 33:VII. Chapter 5. (Section 3.0)**

A. Construction/Demolition Debris—non-hazardous waste generally considered not to be water soluble, including but not limited to metal, concrete, brick, roofing materials, shingles,

sheet rock, plaster, or lumber from a construction or demolition project, but not including white goods, furniture, or trash. A mixture of construction and demolition debris with any amount of other types of solid waste will cause it to be classified as other than construction debris.

B. *Trash*—non-putrescible refuse including white goods, furniture, wood and metal goods.

C. *White Goods*—discarded refrigerators, ranges, washers, water heaters and other similar domestic and commercial appliances.

***LAC 33: VII.701.C.3. (Section 4.1.C.3) Uncontaminated brick, stone, reinforced and unreinforced concrete and asphaltic road beds.**

***LAC:VII. 1107.E.1.c. (Section 6.4.5.A.3)**

Applicants for construction/demolition debris facilities shall pay a \$250 permit application fee.

***LAC:VII 1107.E.2.b.iii (Section 6.4.5.B.2.c through i.)**

iii. Base fee per permit for construction/demolition debris sites - \$250.

iv. Fee will be based on volume as reported in previous year disposer annual report.

(a) Industrial waste - \$.21/ton or, \$.27/cubic yard;

(b) Non-industrial waste amounts exceeding 75,000 tons - \$.05/ton or;

Amounts exceeding 250,000 cubic yards - \$.035/cubic yard;

v. Maximum annual monitoring and maintenance fee per permit for industrial solid waste sites - \$20,800.

vi. Maximum annual monitoring and maintenance fee per permit for non-industrial solid waste sites - \$5,200.

vii. Surface impoundments will be assessed the base fee per permit only.

viii. Public operated water supply treatment plant sludge and domestic sewage sludge facilities will be assessed the base fee per permit only.

ix. Sites which are permitted to handle both industrial solid waste and non-industrial solid waste will be assessed the base fee for industrial solid waste disposal sites. In addition, these sites will be assessed the volume fee for any industrial solid waste received, plus the volume fee for any non-industrial solid waste exceeding the limits as provided in Section 6.4.5.B.2.c(2). LAC:VII.1107.E.2.b.

x. Solid Waste Management systems with multiple disposal facilities which are scheduled for closure shall be assessed at a maximum the following maintenance and monitoring fees: Industrial facilities \$4,000; Non-industrial facilities, \$1,000. This does not include facilities which are operated under or seeking a standard permit.

*As will appear in the recodified version of the Louisiana Solid Waste Rules and Regulations to be effective December 20, 1987.

A public hearing will be held at 10 a.m. on November 2, 1987, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed amendments. Such comments should be submitted to Joan Lee, Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, Box

44307, Baton Rouge, LA 70804. She may be contacted at the address above, or telephone (504) 342-1216.

Martha A. Madden
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Louisiana Solid Waste
Rules and Regulations**

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

During FY 87/88 the Department of Environmental Quality will utilize funding provided in the Solid Waste Division's budget to implement this rule change. During FY 88/89 and the fiscal years thereafter, cost borne by the state as a result of the rule change will be offset by the collection of a permit application review fee and the annual permit maintenance and monitoring fee.

Currently, there are seven governmental entities operating construction/demolition debris sites. These local governmental entities will be assessed a \$250 permit application fee and a \$250 annual permit maintenance/monitoring fee. The total costs local governmental entities will experience in the fiscal year of FY 88/89 will be \$3500. The cost to local governmental entities for the years following FY 88/89 will vary depending on the number of construction/demolition debris sites they operate and the number to be permitted.

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

During FY 87/88 there will be no effect on revenue collections of the state as a result of the rule change. In order to give the regulated community an opportunity to make available methods to fund the costs of the fees, the department will not access fees until July, 1988.

During FY 88/89, the Solid Waste Division anticipates collecting \$13,000 from the permit review fee and \$13,000 from the annual monitoring and maintenance fees from operators of the construction/demolition debris sites. Revenues received from the regulation of construction/demolition debris sites for the fiscal years following FY 88/89 will vary depending on the number of new facilities to be permitted and the number of facilities operating.

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

No costs to persons or non-governmental groups during FY 87/88.

Beginning in FY 88/89, the presently known 47 non-governmental entities operating construction/demolition debris sites will be assessed a permit application review fee of \$250. In addition, these entities will be assessed an annual monitoring and maintenance fee of \$250.

The costs to these individuals in the fiscal years following FY 88/89 will vary depending on the number of sites they seek permits for and the number of sites operating.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment as a result of these rule changes.

Annette H. Sharp
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

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 of the Department of Environmental Quality gives notice that rulemaking procedures have been initiated to amend the Louisiana Solid Waste Rules and Regulations (LSWRR).

The proposed revisions to the LSWRR clarify the intent of the existing regulations regarding daily and/or interim cover to provide for maintenance thereof, at permitted solid waste landfills.

The proposed amendments to the LSWRR are as follows:

Proposed Amendments

*LAC 33:VII. 1305.D.4.c.

Louisiana Solid Waste Rules and Regulations, (Section 7.3.4 D.3.)

3. Prior to the application of the final cap, the daily or interim cover provided to previously filled areas shall be routinely maintained to insure that no waste becomes exposed.

*LAC 33:VII.1305.I.4.c.

Louisiana Solid Waste Rules and Regulations, (Section 7.3.9 D.3.)

3. Prior to the application of the final cap, the daily or interim cover provided to previously filled areas shall be routinely maintained to insure that no waste becomes exposed.

A public hearing will be held at 10 a.m. on November 2, 1987, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed amendments. Such comments should be submitted to Joan Lee, Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, Box 44307, Baton Rouge, LA 70804. She may be contacted at the address above, or telephone (504) 342-1216.

Martha A. Madden
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Louisiana Solid Waste Rules and Regulations

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
As these rule changes provide clarification of the intent of the regulations, there will be no additional costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
As these rule changes provide clarification of the intent of the regulation, there will be no additional 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)

As these rule changes provide clarification of the intent of the regulations, there will be no additional costs and/or economic benefits to directly affected persons or non-governmental units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment as a result of this rule change.

Annette H. Sharp
Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Environmental Quality Office of Water Resources

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:1061 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, gives notice that rulemaking procedures have been initiated to promulgate the Municipal Facilities Revolving Loan Fund rules and regulations.

The proposed rules and regulations will establish a comprehensive legal and administrative framework for implementing Act 349 of the 1986 Regular Session of the Louisiana Legislature pursuant to PL 100-4, the Water Quality Act of 1987. Included in these rules and regulations are detailed requirements and procedures which the state and municipalities must meet and follow when determining eligibility for a municipality's participation in the program, determining priority of a municipality for participation in the program, municipal application for financial assistance, loan conditions for eligible municipalities, construction of a wastewater facility project, events of default and remedies, annual audits of the fiscal operations, and the Municipal Facilities Revolving Loan Fund's uses of application fees. Generally, these rules and regulations will serve as a framework for municipalities in their applications to the Municipal Facilities Revolving Loan Fund program for financial assistance with the construction of their wastewater treatment facilities.

All interested persons are invited to comment orally or in writing at a public hearing to be held at 10 a.m. on Tuesday, October 27, 1987, in the Mineral Board Hearing Room on the first floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana. Any additional written comments must be submitted no later than November 11, 1987, to Foster Budd, Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, 11720 Airline Highway, Baton Rouge, Louisiana 70817. He is also the agency contact responsible for responding to any questions concerning the proposed regulation.

Copies of the proposed regulations may be obtained by contacting Diane Snyder at the above address or by telephone at (504)295-8904 and are available for inspection at the following locations from 8 a.m. until 4:30 p.m. daily, Monday through Friday.

State Land and Natural Resources Building, Ninth Floor, Room 900, 625 North Fourth Street, Baton Rouge, Louisiana.
Capital Regional Office, 11720 Airline Highway, Baton Rouge, Louisiana.

Southwest Regional Office, 1155 Ryan Street, Lake Charles, Louisiana.

Northwest Regional Office, 1525 Fairfield Street, Room 11, Shreveport, Louisiana.

Lafourche Regional Office, 302 Barataria Street, Lockport, Louisiana.

Alexandria Sub-Regional Office, c/o LA Department of Wildlife and Fisheries, Hwy. 71 North, Adjacent to Spring Hill Courts, Pineville, Louisiana.

Northeast Regional Office, 804 North 31st Street, Monroe, Louisiana.

Acadiana Regional Office, 100 Eppler Road, Lafayette, Louisiana.

Southwest Regional Office, 3945 North I-10 Service Road West, Metairie, Louisiana.

Martha A. Madden
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Municipal Facilities Revolving
Loan Fund - Rules and Regulations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Beginning in Fiscal Year 1987-88 there will be no additional costs to the state, however, beginning in Fiscal Year 1988-89 it is anticipated that an additional position costing approximately \$24,000 will be required. In Fiscal Year 1989-90, an additional 3 positions and associated operating costs will result in expenditure of an estimated \$110,000. Slight increases are anticipated in years thereafter. Administrative cost allowance provided in the federal grant is sufficient to cover all of these projected costs. Implementation of these rules will result in no additional costs to local government.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the state because no fees, fines, assessments, etc. are imposed as a result of these rules. It is not possible to determine the effect on revenue collections of local government units because the increase or decrease in revenue collections will depend on the magnitude of public works projects undertaken with funds borrowed from the Revolving Loan Fund and the number of customers sharing the costs through user fees.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The costs will likely be borne by customers (residential, commercial, institutional, and industrial) paying user fees for projects funded as a result of local government borrowing from the Revolving Loan Fund.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Residents of participating communities throughout the state stand to benefit from higher incomes which may result from economic activity or jobs created as a result of construction of sewerage treatment plants and other related improvements.

Martha A. Madden
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to adopt a rule change in the Long Term Care Ombudsman Program, effective December 20, 1987.

First, we propose to remove the suggested ratio of one ombudsman per nursing home and instead require two hours of ombudsman visitation per nursing home, and to reorder the information presented under "Program Structure." Second, we propose to delete the present Subparagraph LAC 4:VII.229 (F)(2)(c) in its entirety, and substitute new language. Third, we propose to add five new subparagraphs dealing with in-service training and re-certification.

I. LAC 4:VII.1229. D. shall be revised to read as follows:

**Title 4
ADMINISTRATION**

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1229. Long Term Care Ombudsman Program

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;
 - 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

2. 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. Request 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 are (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 Inservice
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 inservice hours completed per quarter.

Please forward written comments concerning these proposed changes to: James R. Kautz, State Long Term Care Ombudsman, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374.

Comments will be accepted until Friday, November 20, 1987.

Sandra C. Adams
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: GOEA Policy Manual
Long Term Care Omb. Program**

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

The Governor's Office of Elderly Affairs would sponsor fewer training sessions at state and federal expense at an estimated saving of \$800 to \$825 per year. The G.O.E.A. would distribute fewer certificates for an annual saving of \$100 to \$125.

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

There is no effect on revenue collections.

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

Area agencies on aging would send staff and volunteers to fewer training sessions, with an estimated travel saving of \$525 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment is negligible, if any.

Sandra C. Adams
Director

David W. Hood
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Governor's Office for Minority Business Enterprise**

Effective October 20, 1987, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Office of Minority Business Enterprise, proposes to amend LAC 19:111.505 relative to certification procedures. Add Subsection to §505 as follows:

Title 19

Corporations and Business

Part III. Minority Business Enterprises

Chapter 5. Certification Procedures

§505. Completion of Certification Application

A. Vendors must complete all portions of the certification materials and return them as specified in the following Subsections, in order to be considered for certification under the minority set-aside program.

B. The following documents plus any specified attachments constitute the certification materials required from minority vendors interested in providing goods, services or supplies under R.S. 39:1551-1755:

1. Certification Resumé (Form #DA 3302; Revised 4/85) which must be completed and returned to the State Central Purchasing Section of the Division of Administration at Box 94095, Baton Rouge, LA 70804-9095. The following attachments must accompany the Certification Resumé when it is submitted:

a. Legal ownership documents (articles of incorporation, partnership agreements, stock ownership/distribution agreements, financial statements of the company which indicate the ownership of major assets as well as the principle stockholders in

the corporation, company balance sheets prepared by a CPA, income (business and personal) tax statements for the past three years, Louisiana state, and city licenses (whichever applicable), resumé of corporate shareholders and employees, organizational chart, equipment - ownership and rental certificates, supplier contract and relationship between distributor and prime contractor, any additional legal documents that would reflect ownership and control).

b. Birth certificates must be provided for all minority vendors for which certification is being sought, regardless of type of business structure.

c. All information requested on the Certification Resumé must be supplied, and the document itself must be notarized as indicated prior to submittal.

2. Bidders Application (Form #DA 3327/FACS Form 722; Revised 3/83), which is to be completed by the vendor and returned to the State Central Purchasing Section of the Division of Administration along with the Certification Resumé.

Misrepresentation of any of the information submitted is in violation of Act 713.

C. For minority vendors interested in providing professional, personal or consulting services under R.S. 39:1481-1526 or who are interested in construction contract work in connection with public works projects under R.S. 38:2184-2137, the following documents plus specified attachments shall constitute the required certification materials:

1. Certification Resumé (Form #DA 3302; Revised 4/85) plus attachments as specified in §505.B.1.a-c above.

2. A listing, on company letterhead, of the subject areas of expertise of the vendor company, to include resumé of key personnel, plus a list describing previous work done in each subject area with sufficient identification of the client and a contact person (name, title, business address, telephone number) for each client listed, such that references might be obtained.

3. All of the above materials must be submitted directly to the Office of Minority Business Enterprise for certification of these types of vendors.

D. The Louisiana Department of Transportation and Development will continue to certify, in accordance with its own procedures, minority-owned business contractors who wish to perform work under Chapter 1 of Title 48. The Office of Minority Business Enterprise will accept such certifications as equivalent to its own.

Interested persons may submit written comments on the proposed amendments to Clovier Torry, Governor's Office for Minority Business Enterprise, Box 94095, Baton Rouge, LA 70804-9095.

Maxine Cormier
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Certification Procedures**

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

There will be no estimated implementation costs (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)

Since the amended rules will enable minority-owned companies to compete more equitably, minorities will have an increased opportunity to become more economically sound.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The amended rules would enable minority-owned companies to compete more equitably for state business, and increase the number of individuals hired by these firms.

Maxine Cormier
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Department of Veterans Affairs**

The Louisiana Department of Veterans Affairs intends to publish revisions of rule numbers A, B, and G (Subchapter B; §917. Eligibility), previously printed in the October 20, 1981, Volume 7, Number 10, issue of the *Louisiana Register*.

**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 ten years of 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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: §917. Eligibility
Subchapter B. State Aid Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (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)
The economic benefits to directly affected persons would be free tuition and possible stipends to eligible dependents of certain veterans.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Cleo C. Yarbrough
Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**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 proposes 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 pen-

dency 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 Naturalization 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 107A (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 107A (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 107A (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, de-

liver, 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 consent 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 107A; 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 107A (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 exami-

nation;

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 139B (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 under 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 judgement, 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 107A of this Chapter, save for 107A (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 exami-

nation; provided, however, that if, within 10 days of such notice a permittee eligible therefor applies under 155A hereof, the expiring permit shall be deemed to continue in effect until the board gives notice of its action on the application under 155A;

2. the board gives written notice to the permit holder pursuant to 141C 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 107A of this Chapter, save for 107A (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 Section 153B.

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 141C 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 115A (4), shall be issued a temporary permit to engage in supervised clinical physical therapy training under the requirements of 153B for the purpose of fulfilling in whole or part the requirement of 115A (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.

Title 46

Professional and Occupational Standards

Part LIV. Louisiana State Board of Physical Therapy Examiners

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 thera-

pist 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 307A 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 115A (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.

Title 46
Professional and Occupational Standards
Part LIV. Louisiana State Board of Physical
Therapy Examiners

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 Fee.....75
 - Re-instatement Fee150
 - Renewal of License Fee.....75
 - 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.

Interested persons may submit written comments on this proposed rule to Becky Legé, Louisiana State Board of Physical Therapy Examiners, Box 4027-C, Lafayette, LA 70502.

Becky Legé, R.P.T.
Acting 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)

The Board of Medical Examiners who previously licensed physical therapists will no longer have the expense of licensure, examination, and regulation of this profession. Savings to that board cannot be determined since they do not account separately for each specialty licensed.

The Board of Physical Therapy examiners estimate expenses of \$102,000 for its 1st year in start up costs and operations and \$60,000 each year thereafter.

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

The Board of Medical Examiners will no longer collect fees for licensing physical therapists so their revenues will be reduced by about \$32,000 per year. The Physical Therapy Board of examiners will collect approximately \$102,000 the first year and between \$60-70,000 each year thereafter. Revenues will be greater as the number of practicing Physical Therapists increases.

1987-88

SUBSEQUENT YEARS

600 conversions × \$150 = 90,000	650 renewals × \$75.00 = \$48,750
60 examinations × 165 = 9,900	60 examinations × 165.00 = 9,900
20 reciprocity × 150 = 3,000	20 reciprocity × 150.00 = 3,000
<u>\$102,000</u>	<u>\$61,650</u>

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

There will be an increase in the cost of licensure borne by individual physical therapists or the corporations which em-

ploy them (if this is an employee benefit). The increase will be from \$25/year to \$150 the first year and \$75 each year thereafter.

The increased cost to therapists should have no effect on receipts or income of physical therapists.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect is anticipated on competition and employment as the same kind and amount of services will be offered.

Becky Legé
Chairman

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources
Board of Veterinary Medicine

The Louisiana Board of Veterinary Medicine in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:1518(9) gives notice that rule-making procedures have been initiated to adopt and amend LAC 46:LXXXV. Chapters 1-11 to update and modify the existing regulations to reflect and provide for the implementation of current practices and conditions in the veterinary profession.

A public hearing on these proposed rules will be held on November 5, 1987 at 11 a.m. at the Board Office, 2844 Fellsway Drive, Baton Rouge, LA.

Interested persons may submit written comments to: John K. Cooper, DVM, Secretary-Treasurer, 2844 Fellsway Drive, Baton Rouge, LA 70814. A copy of these proposed rules and its fiscal and economic impact statement is available for review in the office during regular business hours.

All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Randy W. Thayer, DVM
President

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Title 46, Part LXXXV, Professional and Occupational Standards: Veterinarian

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

There will be a slight increase of cost to the Louisiana Board of Veterinary Medicine for testing veterinary technicians all of which will be derived from a \$125 examination fee. This increase in cost is estimated at \$1,500 annually and is derived entirely from the examination fees.

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

There will be a slight increase in revenue collections from a \$125 application fee and a \$25 renewal fee for veterinary technicians. This increase in revenue is estimated at \$1,500 for Fiscal Year 87-88, \$1,800 for Fiscal Year 88-89, and \$2,100 for Fiscal Year 89-90. There are currently no application and renewal fees for Registered Veterinary Technicians.

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

Veterinary Technicians are registered and recognized by the Louisiana Board of Veterinary Medicine, therefore elevating their status in the veterinary profession and their ability to generate a higher standard of living. The new rules also set the fees authorized by law for testing and for renewal of a certificate of approval at \$125 and \$25 respectively.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Randy W. Thayer, DVM
President

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 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.

PROPOSED RULE

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
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.

A copy of this proposed rule and its Fiscal and Economic Impact Statement is available for review in each parish in the local Office of Family Security.

A public hearing will be held on this rule change on November 4, 1987, at 9:30 a.m. in the Louisiana State Library Auditorium, Baton Rouge, LA.

Interested persons may submit written comments at the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. She is the person responsible for responding to inquiries regarding this proposed rule.

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: AFDC Need Standard**

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

There is no additional cost in AFDC as this proposed increase in the Need Standard will not affect eligibility of applicants or have any effect on existing grants. No new staff or additional administrative costs will be required. The only cost is in printing which will be \$100 in FY 87-88.

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

There is no effect on revenue collections.

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

There will be no costs to affected groups.

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 Public Safety and Corrections
Board of Private Security Examiners**

Notice is hereby given that the Department of Public Safety and Corrections, Louisiana State Board of Private Security Examiners, intends to adopt rules and regulations in accordance with R.S. 37:3270 et seq.

These rules and regulations may be viewed between the hours of 8 a.m. and 5 p.m. at the offices of the Louisiana State Board of Private Security Examiners located at 5235 Florida Blvd., Suite H, Baton Rouge, LA 70896. Comments or objections should be addressed, in writing, to Cynthia Fonté, Executive Secretary, at the above address no later than October 30, 1987. On Wednesday, November 4, 1987 at 9 a.m. a public hearing will be held at the Alexandria Hilton located at 701 Fourth Street, Alexandria, LA 71309, for interested persons to present their views on these rules and regulations.

Cynthia Fonté
Executive Secretary

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The board has been operating since September 1, 1985, and these are the first rules to be adopted by the board. The operating expenses in FY '86-87 were \$153,200. The operating expenses in FY '87-88, FY '88-89, and FY '89-90 are all estimated to be \$178,000. The existing staff can handle the workload associated with the implementation of these rules and regulations; therefore, there should not be any additional costs besides normal operating expenses.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The Louisiana State Board of Private Security Examiners anticipates a \$35,000 revenue increase for FY 87/88, FY 88/89, and FY 89/90, based on administrative fines to be assessed for licensee non-compliance. Revenues collected from fines are deposited into the Louisiana State Board of Private Security Examiners funds for use in the operation of the board. Revenues in FY 86/87 were \$137,300. Revenues estimated for FY 87/88, FY 88/89, and FY 89/90 are \$190,000 based on the \$35,000 increase in administrative fines and guard, trainer, and license renewals.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rules and regulations brings up to standard the law currently practiced by the profession. It is estimated that an additional \$35,000 in fines will be imposed on the industry based upon the history of infractions.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rules and regulations will not affect competition and employment.

Cynthia Fonté
Executive Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Hazardous Substances Control Section**

The Department of Public Safety and Corrections announces its intent to adopt rules to enforce the requirements of R.S. 30:1150.61 et seq. relating to the Hazardous Material Information Development, Preparedness and Response Act. This Act was passed in 1985 as the enabling legislation for the state's first "Right-to-Know" law. The passage by Congress in 1986 of the Superfund Amendments and Reauthorization Act (SARA) necessitated amending Louisiana's "Right-to-Know" law, hence the necessity to change the existing rules. The purpose of these changes is to make the state and federal requirements more compatible.

For further information on these rules, please contact: Lieutenant Kendall J. Fellon, Hazardous Substances Control Section, Office of State Police, Box 66614, Baton Rouge, LA 70896, 504/925-6113.

Interested persons may comment on the proposed rules in writing or in person at the above address.

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 Reauthoriza-

tion 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 dollars 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 can-

not 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 Compliance)

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 associ-

ated 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. An inventory form will be submitted for each pipeline in each parish. Next to the name of the material carried in the pipeline, the diameter of the pipeline and the maximum operating pressure must be shown on the inventory form.

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, submission of additional maps is not 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.

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.

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 may contain 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 (inventory) 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) 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 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 speci-

fied." 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 report, for the prior calendar year beginning January 1 and ending December 31, those materials 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 if it were to escape 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 in excess of 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 Appendix B of these rules and 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 Substances 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. 32:301 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, other than small businesses, 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 re-

ceive, on 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 Louisiana Emergency Response Commission, Department of Public Safety and Corrections, Hazardous Substances 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 Emer-

gency 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.

Colonel Wiley McCormick
Deputy Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Hazardous Materials Information
Development, Preparedness and
Response Rules (Act 435/347)
R.S. 30:1150.61 et seq.**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Adoption of these regulations will cause an increase in costs of \$57,212 in FY 1988-89 and \$46,580 in FY 1989-90. These costs will be borne by the Hazardous Material Information Development Preparedness and Response Fund.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Amendment of these rules would result in an approximately \$60,000 increase in revenue collections to the state dedicated Hazardous Material Information Development, Preparedness and Response Fund. These rules would have no impact upon local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Amendment of these rules would result in an anticipated cost of approximately \$169,000 to that group of persons, corporate or real, who manufacture, store, use or release certain regulated substances in Louisiana.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The effect on competition and employment due to adoption of these regulations cannot be determined at this time.

Lt. Kendall J. Fellon
Supervisor

David W. Hood
Legislative Fiscal Analyst

Potpourri

POTPOURRI

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

The Louisiana Forestry Commission and the Louisiana Tax Commission will hold a meeting at 10 a.m. on Wednesday, October 21, 1987, at the Office of Forestry located at 5150 Florida Boulevard, Baton Rouge, LA, for the purpose of compiling data regarding stumpage values to be used in determining the severance tax computations for 1988.

Interested parties will be afforded reasonable opportunity to present views and comments at the meeting. Written comments may be submitted to Michael P. Mety, State Forester, Office of Forestry, Box 1628, Baton Rouge, LA 70821.

Interested persons should attend the hearing or submit written comments by October 16, 1987.

Michael P. Mety
State Forester

POTPOURRI

**Department of Environmental Quality
Office of the Secretary**

The public is hereby notified that the date for submitting written comments on the proposed Rules of Procedure for the Department of Environmental Quality has been extended to Friday, October 30, 1987.

All interested persons are invited to submit written comments on the proposed Rules of Procedure. Such comments should be submitted no later than October 30, 1987 to Roland T. Huson, General Counsel, Legal Division, Department of Environmental Quality, Box 44066, Baton Rouge, LA 70804. He may be contacted at the address above, or telephone (504) 342-1240. Copies of the proposed Rules of Procedure are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

State Land and Natural Resources Building, Room 707 Seventh Floor, 625 North Fourth Street, Baton Rouge, Louisiana.

State Office Building, 1525 Fairfield Avenue, Shreveport, Louisiana.

Department of Environmental Quality, 1155 Ryan Street, Second Floor, Lake Charles, Louisiana.

Department of Environmental Quality, 804 Thirty-First Street, Monroe, Louisiana.

Department of Environmental Quality, 3945 North I-10 Service Road, Metairie, Louisiana.

Department of Environmental Quality, 100 Eppler Road, Lafayette, Louisiana.

Martha A. Madden
Secretary

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

The Office of Workers' Compensation hereby expresses its intent to amend and supplement the following forms:

Form LDOL-WC-1000 is required from every employer in the state of Louisiana.

Form LDOL-WC-1002 is to be filed with the Office of Workers' Compensation when the first payment of compensation is issued and upon modification or suspension of payment.

Form LDOL-WC-1003 is to be filed with the Office of Workers' Compensation 14 days after the final compensation payment is made.

Form LDOL-WC-1004 is to be filed with the Office of Workers' Compensation when Rehabilitation services begins.

Form LDOL-WC-1005 is to be filed with the Office of Workers' Compensation when Rehabilitation services disputes.

Form LDOL-WC-1006 is to be filed with the Office of Workers' Compensation 14 days after the final compensation for rehabilitation services is made.

Form LDOL-WC-1007 is to be filed with the Office of Workers' Compensation within ten calendar days of actual knowledge of illness or injury in death or loss time in excess of seven calendar days.

Form LDOL-WC-1008 is to be filed with the Office of Workers' Compensation when the need for/or continuation of benefits is in dispute.

Form LDOL-WC-1009 is to be filed with the Office of Workers' Compensation within 10 days after the disposition of any Workers' Compensation case in court.

Form LDOL-WC-1010 is to be filed with the Office of Workers' Compensation when the first payment of compensation, and upon modification of payment to dependents for the death of an employee.

Form LDOL-WC-1011 is to be filed with the Office of Workers' Compensation for a request and approval of compromise or lump sum settlement.

Form LDOL-WC-1012 is to be filed with the Office of Workers' Compensation after a Workers' Compensation action and/or third party action is filed in court.

Form LDOL-WC-1014 is to be filed with the Office of Workers' Compensation when vocational rehabilitation services commences.

Form LDOL-WC-1015 is to be filed with the Office of Workers' Compensation to request an Independent Medical Examination.

Form LDOL-WC-1016 is required from every employer of more than 10 employees by the Office of Workers' Compensation within 90 days of any death, illness or injury involving loss of consciousness, restriction of work or motion, transfer to another job (due to illness or injury) or medical treatment other than first aid.

Form LDOL-WC-1017 is to be filed with the Office of Workers' Compensation within 10 days after each calendar quarter.

In accordance with the Administrative Procedure Act these forms are used pursuant to rules and regulations governing the administration of the State of Louisiana, Department of Labor, Office of Workers' Compensation.

Interested persons may obtain copies of these forms through request directed to Ronald R. Johnson, Chief Counsel,

Office of Workers' Compensation, 910 N. Bon Marché Drive, Suite D, Baton Rouge, LA 70806.

Robert E. Hill
Director

POTPOURRI

Department of Natural Resources Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1 through 56:700.5, and regulations adopted for the fund, published in the *Louisiana Register* on August 20, 1980, notice is given that 54 claims amounting to \$76,622.66 were received during the month of September 1987. During the same month, 228 claims, amounting to \$361,264.66 were paid.

The following claims are the subjects of public hearings to be held at the locations indicated:

Friday, October 30, 1987, at 11 a.m., in the Lafitte Town Hall, Lafitte, LA.:

CLAIM NO. 87-4087

Albert L. Darda, Jr. of Rt. 1, Box 0497, LA Hwy. 45, Lafitte, LA 70067, while trawling on the vessel, "MISTY MORN," in Terrebonne Bay, Houma Navigational Channel, Terrebonne Parish, encountered a submerged cable sling which is used by tugboats to tie barges together on February 22, 1987. Causing damage and/or loss. Amount of Claim: \$5,000
CLAIM NO. 87-4100

George Butler of 524 Terry Parkway, Gretna, LA 70053, while dredging for oysters on the vessel, "BUCCANEER," in Bay DeChane, southeast of Texaco Oil Field, Jefferson Parish, encountered a submerged pipe on March 10, 1987. Causing damage and/or loss. Amount of Claim: \$1,127
CLAIM NO. 87-4111

Dale Belsome of P. O. Box 168, Lafitte, LA 70067, while enroute home from a fishing trip on the vessel, "DISCO LADY," in Barataria Waterway, at approximate LORAN-C readings of 28,570.8 and 46,943.1, Jefferson Parish, encountered a submerged stump on April 3, 1987. Causing damage and/or loss. Amount of Claim: \$5,000
CLAIM NO. 87-4126

Wilfred J. Savoie of 2220 Potomac Drive, Marrero LA 70072, while enroute home from a fishing trip on the vessel, "BARBIE," in Coupe Abel, Jefferson Parish, encountered an unidentified submerged obstruction on April 12, 1987. Causing damage and/or loss. Amount of Claim: \$173
CLAIM NO. 87-4146

Michael J. Ward of 1906 Cooper Road, Gretna LA 70056, while trawling on the vessel, "DOUBLE TROUBLE," in Lake Salvador, Jefferson Parish, encountered an unidentified submerged obstruction on May 25, 1987. Causing damage and/or loss. Amount of Claim: \$791
CLAIM NO. 87-4139

Edward J. Cheramie, Jr. of P. O. Box 75, Lafitte, LA 70067, while trawling on the vessel, "LA 8751 AS," off of Grand Isle, at approximate LORAN-C readings of 28,546.2 and 46,858.2, Jefferson Parish, encountered an unidentified submerged obstruction on May 19, 1987. Causing damage and/or loss. Amount of Claim: \$499.95
CLAIM NO. 87-4148

Floyd A. Robin of Hwy. 45, Box 512M, Lafitte, LA 70067, while trawling on the vessel, "LADY BEA," in Barataria Bay, Plaquemines Parish, encountered a submerged piling on May 30, 1987. Causing damage and/or loss. Amount of Claim: \$815

CLAIM NO. 87-4153

Daniel J. Ronquille, Sr. of Box 534-C, Lafitte, LA 70067, while trawling on the vessel, "LA 7278 AK," in Lake Salvador, Jefferson Parish, encountered an unidentified submerged obstruction on June 1, 1987. Causing damage and/or loss. Amount of Claim: \$500

CLAIM NO. 87-4159

Leroy L. Lepine of Box 430, Barataria, LA 70036, while trawling on the vessel, "LEROY BROWN," in the New Canal Channel, Jefferson Parish, encountered an unidentified submerged obstruction on May 30, 1987. Causing damage and/or loss. Amount of Claim: \$470.00

CLAIM NO. 87-4162

Rickey T. Matherne of Box 0429C, Barataria, LA 70036, while trawling on the vessel, "MISS SANTRINA," in the Gulf of Mexico, East of Bell Pass, at approximate LORAN-C readings of 28,365.7 and 46,829.6, Lafourche Parish, encountered a submerged pipe on June 2, 1987. Causing damage and/or loss. Amount of Claim: \$1,802.49

CLAIM NO. 87-4192

Lionel Fitzgerald of Box 482, Barataria, LA 70036, while trawling on the vessel, "MISS LYBIA," in Bayou St. Dennis, Jefferson Parish, encountered a submerged pipe on June 15, 1987. Causing damage and/or loss. Amount of Claim: \$375
CLAIM NO. 87-4198

Paul Guidry of 2233 Little Flower Lane, Marrero, LA 70072, while trawling on the vessel, "MASTER PAUL," in the Gulf of Mexico, at approximate LORAN-C readings of 28,568.6 and 46,855.5, Jefferson Parish, encountered an unidentified submerged obstruction on May 27, 1987. Causing damage and/or loss. Amount of Claim: \$1,769.87

CLAIM NO. 87-4199

Paul Guidry of 2233 Little Flower Lane, Marrero, LA 70072, while trawling on the vessel, "MASTER PAUL," in the Gulf of Mexico, at approximate LORAN-C readings of 28,628.2 and 46,868.2, Jefferson Parish, encountered an unidentified submerged obstruction on June 8, 1987. Causing damage and/or loss. Amount of Claim: \$944.40

CLAIM NO. 87-4204

Gene P. Delaune of 1405 Dogwood Drive, Harvey, LA 70058, while trawling on the vessel, "MAGDYLAN," in Barataria Waterway, Jefferson Parish, encountered an unidentified submerged obstruction on June 15, 1987. Causing damage and/or loss. Amount of Claim: \$392.44

CLAIM NO. 87-4218

Harold M. Kiff of 536 Grovewood Drive, Gretna, LA 70056, while trawling on the vessel, "COMBOY," in Bay Adams, southeast corner near Bayou Chere and Bayou Ferrand, Plaquemines Parish, encountered an unidentified submerged obstruction on May 23, 1987. Causing damage and/or loss. Amount of Claim: \$1,484.45

CLAIM NO. 87-88-2

Edward Frank Guillie, Jr. of Box 202, Gloria Drive, Lafitte, LA 70067, while trawling on the vessel, "LA 4014 BH," in Grand Lake 200 feet from Beacon 26, Jefferson Parish, encountered an unidentified submerged obstruction on June 27, 1987. Causing damage and/or loss. Amount of Claim: \$500

CLAIM NO. 87-88-26

Charles B. Wilson of Box 513-C, Lafitte, LA 70067, while trawling on the vessel, "MARY AGNES," in Barataria Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on July 2, 1987. Causing damage and/or loss. Amount of Claim: \$1,597.78

CLAIM NO. 87-88-49

Lonie L. Malone, III of 1500 Westwood Drive, Marrero, LA 70072, while trawling on the vessel, "LA 5748 AZ," in Barataria Bay, Jefferson Parish, encountered an unidentified submerged obstruction on July 11, 1987. Causing damage and/or loss. Amount of Claim: \$943.49

CLAIM NO. 87-88-56

Ernest Shultz of Box 615 Perrin Street, Lafitte, LA 70067, while trawling on the vessel, "STINKY," in Barataria Pass, Jefferson Parish, encountered an unidentified submerged obstruction on July 15, 1987. Causing damage and/or loss. Amount of Claim: \$1,363.50

CLAIM NO. 87-88-57

Marcello Reynon, Jr. of 2205 Suwannee, Marrero, LA 70072, while trawling on the vessel, "LADY CREASHIA," in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on June 30, 1987. Causing damage and/or loss. Amount of Claim: \$1,306.91

CLAIM NO. 87-88-62

Todd J. Maise of 3052 Mt. Blanc Drive, Marrero, LA 70072, while trawling on the vessel, "BAYOU BOY," in the Gulf of Mexico, two miles southwest of Shell Keys, at approximate LORAN-C readings of 27,389.7 and 46,921.8, Vermilion Parish, encountered a submerged sunken boat on July 15, 1987. Causing damage and/or loss. Amount of Claim: \$535.25

CLAIM NO. 87-88-70

Manuel Creppel of Rt. 1, Box 335-C, Marrero, LA 70072, while trawling on the vessel, "SEVEN C'S," in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on June 26, 1987. Causing damage and/or loss. Amount of Claim: \$500

CLAIM NO. 87-88-9

Danny A. Buras of 5132 Eighty Arpent Road, Marrero, LA 70072, while trawling on the vessel, "LA 1504 AZ," in Lake Pontchartrain ten miles from southend of Causeway, Orleans Parish, encountered an unidentified submerged obstruction on June 27, 1987. Causing damage and/or loss. Amount of Claim: \$909.86

CLAIM NO. 87-88-126

Danny A. Buras of 5132 Eighty Arpent Road, Marrero, LA 70072, while trawling on the vessel, "LA 1504 AZ," in Turtle Bay, approximately eight miles southwest of Lafitte, Jefferson Parish, encountered an unidentified submerged obstruction on August 19, 1987. Causing damage and/or loss. Amount of Claim: \$244.94

Friday, November 13, 1987 at 2:30 p.m., in the Police Jury Office, 8201 West Judge Perez Drive, in Chalmette, LA.: CLAIM NO. 87-4126

Benjamin S. Johnson of Rt. 2, Box 541-A St. Bernard, LA, 70085, while trawling on the vessel, "INVADER," 1/2 mile southeast of Shell Beach, at approximate LORAN-C readings of 28,893.1 and 46,988.8, St. Bernard Parish, encountered an unidentified submerged obstruction on June 25, 1987. Causing damage and/or loss. Amount of Claim: \$815

CLAIM NO. 87-88-53

Wilson Assavedo of Rt. 1, Box 543 St. Bernard, LA 70085, while trawling on the vessel, "LADY DEE," in Lake

Borgne, St. Bernard Parish, encountered an unidentified submerged obstruction on June 30, 1987. Causing damage and/or loss. Amount of Claim: \$819.65

CLAIM NO. 87-88-141

Thomas Pacaccio, Jr. of P. O. Box 1057, Violet, LA 70092, while trawling on the vessel, "ZIG-ZAG," in Barataria Waterway, Jefferson Parish, encountered a submerged cable on August 20, 1987. Causing damage and/or loss. Amount of Claim: \$3,241.40

CLAIM NO. 87-88-82

Jeff Howard of Rt. 1, Box 862, St. Bernard, LA 70085, while trawling on the vessel, "LA 616 XZ," in Black Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on July 30, 1987. Causing damage and/or loss. Amount of Claim: \$695.25

CLAIM NO. 87-88-116

Arthur B. Morehead, Jr. of Rt. 2, Box 161-A, Bayou Road," St. Bernard, LA 70085, while trawling on the vessel, "BRAD NICOLE," in St. Helena, St. Bernard Parish, encountered an unidentified submerged obstruction on August 19, 1987. Causing damage and/or loss. Amount of Claim: \$1,232.40

CLAIM NO. 87-88-132

William L. Guerra of 3118 Gina Drive, St. Bernard, LA 70085, while trawling on the vessel, "KENTUCKY GIRL," in Lake Campo, encountered an unidentified submerged obstruction on August 25, 1987. Causing damage and/or loss. Amount of Claim: \$701.62

CLAIM NO. 87-88-142

Gary J. Treuil of 215 Papworth Avenue, Metairie, LA 70005, while trawling on the vessel, "PHILIP F.," in the Rigolets, St. Tammany Parish, encountered an unidentified submerged obstruction on August 27, 1987. Causing damage and/or loss. Amount of Claim: \$1,498.44

CLAIM NO. 87-88-145

Michael A. Seuzeneau of 4950 Tynecastle Drive, New Orleans, LA 70128, while trawling on the vessel, "ISLAND GIRL," in Bayou St. Denis, Jefferson Parish, encountered an unidentified submerged obstruction on August 28, 1987. Causing damage and/or loss. Amount of Claim: \$1,619.56

CLAIM NO. 87-88-191

Jerry V. Guerra, Sr. of Rt. 1, Box 605-A, St. Bernard, LA 70085, while trawling on the vessel, "MELANIE ANN," 1/4 mile southwest of Bayou Elou, St. Bernard Parish, encountered an unidentified submerged obstruction on June 22, 1987. Causing damage and/or loss. Amount of Claim: \$1,761.65

CLAIM NO. 87-88-1

Gary Kelly of 6200 Gnell Drive, St. Bernard, LA 70085, while trawling on the vessel, "LIL PEANUT," in Oak River, 1/2 mile south of Southern Natural Pipeline, Plaquemines Parish, encountered an unidentified submerged obstruction on June 24, 1987. Causing damage and/or loss. Amount of Claim: \$1,280

CLAIM NO. 87-88-6

Celestino L. Campo of Rt. 1, Box 671, Shell Beach, LA 70085, while trawling on the vessel, "LIL DAD," in the Mississippi River Gulf Outlet, St. Bernard Parish, encountered an unidentified submerged obstruction on June 30, 1987. Causing damage and/or loss. Amount of Claim: \$1,051.13

CLAIM NO. 87-88-7

Hudson C. Porter of 322 Jefferson Avenue, Slidell, LA 70460, while trawling on the vessel "SWAMP GIRL," in the Rigolets, St. Tammany Parish, encountered an unidentified submerged obstruction on June 24, 1987. Causing damage and/or

loss. Amount of Claim: \$1,201.95

CLAIM NO. 87-88-16

George Barisich of 2812 Meraux Lane, Violet, LA 70092, while trawling on the vessel, "CAMILLE MARIE," in Lake Borgne, St. Bernard Parish, encountered an unidentified submerged obstruction on June 11, 1987. Causing damage and/or loss. Amount of Claim: \$5,000

CLAIM NO. 87-88-24

Gary L. Pagano of 3224 Munster Rd., Meraux, LA 70075, while trawling on the vessel, "LA 352 YU," in the Mississippi River Gulf Outlet, St. Bernard Parish, encountered an unidentified submerged obstruction on July 10, 1987. Causing damage and/or loss. Amount of Claim: \$1,090.68

CLAIM NO. 87-88-30

Albert Avenel, Jr. of 1301 Bayou Road, St. Bernard, LA 70085, while trawling on the vessel, "PRINCESS MELISSA," in Morgan Harbor, St. Bernard Parish, encountered an unidentified submerged obstruction on June 18, 1987. Causing damage and/or loss. Amount of Claim: \$974

CLAIM NO. 87-88-31

Earl Tauzier of 5648 Catina St., New Orleans, LA 70124, while trawling on the vessel, "HIGHJINX," in Lake Pontchartrain, Jefferson Parish, encountered an unidentified submerged obstruction on July 8, 1987. Causing damage and/or loss. Amount of Claim: \$772.48

CLAIM NO. 87-88-40

Michael A. Lobue of 2403 Farragut St., New Orleans, LA 70114, while trawling on the vessel, "LADY STACY," in Lake Pontchartrain, two miles east of Lakefront Airport, Orleans Parish, encountered an unidentified submerged obstruction on July 7, 1987. Causing damage and/or loss. Amount of Claim: \$1105.69

CLAIM NO. 87-88-47

Ricky Guerra of 1817 Linda Lou Drive, St. Bernard, LA 70085, while trawling on the vessel, "LADY LINDA," in Lake Eloi, St. Bernard Parish, encountered an unidentified submerged obstruction on July 7, 1987. Causing damage and/or loss.

Amount of Claim: \$1,404

CLAIM NO. 87-88-58

Lester Evans of P. O. Box 306, St. Bernard, LA 70085, while trawling on the vessel, "CAPT. SWAMPY," in Breton Sound, St. Bernard Parish, encountered an unidentified submerged obstruction on July 16, 1987. Causing damage and/or loss. Amount of Claim: \$1,910.41

CLAIM NO. 87-88-61

Roland Edward Navarro of 2220 Maureen Lane, Meraux, LA 70075, while trawling on the vessel, "MISS WOZZIE," in the Gulf Outlet Channel, at approximate LORAN-C readings of 29,056.2 and 46,947.7, St. Bernard Parish, encountered a submerged barge on July 18, 1987. Causing damage and/or loss. Amount of Claim: \$1,565.65

CLAIM NO. 87-88-76

Arthur J. Krantz, Jr. of 8000 Unity Drive, New Orleans, LA 70128, while trawling on the vessel, "MISS LORI ANN," in Lake Borgne, St. Bernard Parish, encountered an unidentified submerged obstruction on June 18, 1987. Causing damage and/or loss. Amount of Claim: \$1,150

CLAIM NO. 87-88-81

Bruce Guerra, Jr. of Rt. 1, Box 493-B, St. Bernard, LA 70085, while trawling on the vessel, "LADY CANDACE," in the Mississippi Gulf Outlet Ship Channel, St. Bernard Parish, encountered an unidentified submerged obstruction on July 10, 1987. Causing damage and/or loss. Amount of Claim: \$2,761.68

Any person may submit evidence or make objections in person at the hearings. Written comments can be mailed to: Administrator, Fishermen's Gear Compensation Fund, Box 94396, Capitol Station, Baton Rouge, Louisiana 70804, and must be postmarked no later than seven days after the hearing(s).

B. Jim Porter
Secretary

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