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Executive Orders

EXECUTIVE ORDER NO. EWE - 88-1

EXECUTIVE ORDER EWE 87-50

WHEREAS, Executive Order EWE 87-18 (the "Executive Order") was executed by the governor of the state of Louisiana (the "governor") on March 5, 1987 pursuant to the provisions of the Tax Reform Act of 1986 (the "Act") and provides for the allocation of bonds subject to the private activity bond volume limits of the Act for the calendar year ending December 31, 1987 (the "ceiling"); and

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

WHEREAS, there remains as of the date hereof \$307,584,513 of the ceiling which will not be used for projects in the calendar year ending December 31, 1987; and

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

NOW THEREFORE, be ordered by Edwin W. Edwards, Governor of the state of Louisiana, as follows:

Section 1.1 Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986 and in accordance with the request for carryforwards filed by the issuing authorities listed below, there is hereby allocated to said issuing authorities the following amounts of excess unused private activity volume limit under the ceiling for the following carryforward projects:

ISSUER	CARRYFORWARD PROJECT	CARRYFORWARD AMOUNT
East Baton Rouge Mortgage Finance Authority	Qualified Mortgage Bonds (East Baton Rouge Parish)	\$ 26,000,000
Parish of Jefferson Home Mortgage Authority	Qualified Mortgage Bonds (Jefferson Parish)	\$ 50,000,000
Louisiana Housing Finance Agency	Qualified Mortgage Bonds (Statewide)	\$ 50,000,000
Louisiana Public Facilities Authority	Qualified Student Loan Bonds (Statewide)	\$ 20,000,000
New Orleans Home Mortgage Authority	Qualified Mortgage Bonds (Orleans Parish)	\$ 31,000,000
City of New Orleans	Acquisition of assets of New Orleans Public Service Inc.	\$130,584,513

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of December, 1987.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

WHEREAS, Governor-Elect Buddy Roemer has requested that certain reductions in appropriations for the current fiscal year be made;

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

Section 1: Appropriations for expenditures shall be reduced for the following budget units in the amounts as shown below:

Executive Department, Division of Administration Budget Unit: 01-8107	
Reduce Budget for insurance balance:	\$ 5,818
Reduce Operating Service based on mid-year projection of rate of expenditures:	\$ 36,000
Executive Department, Division of State Buildings Budget Unit: 01-8110	
Amount of Reduction:	\$ 300,000
Department of State, Secretary of State Budget Unit: 04-8139	
Surplus in insurance category	\$ 14,532
Department of Culture, Recreation and Tourism, Office of Tourism Budget Unit: 06-8267	
Louisiana Association of Broadcasters:	\$ 23,500
Advertising and public relations contracts:	\$ 200,000
Promotional funds:	\$ 145,000
Department of Transportation and Development, Office of the Secretary Budget Unit: 07-8272	
Other charges. Erosion Control Study at Toledo Bend:	\$ 60,000
Department of Transportation and Development, Office of Aviation and Public Transportation Budget Unit: 07-8279	
Reduce Flight Operations Section:	\$ 200,000
Sale of 2 airplanes (one King Air and one Cessna)	\$ 525,000
Department of Public Safety, Alcoholic Beverage Control Budget Unit: 08-8421	
Surplus Other Charges:	\$ 100,000
Department of Revenue and Taxation, Office of Revenue Budget Unit: 12-8440	
Insurance Discount (Dept.)	\$ 8,748
Vocational Education Budget Unit: 19-all regions	
Insurance Premium Credit for all regions	\$ 119,972
Department of Education, Management and Finance Budget Unit: 19-8678	
Insurance Discount:	\$ 14,945

Section 2: Any provision of any prior executive order which is inconsistent with the letter and spirit of this order is hereby rescinded.

Section 3: If any provision or item of this order or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this order

which can be given effect without the invalid provision, item or application, and to this end the provisions of this order are hereby declared severable.

Section 4: This order shall be effective on signature.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge on this 11th day of January 1988.

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 XV: Off-Track Wagering

Chapter 123. General Rules
§12338. State Fee

Pursuant to R.S. 4:218, a license fee of one and one-half percent of the total amount wagered at each off-track wagering facility is imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:211-222, particularly R.S. 4:218.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

John P. Davis, DVM
Secretary

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amend Bulletin 741, Standard 2.037.06

The State Board of Elementary and Secondary Education, at its meeting of January 28, 1988, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B and approved an amendment to Standard 2.037.06 of Bulletin 741 as follows:

Standard 2.037.06

Elementary teachers shall teach no more than two grades in a combined group except in band, music and art.

This emergency adoption was necessary in order that the school systems will not be cited on their annual school reports during the current year. Effective date of amendment is February 22, 1988.

Dr. James Meza, Jr.
Executive Director

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration

Because of the dire fiscal problems the state of Louisiana is presently experiencing, it is imperative that all cost saving ideas be implemented as soon as possible to avoid severe state-wide cutbacks in programs or personnel. The Division of Administration under the authority granted by R.S. 39:231, has determined that it is therefore necessary to exercise the emergency provisions of R.S. 49:953 B. to amend LAC 4:V.1537 B. 2. (PPM No. 49, General Travel Regulations) in the following respect:

Title 4
ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 15. General Travel Regulations -- PPM No. 49
Subchapter G. Reimbursement for Transportation,
Lodging Meals, and Other Expenses

§1537. Lodging and Meals

A. ...
B. Travelers may be reimbursed for meals according to the following schedule:

1. ...
2. Lunch: No reimbursement shall be made for lunch when in-state travel does not extend over at least one night. If in-state travel extends overnight lunch may be reimbursed for those days where travel begins at/or before 10 a.m. on the first day of travel, or extends beyond 2 p.m. on the last day of travel, and for any intervening days.

3. ...
C. ...

Brian E. Kendrick, CPA
Commissioner of Administration

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Office of State Police

The Department of Public Safety and Corrections, Office of State Police has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to amend LAC 55:I. Chapter 5 concerning Breath and Blood Alcohol Analysis Methods and Techniques as follows.

II. Analysis of Blood

For purposes of these regulations, alcohol shall mean ethyl alcohol.

001. Permits

Section 1. All persons seeking certification to conduct blood alcohol analysis shall:

Section 1.1. make application to the Louisiana State Police Crime Laboratory for permit or renewal of permit;

Section 1.2. successfully complete an accredited college or university course of study which meets all academic requirements for at least a bachelor's degree and has received a degree in one of the following chemical, physical, biological sciences or medical technology;

Section 1.3 successfully complete a 24-hour course of instruction concerning blood alcohol testing conducted by the Louisiana State Police Crime Laboratory. This course shall include, but not be limited to the following: procedures, pharmacology and physiology of alcohol, theory of gas chromatography, preparation and analysis of blood samples;

Section 1.4. conduct proficiency testing set up by the Louisiana State Police Crime Laboratory.

Section 2. Permits shall be in effect when issued for a period of two years from the date of certification.

Section 3. Persons applying for renewal of a valid blood alcohol analysis permit or those persons who on the effective date of these regulations are certified as blood alcohol analysts are exempt from attending the 24-hour training course, but must undergo proficiency testing as outlined in 004.

Section 4. Persons applying for renewal of a blood alcohol analysis permit which is expired at the time of application may be exempted from the 24-hour training course. Exemption shall be based upon knowledge of the course material displayed to the satisfaction of the certifying agency. Proficiency testing will still be mandatory.

002. Certified Techniques of Analysis

Section 1. The certified analyst shall inspect instrumentation and equipment immediately before samples are prepared and analysis is begun to insure that the instrument is operating properly and that test results will be accurate and within the tolerances indicated below.

Section 2. The methods approved for alcohol analysis of blood are:

Section 2.1. Gas Chromatography - Headspace sampling with internal standard.

Section 2.2. Gas Chromatography - Direct injection with internal standard.

Section 3. Procedures shall include the following controls in conjunction with each batch of samples analyzed.

Section 3.1. A system blank analysis.

Section 3.2. Analysis of a suitable reference or control blood sample of known alcohol content within the range .00 to .30g percent; the result of which analysis must coincide with the known blood alcohol value of the reference specimens $\pm 0.01g$ percent if validity is to be assigned to the results for the batch analyzed.

Section 4. Replicate analyses shall be performed in order to minimize the possibility of undetected errors.

Section 5. Results shall be expressed in terms of percent w/v (g percent) that is, grams of alcohol per 100 milliliters of blood, rounded downward to the second decimal place, for example, 0.237g percent shall be reported as 0.23g percent.

Section 6. Analytical procedures for determining the concentration of alcohol in the blood shall meet the following performance requirements.

Section 6.1. The accuracy and sensitivity of the procedure shall be such as consistently to attain results within $\pm .01g$ percent of the known value over the range .00 to 0.30g percent in analysis of appropriate reference materials of known alcohol concentration.

Section 6.2. The precision of the analysis shall be such as consistently to attain a reproducibility not greater than $\pm 0.005g$ percent in replicate analyses.

Section 6.3 The blank values yielded by the procedure in analyses of alcohol-free reagents consistently shall be not greater than 0.01g percent.

Section 6.4. Procedures for the analysis of whole blood from living and post mortem subjects shall differentiate ethyl alcohol from other substances.

Section 7. Blood drawn for the purpose of determining the alcoholic content therein shall have been taken with the contents of a sealed "B-D Blood Alcohol Kit" Number 4990 or 4991 (manufactured by Becton-Dickinson Division of Becton-Dickinson and Company, Rutherford, New Jersey), or a similar blood collection kit approved by the Louisiana Department of Public Safety and Corrections. "B-D Blood Alcohol Kits" or similar blood collection kits as approved will be made available to all law enforcement agencies by the Louisiana State Police.

Section 7.1. All kits approved by this department shall contain the necessary preservatives to insure stability of the sample as provided by the manufacturer and contain no component which will interfere with the ethyl alcohol analysis of blood. Each approved kit must be manufactured specifically for blood alcohol determinations in living or post-mortem subjects.

Section 7.2. To insure the integrity of the blood specimen, samples shall not be exposed to elevated temperatures which could alter the fluid state.

Section 7.3. Following analysis, the evidence will be stored for a period of one year by either the testing facility or the submitting agency and then may be destroyed.

Section 8. Each laboratory performing blood alcohol analysis must submit to the Louisiana State Police Crime Laboratory for approval written procedures outlining the method of analysis, type of instrument and specific criteria for maintenance, cleaning, repair and inspection of all equipment.

003. Maintenance, Repair and Inspection

Maintenance, repair and inspection of a gas chromatograph may be performed by a certified blood alcohol analyst. This may include but not be limited to cleaning, replacing septums, changing columns, checking gases and flow rates, adjusting temperature settings, and any other routine checks that are deemed necessary for accurate performance. Following maintenance, repair and inspection, the analyst shall run an alcohol standard. These results must be in compliance with these rules and regulations.

A log book listing all repair work and maintenance shall be kept and will be available for inspection.

004. Proficiency Testing

An applicant for a permit to perform blood alcohol analysis testing shall submit for proficiency testing conducted by the Louisiana State Police Crime Laboratory.

Section 1. Applicant shall perform analysis on four unknown samples of whole blood at least three of which shall contain ethyl alcohol percentages of between .01 and .30g percent. The fourth sample may contain ethyl alcohol within previously stated values, other volatile compounds or a sam-

ple free of any volatile compounds.

Section 2. The stock solution used to prepare proficiency testing shall be from a sealed bottle of at least 200 proof pure anhydrous grade ethyl alcohol diluted to a concentration of 5g/100ml with deionized water. This will then be diluted further with alcohol free blood to obtain concentrations within the range listed in the previous section.

Section 3. Blood samples shall be placed in the approved blood alcohol kit and a sample of each unknown shall be tested and retained by the Louisiana State Police Crime Laboratory. These results shall be the known value of each sample.

Section 4. The samples will then be sent to each applicant for alcohol analysis.

Section 5. The applicant shall submit the results of his analysis, the completed application and all paperwork generated in the process of determining the blood alcohol values to the LSP Crime Lab.

Section 6. Results must be within a value of ± 10 percent of known values. In addition, paperwork will be reviewed to determine that all procedures were in compliance with these rules and regulations.

Section 7. After review of all paperwork and if results are within accepted ranges, the applicant will be certified as a blood alcohol analyst and will be issued a Blood Alcohol Analyst permit. This certification will be valid for a period of two years.

Section 8. These procedures will be identical for both new and renewal applications for blood alcohol permits.

005. Quality of Glassware and Supplies

Section 1. All non-disposable glassware used in the blood alcohol analyses and standard calibration solutions must be cleaned with non-alcoholic detergents and must be free of any foreign residue.

Section 2. All disposable supplies must be clean and contain no interfering substances which could affect the blood alcohol analysis test.

Section 3. Chemical accuracy of the standards will be assured by the use of two sources of known alcohol concentrations.

Bobby Achord
Captain

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and under the authority of R.S. 56:22 and R.S. 56:317, the Louisiana Wildlife and Fisheries Commission hereby declares that if the present rate of harvest of red drum (*Sciaenops ocellatus*) be allowed to continue in Louisiana waters, the Standing Stock Biomass per Recruit will be adversely affected.

Since 1976, Department biologists have offered recommendations to the Louisiana legislature designed to reduce harvest of this fish from inshore waters. Biological data collected since then in Louisiana and other Gulf states have substantiated those recommendations. Texas prohibited commercial harvest

in 1981 and initiated a reduced creel limit and a minimum size on red drum in their waters. Alabama prohibited commercial harvest in approximately 1986, and initiated minimum sizes on red drum while reducing the creel limit. Mississippi decreased creel limits, initiated minimum sizes and adopted a commercial harvest quota of 200,000 pounds per quota year. Florida did likewise, and prohibited retention entirely on January 1, 1988.

These actions by our neighboring states has caused an increase in commercial and recreational fishing effort and a subsequent increase in harvest from Louisiana and offshore waters, further necessitating a reduction in harvest from Louisiana waters.

Economical situations existing in Louisiana since 1985 has added to the problem because of unemployed people seeking jobs in the commercial fishing sector. Recreational harvest has increased, because of more free time being available to this group. Although measures adopted by the 1987 legislature will benefit the resource, no reduction in the creel limit was applied. Measures now in place will increase the rate of escapement, but only to 10-15 percent, based on estimates derived from available data. Recent meetings of the Gulf of Mexico Fishery Management Councils' Stock Assessment Group were held in Miami, Florida and included scientists from state and federal agencies, universities and other groups. After reviewing all available information, it was the unanimous recommendation of this group to the council to prohibit all retention of red drum in the EEZ (Exclusive Economic Zone) until escapement rate of juvenile red drum from state waters reached the 30 percent level. This rate of escapement is necessary to maintain a viable reproductive biomass, and to maintain equilibrium in the fishery. A recommendation was also made by the stock assessment group to the council that all gulf states follow this procedure, by whatever method they chose to adopt.

Because scientific evidence exists and statements have been made documenting the need to increase escapement of juvenile red drum from inshore areas, it is considered necessary to implement an emergency rule to prohibit harvest or possession of red drum in Louisiana waters by recreational fishermen from midnight, February 14, 1988 until midnight, June 1, 1988.

The Louisiana Wildlife and Fisheries Commission wishes to protect, enhance and manage this important species and thus establishes this prohibition for all state waters for a period of 107 days to begin at midnight, February 14, 1988.

J. Burton Angelle
Secretary

Rules

RULE

Department of Commerce Office of Commerce and Industry Finance Division

Louisiana Continuing Care Provider Registration and Disclosure Act

The Finance Division of the Office of Commerce and Industry advertises adoption of the following rules for administering the Continuing Care Retirement Community Registration Program, to be effective February 20, 1988.

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

Rule 1. Application/Registration Procedure

An application for registration shall be filed with the department by the provider on forms prescribed by the department. Following are the procedural steps:

1. An application for "registration" must be filed along with the "disclosure statement" and a check for \$1000.
2. Within 10 days of receipt of the application, the department must issue a "notice of filing" acknowledgement to the provider.
3. Within 60 days of the "notice of filing" the department must "register" the provider or notify of rejection.
4. If within 60 days, rejection is not entered, the provider will be considered "registered" unless the provider consents, in writing, to an extension of time.
5. If application is not rejected within the extension period, the provider will be considered "registered."
6. If any of the requirements of R.S. 51:2171 et seq., are not met, the department must notify the provider to correct the application within 30 days.
7. If within 30 days the "corrections" are not received the department may reject the application for "registration."
8. Rejection will not become effective until 20 days after the end of the 30-day correction period.
9. During the 20-day rejection period the provider may "petition for reconsideration" and a hearing within 30 days.
10. The hearing is to be conducted in accordance with the Administrative Procedure Act, and "rejection" will not be effective until the hearing has been conducted.
11. For a provider with an "existing-home" established prior to September 1, 1987, the department may issue a temporary registration after the provider has filed an application for registration. This will enable the provider to enter into agreements with existing or prospective residents until permanent registration.

Rule 2. Registration Requirements

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

1. three copies of the initial disclosure statement;
2. if the facility is a corporation, a copy of its current articles of incorporation, with all amendments thereto. If a part-

nership, a copy of the partnership agreement;

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

4. the facility's current rules and regulations;

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

6. other documents or information necessary to establish the legal and economic relationships to be created between the facility and the purchaser of a continuing care/life care contract;

7. a five-year pro forma financial plan (projections);

8. most recent certified financial statements, and in addition, if the certified financial statements are more than three months old, current uncertified, audited statements;

9. a copy of the following reports required:

a. a statement describing and explaining the method by which monthly service fees and other assessments are computed;

b. an annual report of sales and proceeds;

c. an occupancy report;

10. a statement indicating whether or not the facility has liability insurance, including medical malpractice insurance, the coverage and amounts thereof;

11. a check made payable to the Office of Commerce and Industry in the amount of \$1000.

Rule 3. Initial Disclosure Statement

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

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

1. a statement that the disclosure statement is required to contain all the material facts pertaining to the continuing care/life care contract offering being made;

2. a statement that no person is authorized to make any promises in connection with the offering other than the information contained in the disclosure statement;

3. a statement that the registration of this facility does not constitute approval, recommendation, or endorsement of the facility by the Department of Commerce;

4. a statement informing the resident/prospective resident of his right to rescind any agreements entered into within 30 days of executions of those agreements;

5. a statement advising the resident/prospective resident of the possible risk involved by entering a continuing care/life care contract and that advice from an independent attorney should be sought;

6. a statement that if a continuing care/life care contract is entered during a period when certified financial statements are not being used, the resident/potential resident will be entitled to damages and right of rescission if material adverse conditions existed at the date of the financial statements and were not disclosed.

Rule 4. Annual Disclosure Statement

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

Rule 5. Financial Statements

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

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

1. a balance sheet as of a date within 90 days before the date of the application;

2. an income statement for each of the three fiscal years preceding the date of the balance sheet and for the period, if any, between the close of the last fiscal year and the date of the balance sheet;

3. a statement of changes in retained earnings for each of the periods for which income statements are presented.

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

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

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

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

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

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

I. Where uncertified financial statements are used for an interim period, they should be accompanied by the following disclosure:

"These financial statements are prepared without an audit. Purchasers of continuing care/life care contracts should be

advised that a certified public accountant has not examined the financial statements and accordingly has expressed no opinion on them."

Rule 6. Financial Projections, Use of Funds

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

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

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

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

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

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

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

2. expected operating expenses;

3. expected cash proceeds from monthly service fees;

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

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

Rule 7. Disclosure Statement Availability

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

Rule 8. Amendment of Disclosure Statement

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

Rule 9. Entrance Fee Escrow for New Construction

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

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

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

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

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

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

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

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

G. In lieu of any escrow which may be required by the department under this Section, a provider shall be entitled to post a letter of credit from a financial institution, negotiable

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

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

A. All continuing care agreements shall:

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

2. specify all services that shall be provided by the provider to each resident, including, in detail, all items which each resident shall receive, if the items will be provided for a designated time period or for life, and if the services will be available on the premises or at another specified location. The provider shall indicate which services or items are included in the agreement for continuing care and which services or items are made available at or by the facility at extra charge. The items shall include, but are not limited to, food, shelter, personal services, nursing care, medical care, burial, and incidentals;

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

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

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

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

7. provide that the agreement may be cancelled by giving notice of cancellation of at least 30 days by the provider, the resident, or the person who provided the transfer of all property or funds required for the care of the resident. However, if an agreement is cancelled because there has been a good faith determination that a resident is a danger to himself or others, only such notice as is reasonable under the circumstances shall be required. The agreement shall further provide in clear and understandable language, and in boldfaced type, the terms governing the refund of any portion of the entrance fee, which terms shall include a provision that all refunds be made within 90 days of notification. Any such refund shall be

calculated on a pro rata basis with the facility retaining no more than two percent per month of occupancy by the resident and no more than a 10 percent fee for processing. When the contract provides for the facility to retain no more than one percent per month of occupancy by the resident, it may provide that the refund shall be payable upon receipt by the provider of the next entrance fee for any comparable unit upon which there is no prior claim by any resident. However, any prospective resident who cancels the agreement prior to occupancy of the unit shall receive a refund of the entire amount of the entrance fee paid, less payment for specific services rendered and a processing fee not to exceed two percent of the amount paid. The refund shall be paid no later than 60 days after the giving of notice of intention to cancel;

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

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

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

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

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

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

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

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

E. If a resident dies before occupying the facility or, through illness, injury, or incapacity, is precluded from becoming

a resident under the terms of the continuing care agreement, the agreement is automatically cancelled, and the resident or his legal representative shall receive a full refund of all moneys paid to the facility, except those costs specifically incurred by the facility at the request of the resident and set forth in writing in a separate addendum signed by both parties to the agreement.

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

Rule 11. Dismissal or Discharge of Resident; Refund

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

Rule 12. Continuing Care Facilities Residents' Organizations

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

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

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

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

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

B. Any records, reports, or documents which by state or

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

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

Rule 15. Advertisements; Requirements

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

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

C. Any report, circular, public announcement, certificate, financial statement, or other printed matter or advertising material which is designed or used to solicit or induce persons to enter into any agreement providing for the transfer of property, conditioned upon an agreement to furnish continuing care for life or for a term of years, and which lists or refers to the name of any individual or organization as being interested in, or connected with, the person, association, or corporation that is to perform the contract, shall clearly state the extent of financial responsibility assumed by that individual or organization for the person, association, or corporation and the fulfillment of its agreements.

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

Rule 16. Revocation of Registration

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

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

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

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

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

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

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

Rule 17. Cease and Desist Orders and Injunctions

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

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

Rule 18. Administrative Fines

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

Kay Jackson
Secretary

RULE

Department of Commerce Racing Commission

Title 35.

HORSE RACING

Part XIII. Wagering

Chapter 115. Triple Play (New Chapter)

§11501. Scope

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

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

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

§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.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

§11505. Distinctive Name

This form of wagering shall be known at all race tracks as the triple play.

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

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

§11507. Pari-Mutuel Pool

The triple play pari-mutuel pool consists of amounts paid 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 official 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.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

§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.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

§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 official 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 official winners of two of the three races comprising the triple play.

C. In the event no pari-mutuel ticket is sold combining two official 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 official 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 one or more ticket holders 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 day 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 official 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.

HISTORICAL NOTE: Promulgated by the Louisiana

State Racing Commission.

§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 triple play 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. One hundred 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 day as an additional amount to be distributed.

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

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

§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 pari-mutuel 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 pari-mutuel pool for two or more favorites is identical, the favorite identified in the lowest track program number shall be substituted for the nonstarting selection.

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

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

§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 official winning horses in the race for the purpose of calculating the pool and payoffs.

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

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

§11519. No Ticket Sold, Exchanged or Canceled

No triple play ticket 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 §11513.B, 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 of the races comprising the triple play to be official.

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

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

§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 triple play payoff prices to the public before the start of the third race of the triple play.

AUTHORITY NOTE: Promulgated in accordance with

R.S. 4:149, 149.1 and 149.2.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

Albert M. Stall
Chairman

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 November 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 6.00.16

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

Dr. James Meza, Jr.
Executive Director

RULE

**Department of Education
Proprietary School Commission**

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

PSC-11

Appendix K

**APPLICATION FOR ASSOCIATE IN
OCCUPATIONAL STUDIES DEGREE**

(La. R. S. 17-3141.15 A-G)

STATE OF LOUISIANA

DEPARTMENT OF EDUCATION

PROPRIETARY SCHOOL COMMISSION

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

The State Board of Elementary and Secondary Education (BESE) shall approve or disapprove occupational degree proposals as submitted by eligible licensed postsecondary proprietary schools under its jurisdiction.

KNOW ALL MEN BY THESE PRESENTS:

That we, _____

Of the City of _____ State of _____
are:

(1) licensed by the State Board of Elementary and Secondary Education

(2) domiciled in the state of Louisiana

(3) accredited by the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, or the Southern Association of Colleges and Schools.

A. The State Board of Elementary and Secondary Education shall revoke the degree of granting status of any post-secondary proprietary school which loses its accreditation.

B. Eligible postsecondary proprietary schools shall award a nonacademic degree entitled "The Associate in Occupational Studies." No proprietary school shall award the Associate of Arts or Associate of Science. All advertising, recruiting, and publications shall state clearly that such occupational degree awarded by a postsecondary proprietary school is nonacademic and does not imply, promise, or guarantee transferability.

C. Each student admitted to an occupational degree program in an accredited postsecondary proprietary school shall be required to:

1) Have a high school diploma or equivalent;

2) Complete a minimum of two years, four semesters, or six quarters of course work for each occupational degree program.

D. Each "Associate in Occupational Studies" degree program shall have a minimum of 75 percent of its course of study in a specific occupational area.

E. Each course of study shall have a minimum of 96 quarter hours if using quarter hours and a minimum of 1800 clock hours.

We have attached 25 copies* * of the following to our application:

1) An "Associate in Occupational Studies Degree" certificate for each course of study.

2) Of each "Course of Study" a schedule showing course numbers, course titles, clock hours (if used) for each subject, and total clock hours and quarter hours (if used).

3) A synopsis of each subject must be provided indicating the number of quarter hours (if used) and clock hours. The rule for converting clock hours to quarter hours is as follows:

10 clock hours = 1 credit hour, quarter in lecture-type courses

20 clock hours = 1 credit hour, quarter in laboratory-type courses

30 clock hours = 1 credit hour, quarter in shop-type courses

Your Associate in Occupational Studies Degree course of study may exceed 96 quarter hours if you use quarter hours but it cannot be less. It may exceed 1800 clock hours but it cannot be less.

Your Associate in Occupational Studies Degree course of study must meet both provisions above if you use quarter hours; however, if you do not use quarter hours, you must have a minimum of 1800 clock hours.

Name of Institution _____

Signature of Owner or Authorized Official _____

Title: _____

Address: _____

Notary Public

Signature and Seal

**Attach one original and 24 copies of this notarized statement, along with other copies and then mail it to the Louisiana Proprietary School Commission.

Andrew H. Gasperecz
Executive Secretary

RULE

Department of Health and Human Resources Board of Examiners of Professional Counselors

The Louisiana Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115 of the 1987 Legislature, and in accordance with the Administrative Procedure Act R.S. 49:950 et seq., has adopted the following rules governing the practice of mental health counseling in the state of Louisiana.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Louisiana Licensed Professional Counselors Board of Examiners

Chapter 1. General Provisions

§101. Statutory Authority

The Louisiana Licensed Professional Counselors Board of Examiners was created and empowered by Act 892 of the 1987 Legislature to provide regulation of the practice of mental health counseling and provide for the regulation of the use of the title "Licensed Professional Counselor" (R.S. 37:1102). Therefore, the Professional Counselors Board of Examiners establishes the rules and regulations herein pursuant to the authority granted to, and imposed upon said board under the provisions of the Louisiana Revised Statutes, Title 37, Chapter 13, R.S. 37:1101-1115.

§103. Description of Organization

The Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, resides in the Department of Health and Human Resources, and consists of five members, who shall be residents of the state of Louisiana. Board members are appointed by the governor as specified in Section 1104 within 60 days after the effective date of Chapter 13 of Title 37 to serve the following terms: one member for a term of two years, two members for terms of three years, and two members for terms of four years. Thereafter, each term shall be for four years and each of these appointments shall be submitted to the Senate for confirmation. Board membership consists of two licensed professional counselors, two educators whose function is the training of mental health counselors in accredited programs, and one individual from the public at large. No board member shall serve more than two full consecutive terms. Appointments to the board are made from a list of qualified candidates submitted by the Executive Board of the Louisiana Association for Counseling and Development. No board member shall be liable in any civil action for any act performed in good faith in the execution of his duties under Chapter 13 of Title 37.

§105. Vacancies

A vacancy occurring in board membership for an unexpired term shall be filled for the remainder of the term by the governor, within 30 days, from a list of qualified candidates submitted by the Executive Board of the Louisiana Association of Counseling and Development. Unexpired terms shall be filled by appointment by the governor, within 30 days, from a list of qualified candidates prescribed in Section 1104 of R.S. 37:1101-1115.

§107. Reimbursement

Each board member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board business.

Chapter 3. Board Meetings, Procedures, Records, Powers and Duties

§301. Officers

The board shall hold a meeting within 60 days after October 1, 1987 and elect from its membership a chairman, vice chairman, and secretary. The chairman shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 13 of Title 37 and the board. The chairman is authorized by the board to make day-to-day decisions regarding board activities to facilitate the responsiveness and effectiveness of the board. The vice chairman shall perform the duties of the chairman in case of absence or disability of the chairman. In the event the office of chairman becomes vacant, the vice chairman shall serve as chairman until a successor is named. In the absence of the chairman and vice chairman, the secretary will preside until the chairman or vice chairman is present. The secretary shall keep the minutes of board meetings and send said minutes to board members and clerical secretary of the board before each regular meeting of the board.

§305. Board Staff

The board shall hire a clerical secretary, who shall not be a member of the board, within the limits of funds received by the board pursuant to R.S. 37:1106. In place of a full-time secretary the board may hire two part-time staff. The clerical secretary will keep the records and files of the board and communicate with candidates for licensure and others concerning board activities under the direction of the chairman of the board.

§307. Meetings

The board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board. The board shall hold a meeting within 60 days after October 1, 1987, and semiannually thereafter. The chairperson may call meetings after consultation with board members or by a majority of members voting at a regular meeting. Reasonable notice of all board meetings will be given by posting the meeting place and time, seven days before the meeting, on the door of the office of the board and in two places in the building housing the office of the board. The board may examine, approve, revoke, suspend, and renew the license of applicants and shall review applications at least once a year.

§309. Quorum

Three members of the board shall constitute a quorum of the board at any meeting or hearing for the transaction of busi-

ness and may examine, approve, and renew the license of applicants.

§311. Procedures

The board shall adopt such rules, regulations, and examination procedures as it may deem necessary to effect the provisions of Act 892 (Chapter 13, R.S. 37:1101-1115). The board shall be empowered to accept grants from foundations and institutions to carry on its functions. The board shall submit an annual report to the governor containing the financial and professional actions of the board during the past year. The board shall adopt a seal which shall be affixed to all licenses issued by the board. The board hereby adopts Robert's Rules of Order Revised as the basis of parliamentary decisions by the board except as otherwise provided by board rules.

§313. Code of Ethics

The board has adopted the Code of Ethics of the American Association for Counseling and Development as specified in R.S. 37:1105D and may adopt any revisions or additions deemed appropriate or necessary by the board.

§315. Records of Proceedings

The board shall keep a record of its proceedings including applicant examinations, a register of applicants for licenses, and a register of licensed professional counselors which shall be made available to the public.

Chapter 5. License and Practice of Counseling

§501. License of Title and Practice

As stated in R.S. 37:1111A, no person shall assume or use the title or designation "Licensed Professional Counselor" or engage in the practice of mental health counseling unless he has in his possession a valid license issued by the board under the authority of this Chapter.

§503. Definitions

For purposes of this rule, the following definitions will apply:

A. *Board*—means the Louisiana Professional Counselors Board of Examiners.

B. *Licensed professional counselor*—means any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

C. *Mental health counseling services*—means those acts and behaviors coming within the "practice of mental health counseling" as defined in R.S. 37:1103. However, nothing in these rules shall be construed to authorize any person licensed hereunder to administer or interpret psychological tests or engage in the practice of psychology in accordance with the provisions of R.S. 37:2352(5).

D. *Practice of mental health counseling*—means rendering or offering to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures of the mental health counseling profes-

sion which include but are not limited to:

1. *Mental health counseling*—which means assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers.

2. *Consulting*—which means interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations.

3. *Referral activities*—which means the evaluating of data to identify problems and to determine the advisability of referral to other specialists.

4. *Research activities*—which means reporting, designing, conducting, or consulting on research in counseling with human subjects.

Chapter 7. Requirements for Licensure and Renewal of License

§701. General Provisions

The board shall license to practice all persons who present satisfactory evidence of qualifications as specified in these rules and regulations of the board. Such licensure shall be signed by the chairman and vice chairman of the board under the seal of the board. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

§703. Requirements

The board shall issue a license to each applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by R.S. 37:1106 and who furnishes satisfactory evidence to the board that he:

A. is at least 21 years of age;

B. is of good moral character;

C. is a citizen of the United States or has legally declared his intentions of becoming such;

D. is a resident of the state of Louisiana or is in the act of establishing residency in the state of Louisiana.

E. is not in violation of any of the provisions of R.S. 37:1101-1115 and the rules and regulations adopted herein.

F. can document a minimum of three thousand hours of supervised experience during a minimum of two years of post-master's degree experience in professional mental health counseling under the supervision of a licensed professional counselor. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the master's degree, provided that such hours are clearly related to the field of mental health counseling and are acceptable to the board provided that in no case the applicant has less than 2,000 hours of supervised experience;

G. has declared special competencies and demonstrated professional competence therein by passing a written examination as shall be prescribed by the board;

H. has received a graduate degree which is professional mental health counseling in content from a regionally accredited institution of higher education and has accumulated at least 48 graduate semester hours which meet the academic and training content standard established by the board showing evidence of a supervised mental health counseling practicum/internship and coursework in seven of the following areas:

1. Counseling/theories of personality
2. Human growth and development
3. Abnormal behavior
4. Techniques of counseling
5. Group dynamics, processes, and counseling
6. Lifestyle and career development
7. Appraisal of individuals
8. Substance abuse
9. Marriage and family studies

§705. Renewal

A licensed professional counselor shall renew his license every two years in the month of June by meeting the requirement that 25 clock hours of continuing education be obtained prior to each renewal date every two years in an area of professional mental health counseling as approved by the board and by paying a renewal fee. The chairman shall issue a document renewing the license for a term of two years. The license of any mental health counselor who fails to have his license renewed biannually during the month of June shall lapse; however, the failure to renew said license shall not deprive said counselor the right of renewal thereafter. A lapsed license may be renewed upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement.

Chapter 9. Fees

§901. General

A. The board shall collect the following fees stated in Section 1106:

- | | |
|---|-------|
| 1. Application, license, and seal | \$100 |
| 2. Written examination | \$50 |
| 3. Renewal of license | \$50 |
| 4. Reissuance for lost or destroyed license | \$50 |

B. No part of any fee shall be refundable under any conditions other than failure of the board to hold examinations on the date originally announced. All fees for licensing must be paid to the board by certified check or money order.

§903. Deposit and Use of Fees and Funds

All fees collected and all gifts or grants shall be deposited and credited to the account of the board in a licensed financial institution of the board's choosing. The funds of the board may be used for printing, travel expenses of the board, and for other necessary expenses as are essential to carrying out of the provisions of R.S. 37:1101-1115. Expenses shall be paid under the written direction of the chairman of the board in accordance with procedures established by the Division of Administration. Any surplus at the end of the fiscal year shall be retained by the board for future expenditures.

Chapter 11. Reciprocity

§1101. States, Territories, and Commonwealths

Upon application accompanied by fee and without written or oral examination, as stated in R.S. 37:1109, the board may issue a license to any person who furnishes upon a form and in such manner as the board prescribes, evidence satisfactory to the board that he is licensed as a professional counselor by another state, territorial possession of the United States, District of Columbia, or Commonwealth of Puerto Rico if the requirements are substantially equivalent to those of R.S. 37:1101-1115.

§1103. Certification by a National Certification Board

Evidence of current certification by the Board for Rehabilitation Counselor Certification and a master's degree in counseling or related field shall be acceptable for reciprocity. Also, evidence of current certification by the National Academy of Certified Clinical Mental Health Counselors, or the National Board of Certified Counselors and 48 graduate hours in mental health counseling shall be acceptable for reciprocity.

Chapter 13. License

§1301. Denial, Revocation, or Suspension of License

A. The board by affirmative vote of at least four of its five members, shall withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37:1101-1115 or otherwise discipline a licensed professional counselor upon proof that the applicant or licensed professional counselor:

1. has been convicted in a court of competent jurisdiction of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof;
2. has violated the code of ethics adopted by the board;
3. is abusing drugs or alcohol to an extent or in a manner dangerous to any other person or the public, or to an extent that said use impairs his ability to perform the work of a licensed professional counselor;
4. has impersonated another person holding a professional mental health counselor license or allowed another person to use his license;
5. has used fraud or deception in applying for a license or in taking an examination provided for in this Chapter;
6. has allowed his name or license issued by the board to be used in connection with any person or persons who perform mental health counseling services outside of the area of their training, experience, or competence;
7. is legally adjudicated mentally incompetent, the record of such adjudication being conclusive evidence thereof;
8. has willfully or negligently violated any of the provisions of R.S. 37:1101-1115 or these rules and regulations.

B. Notice of denial, revocation, suspension, or disciplinary action shall be sent to the applicant or licensee by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing. The written notice shall be sent to the person's last known address, but the nonappearance of the person shall not prevent such a hearing. For the purpose of such hearing, the board may subpoena persons, books, and papers, on its own behalf or on behalf of the applicant or licensee who may appear by counsel or personally on his own behalf.

C. On the basis of any hearing or upon default of applicant or licensee, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision of the board denying, revoking, or suspending the license, shall become final 30 days after receipt of the copy of the determination unless within said period the applicant or licensee appeals the decision as provided by R.S. 49:955-965. No such appeal while pending appropriate court action shall supersede such denial, revocation, or suspension. All proceedings and evidence presented at hearings before the board may be admissible during appellate proceedings.

D. Every order and judgment of the board shall take effect immediately on its promulgation unless the board in such order or judgment fixes a probationary period for applicant or licensee. Such order and judgment shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgments in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

E. The board is authorized to suspend the license of a licensed professional counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

Chapter 15. Privileged Communications

§1501. Privileged Communications with Clients

The confidential relations and communications between a licensed professional counselor and client are placed upon the same basis as those provided by statute between an attorney and client. Nothing in these rules shall be construed to require that any such privileged communication be disclosed.

§1503. Privileged Communication between Health Care Provider and Patient

R.S. 13:3734(A)(1), states that "health care provider" means a hospital, as defined in R.S. 40:2102, hereof, and means a person, corporation, facility, or institution licensed by the state to provide health care or professional services as a physician, hospital, dentist, registered or licensed practical nurse, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, psychologist, or licensed professional counselor and an officer, employee, or agent thereof acting in the course and scope of his employment.

Chapter 17: Exclusions

§1701. Scope

The following persons and their activities are exempted from the licensing requirements of R.S. 37:1101-1115 and these rules.

§1703. Exemptions

A. A certified school counselor who meets the standards prescribed by the State Department of Education and the Board of Elementary and Secondary Education, while practicing school counseling within the scope of his employment by a board of education or by a private school.

B. Any nonresident temporarily employed in this state to render mental health counseling services for not more than 30 days a year, who meets the requirements for licensure in R.S. 37:1107 or who holds a valid license or certificate issued under the authority of the laws of another state or national certifying agency.

C. Any person employed or supervised by a licensed professional counselor, while carrying out specific tasks under the licensee's supervision. The supervisee shall not represent himself

to the public as a licensed professional counselor.

D. Any student in an accredited education institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a professional mental health counselor. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.

E. Any individual using the official title of the position and activities for which that person is employed by federal, state, or a private, nonprofit agency, nonprofit or for profit hospital, or accredited clinic, provided that such persons are performing these activities as part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization by which they are employed. Such persons shall not render mental health counseling services to the public for a fee, monetary or otherwise, over and above the salary they receive for the performance of their official duties with the organization by which they are employed.

F. Any persons licensed, certified, or registered under any other provision of the state law, the Institute of Reality Therapy, under the rules of the Louisiana Supreme Court practicing those arts, utilizing counseling, and utilizing those titles that are allowed and within the standards and ethics of their profession or within new areas of practice that represent appropriate extensions of their profession.

G. Any person employed on July 20, 1987 by a corporation devoted solely to the practice of disability management and who does not hold himself out as an individually licensed "professional counselor" pursuant to R.S. 37:1103(2) and who receives a salary and does not share in the revenues generated by his individual endeavors.

H. Any priest, rabbi, Christian Science practitioner, or minister of the gospel of any religious denomination.

I. Any person with a master's degree in counseling or a related field licensed and/or certified by a national certifying agency while practicing counseling under the supervision of a licensed professional counselor.

J. Any person with a master's degree in counseling or a related field licensed and/or certified by a national certifying agency.

Chapter 19. License Without Examination

§1901. License Without Examination

As prescribed in R.S. 37:1108, for a period of one year from the effective date of Act 892, July 20, 1987, the board shall waive both written and oral examination and shall issue a license as a licensed professional counselor to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by such fees required by R.S. 37:1106, and who furnishes satisfactory evidence to the board that he:

1. is at least 21 years old;
2. is of good moral character;
3. is a citizen of the United States or has legally declared his intention of becoming such;
4. is a resident of Louisiana or is in the act of establishing residency in the state of Louisiana;
5. is not in violation of any of the provisions of R.S. 37:1101-1115 and the rules and regulations adopted hereunder.
6. has received a graduate degree which is in mental health counseling or a closely related field in content from a regionally accredited institute of higher education or has a bach-

elor's degree in behavioral science and five years post-baccalaureate experience as a professional counselor, or bachelor's degree and ten years post-baccalaureate experience as a professional counselor and is certified as a counselor by a national counseling certifying agency.

7. can document a minimum of 3,000 hours of professional counseling experience over a minimum of two years post-master's or five years post-bachelor's degree experience in professional mental health counseling acceptable to the board. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the master's degree, provided that such hours are clearly related to the field of mental health counseling and are acceptable to the board. In no case shall the applicant have less than 2000 hours of supervised experience.

§1903. Completion of Licensure Process

Applicants who apply for a license upon a form prescribed by the board before the termination of the license without examination period, R.S. 37:1108, are granted a term of six months to furnish the board with all information and documents required for said license under R.S. 37:1108.

§1905. Reciprocity During License without Examination

Upon application accompanied by fee during the license without examination period, the board will issue a license to any person who furnishes satisfactory evidence that he is licensed as a professional counselor in Arkansas, Florida, Georgia, Maryland, Montana, Ohio, Oklahoma, Texas, or Virginia. No applications received after July 25, 1988 will be processed for reciprocity.

Thomas W. Hosie, Ph.D.
Board Chairman

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 in accordance with the applicable provisions of the Administrative Procedure Act, has adopted the following rules governing the criteria and procedure for reinstatement of licensure by physicians and surgeons whose licenses have lapsed by nonrenewal. La. Administrative Code 46:XLV.1181. The proposed rule amendment, which appeared as a proposed rule by notice of intent previously published in the *Louisiana Register*, LR 11:693-94 (Nov. 20, 1987), is set forth below.

§1181. Reinstatement of License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided, provided that application for reinstatement is made within four years of the date of expiration.

B. With respect to an application for reinstatement made more than one year from the date on which the license expired, as a condition of reinstatement, the board may require:

1. that the applicant complete a statistical affidavit, upon a form supplied by the board, and provide the board with a recent photograph;

2. that the applicant possess a current, unrestricted license issued by another state; and/or

3. if the applicant does not at the time of the application for reinstatement possess a current, unrestricted license issued by another state, that the applicant take and successfully pass all or a designated portion of the FLEX, or its successor examination.

C. An applicant whose medical license has been revoked, suspended or placed on probation by the licensing authority of another state or who has voluntarily or involuntarily surrendered his medical license in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges, following the date on which his Louisiana medical license expired, shall be deemed ineligible for reinstatement of licensure.

D. An application for reinstatement of licensure meeting the requirements and conditions of this Section may nonetheless be denied for any of the causes for which an application for original licensure may be refused by the board as specified in R.S. 37:1285.

E. An applicant ineligible for reinstatement of licensure under this Section may apply to the board for an initial original or reciprocal licensure pursuant to the applicable rules of this Chapter.

F. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable physicians of the former licensee's last professional location, together with the applicable renewal fee and examination fees, if any, plus a penalty computed as follows:

1. If the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee.

2. If the application for reinstatement is made more than two years but less than three years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

3. If the application for reinstatement is made more than three years from the date of license expiration, the penalty shall be equal to three times the renewal fee.

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. 37:1270B(1) and (6) and R.S. 37:3351-61, and in accordance with the applicable provisions of the Administrative Procedure Act, has adopted the following rule amendments and rules governing the qualifications for licensure of respiratory therapists and respiratory therapy technicians. The proposed rule amendments, which appeared as proposed rule amend-

ments by notice of intent previously published in the *Louisiana Register*, LR 11:694-95 (Nov. 20, 1987), are set forth below.

1. Subparagraph 4 of Paragraph A of § 2507 of Part XLV of Title 46 of the Louisiana Administrative Code is amended so that, as amended, said Subparagraph shall provide as follows:

§2507. Requirements for Licensure of Respiratory Therapist

A. To be eligible and qualified to obtain a respiratory therapist license, an applicant shall:

* * *

4. possess current credentials as a registered respiratory therapist granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; provided, however, that an applicant who has failed such written examination four times shall not thereafter be eligible for licensure in Louisiana.

* * *

2. Subparagraph 4 of Paragraph A of § 2509 of Part XLV of Title 46 of the Louisiana Administrative Code is amended so that, as amended, said Subparagraph shall provide as follows:

§2509. Requirements for Licensure of Respiratory Therapy Technician

A. To be eligible and qualified to obtain a respiratory therapy technician license, an applicant shall:

* * *

4. possess at least one of the following credentials:
a. current credentials as a certified respiratory therapy technician granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; provided, however, that an applicant who has failed such written examination four times shall not thereafter be eligible for licensure in Louisiana; or

b. be a graduate of a respiratory therapy technician program approved by the American Medical Association or its successor and have taken and successfully passed the examination administered by the board as further detailed in §§ 2519 and 2537 of this Chapter; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana; or

c. a temporary license issued in accordance with the provisions of § 2547B of these rules and who has taken and passed the licensing examination administered by the board; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana.

* * *

3. Section 2536 of Part XLV of Title 46 of the Louisiana Administrative Code is adopted to provide as follows:

§2536. Restriction, Limitation on Examination

With respect to any written examination the successful passage of which is a condition to any license or permit issued under this Chapter, an applicant having failed to obtain a passing score upon taking any such examination four or more times shall not thereafter be considered eligible for licensing.

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, shall adopt the following rule in the Food Stamp Program.

This revision is mandated by federal regulations as published in the *Federal Register*, Vol. 52, No. 188, Tuesday, September 29, 1987, pages 36390-36400. This was adopted as an emergency rule.

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

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

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

(1) a supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);

(2) a halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

(3) a temporary accommodation in the residence of another individual; or

(4) a place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

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

RULE

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

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

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

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

Public Law 100-77 amended the Food Stamp Act to allow a parent with his/her minor children to live with the parent's sibling and be considered a separate household if the parent with the minor children purchases food, and prepares meals separately from the parent's siblings. It also provides that an individual who is the parent of minor children, along with that individual's children or spouse may be granted separate household status if the individual and his/her children

are living with the individual's parent and purchasing and preparing meals separate from the parent. These households' certification period shall not exceed six months.

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

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

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. 12, dated December 20, 1987.

RULE

Dispensing Fee Determination

A. Dispensing Fee Survey

The state agency shall set the dispensing fee by taking into account the results of surveys of the costs of pharmacy operation.

B. Survey Methodology

The agency shall select participating providers through use of a random sample. Participation of selected providers shall be mandatory. Any providers who have less than 12 months of available operating data shall be replaced with replacement providers selected randomly to assure the integrity of the survey. Information submitted by participants shall be desk reviewed for accuracy and completeness. Field examination of a representative sample of participants shall be primarily random, but geographic location and type of operation shall be taken into consideration in order to ensure examination of pharmacies in various areas of the state and representative of various types of operations.

C. Cost Finding Procedures

The basic analytical rationale used for cost finding procedures shall be that of full costing. Under full costing, all costs associated with a particular operation are summed to find the total cost. The objective of cost finding shall be to estimate the cost of dispensing prescriptions through generally accepted accounting principals.

D. Inflation Adjustment

Where data collected from participating pharmacies represents varying periods of time, cost and price data may be adjusted for the inflation that occurred over the relevant period. The appropriate *market basket* indicator of the Consumer Price Index produced by the U. S. Department of Labor, Bureau of Labor Statistics shall be utilized.

E. Usual and Customary Survey

In addition to cost finding procedures, a usual and customary survey shall be included in the survey instrument. This instrument shall be used to determine the following:

1. an average usual and customary charge, or gross margin, for each pharmacy;

2. the computation of the net margin per prescription (gross margin less computed dispensing cost per prescription) in order to approximate the average profit per prescription;

3. the computation of the average percentage of markup per prescription.

F. Statistical Analysis

Statistical analysis shall be undertaken to estimate the cost to pharmacies of dispensing prescriptions. Such analysis shall include, but not be limited to:

1. an average dispensing cost for all pharmacies;

2. analysis of the correlations among dispensing costs and parameters deemed relevant to pharmacy costs;

3. the statistical relationship between independent variables and dispensing cost shall be analyzed using the techniques of simple linear and stepwise multiple regression. Independent variables may include annual volume of prescriptions filled, pharmacy location, type of ownership and number of Medicaid claims paid. Before regression analysis is performed, efforts shall be made to insure that the data collected during the surveys was accurate and representative, and that errors made during data entry are corrected. Efforts should include tabulations, cross tabulations, data plotting, and visual data inspection.

G. Survey Results

The agency shall consider survey results in determining whether the dispensing fee should be increased or decreased. The agency may review the survey data and establish a reasonable dispensing fee based on all or any combination of factors included or not included in the survey results.

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. 12, dated December 20, 1987.

Federal Maximum Allowable Cost (MAC) regulations which are utilized in determining ingredient cost are hereby repealed. Prescribed drugs are reimbursed as follows:

I. Methods of Payment

Maximum and minimum payment rates for medications - pharmacy or dispensing physician are as follows:

A. Maximum Pharmaceutical Price Schedule

The maximum payment by the agency for a prescription shall be no more than the cost of the drug established by the state plus the established dispensing fee.

Each pharmacy's records shall establish that the established dispensing fee paid by the Medical Assistance Program for prescriptions does not exceed the dispensing fee paid by others. This also applies to the payment for insulin and diabetic testing agents and indwelling catheters and catheterization trays for

which the dispensing fee may not exceed 50 percent of the wholesale price.

B. Payment for Medications to Dispensing Physician

Payment will be made for medications dispensed by a physician on a continuing basis only when his main office is more than five miles from a facility which dispenses drugs.

Under the above circumstances, vendor payment (when the treating prescriber dispenses his own medications and bills the Medical Assistance Program under his own name or the name of his own clinic or hospital) will be made on the same basis as a pharmacist as specified in Paragraph A above.

II. Standards for Payment

A. Payment will be made for medications in accordance with the payment procedures for any eligible person who has identified himself to the provider by presenting his identification card which shows his eligibility. State office advises participating pharmacists regarding payable medication.

B. The pharmacy must be licensed to operate in Louisiana except:

1. as provided for a person residing near the state line; or
2. as provided for a recipient visiting out-of-state.

C. Payment will be made only to providers whose records are subject to audit.

D. Payment will be made to providers only for medications furnished to persons eligible for medical vendor payments on a prescription written by a licensed physician or dentist.

E. Payments will be made only for the drugs covered under the Medical Assistance Program's Pharmacy Program.

1. Definitions

Brand Name means any registered trade name commonly used to identify a drug.

Estimated Acquisition Cost (EAC) means the Average Wholesale Price of the drug dispensed, identified by the manufacturer number, product number, and package number usually purchased by a provider, from a supplier whose products are generally available to all pharmacies and reported in one or more national compendia. EAC for drug products supplied through repackaging into smaller quantities by chain drugstore central purchasing shall be based on the package size purchased by the central purchasing unit. Supporting documentation (invoices) shall be made available to the agency or its designee upon request. If the package size is larger than the largest size listed by the Louisiana program, then EAC will be based on the largest size listed in the American Druggist Blue Book or other national compendia utilized by the state to update the Medicaid Management Information System (MMIS).

Average Wholesale Price (AWP) means the price of a drug product as reported to the agency by the American Druggist Blue Book or other national compendia utilized by the state to update the Medicaid Management Information System. Where more than one price is reported for the same drug product, the agency shall determine which price best reflects availability to providers. The state agency's determination of availability shall not be subjugated by any other group.

Multiple Source Drug means a drug marketed or sold by two or more manufacturers or labelers or a drug marketed or sold by the same manufacturer or labeler under two or more different proprietary names or both under a proprietary name and without such a name.

2. Federal Upper Limits for Multiple Source Drugs

a. Except for drugs subject to "Physician Certification," the Medical Assistance Program shall utilize listings established

by HCFA that identify and set upper limits for multiple source drugs that meet the following requirements:

(1) All of the formulations of the drug approved by the Food and Drug Administration (FDA) have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or in successor publications);

(2) At least three suppliers list the drug (which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally.

b. The Medical Assistance Program shall utilize the upper limits established by HCFA in determining Multiple Source Drug Cost.

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

d. The Medical Assistance Program shall provide pharmacists who participate in Title XIX reimbursement with updated lists reflecting the multiple source drugs subject to federal multiple source drug cost requirements, the maximum reimbursement amount per unit, and the date such costs shall become effective.

3. Louisiana Maximum Allowable Cost (LMAC) Limits for Multiple Source Drugs

The LMAC, determined and calculated for a multiple source drug (as defined in 42 CFR 447.301) is the median AWP cost for a specific strength/unit drug determined by listing the wholesale costs for each readily available manufacturer, labeler, etc. and taking the median of those AWP costs (one-half will be above the median cost and one-half will be below the median cost.) LMAC limits may be adjusted by the agency based on changes in the availability and EAC of the drugs.

The agency shall make determinations of which multiple source drugs are to be subject to LMAC regulation based on the availability of drugs in the Louisiana Medical Assistance Program. The availability of a drug product will be determined by review of provider claim data. Providers shall be given advance notice of any additions, deletions, or adjustments in price. A complete LMAC cost listing will be distributed periodically. In no case shall a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the LMAC limit, nor may OFS use a cost which exceeds the established maximums except for physician certification for brand name drugs.

4. Lower Of Reimbursement for Multiple Source Drugs

The agency shall make payments for multiple source drugs other than drugs subject to "Physician Certifications" based on the lower of:

a. the providers' usual and customary charges to others not to exceed the agency's "Maximum Pharmaceutical Price Schedule";

b. the agency's estimated acquisition cost (EAC) plus the agency's established dispensing fee;

c. any applicable federal upper limit for Multiple Source Drugs plus the agency's established dispensing fee; or

d. any applicable Louisiana Maximum Allowable Cost (LMAC) limit plus the agency's established dispensing fee.

5. Physician Certifications

Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is attached to the prescription. A standard phrase, in the prescriber's handwriting, such as "brand necessary" will be acceptable.

Any practice which precludes the prescriber's handwritten statement shall not be accepted as a valid certification. Such practices include, but are not limited to:

- a. a printed box on the prescription blank that could be checked by the prescriber to indicate brand necessity;
- b. a handwritten statement transferred to a rubber stamp and then stamped on the prescription blank;
- c. preprinted prescription forms using a facsimile of the prescriber's handwritten statement.

6. Other Drug Cost Limits

The agency shall make payments for drugs other than multiple source drugs and drugs subject to "Physician Certifications" based on the lower of:

- a. the agency's estimate of acquisition cost plus the agency's established dispensing fee;
- b. the providers' usual and customary charges to others not to exceed the agency's "Maximum Pharmaceutical Price Schedule."

7. General Requirements Applicable to all Prescriptions

a. For all prescriptions, the maximum quantity payable shall be a month's supply or 100 unit doses, whichever is greater. The quantity billed shall be that prescribed, unless it exceeds the maximum quantity payable in which case the maximum quantity payable shall be filled.

b. When maintenance drugs are prescribed and dispensed for chronic illnesses they shall be in quantities sufficient to effect economy in dispensing and yet be medically sound. Listed below are drugs the agency considers to be maintenance type drugs and which should be prescribed and dispensed in a month's supply:

- Anti-coagulants
- Anti-convulsants
- Oral Anti-diabetics
- Calcium Gluconate, Calcium Lactate, and Calcium Phosphate
- Cardiovascular Drugs including: diuretics, antihypertensives, and antihyperlipidemics
- Estrogens
- Ferrous Gluconate and Ferrous Sulfate
- Potassium Supplements
- Thyroid and antithyroid drugs
- Vitamins - A, D, K, B₁₂ Injection, Folic Acid, and Nicotinic Acid

c. For patients in nursing homes, the pharmacist shall bill for a minimum of a month's supply of medication unless the treating physician specifies a smaller quantity for a special medical reason.

d. Payment will not be made for narcotics prescribed only for narcotic addiction.

f. Recipients shall have free choice of pharmacy unless subject to the agency's "lock-in" procedures.

g. When services are provided the eligible person under another service plan (Hospitalization or extended care facility),

the provisions applicable to such service plans shall apply during the time the service is provided and vendor payments will not be made for medications.

h. Payment will be made for prescriptions refilled not more than five times or more than six months after issue date and only to the extent indicated by the prescriber on the original prescription and as restricted by state and federal statutes. The prescriber is required to state on the prescription the number of times it may be refilled.

i. Prescriptions shall be filled within 10 days; narcotic (classified as schedule II by the U.S. Drug Enforcement Administration) prescriptions within 24 hours.

j. A prescriber who has a suboffice in an area more than five miles from a pharmacy or other facility dispensing medications will not be paid for medication he dispenses if his main office is within five miles of a pharmacy or other facility dispensing medications.

k. When a prescriber bills the Medical Assistance Program for medications he dispenses, he shall certify that he himself, another prescriber or a pharmacist dispensed the medications and he shall maintain the same records as required of the pharmacist.

l. The manufacturer number, product number, and package number for the drug dispensed shall be listed on all claims. This information shall be taken from the actual package from which the drug is purchased by a provider. Drug products supplied through repackaging into smaller quantities by chain drug store central purchasing shall be billed by the dispensing pharmacy using the manufacturer number, product number, and package size number of the package size purchased by the central purchasing unit. If the package size is larger than the largest size listed by the Louisiana program, then the package size billed shall be the largest size listed in the American Druggist Blue Book or other national compendia used by the state to update the Medicaid Management Information System.

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

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

RULE

Department of Health and Human Resources Office of Human Development Division of Children, Youth, and Family Services

The Department of Health and Human Resources, Office of Human Development, Division of Children, Youth, and Family Services (DCYFS) proposes implementing policy revising the definition of the "Special Needs Child" on Page 2 of Section 8-710 in the DCYFS Program Policy Manual to read as follows:

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

1. race/sex/age
 - a. white boys, age 11 or older;
 - b. black boys, infants or older;

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

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

The rationale is based on the need to give specificity to age, sex, and race of children in adoptive families receiving subsidies through the Adoption Subsidy Program. The proposed revisions consider the difficulty in recruitment and placement of children of a certain age, sex, and race. This redefinition will assist in controlling the expenditures of the Adoption Subsidy Program by refining the process whereby new applicants for subsidy are reviewed and accepted initially. The new definition will be applied to all cases for whom new, (i.e., initial), applications are submitted as of February 20, 1987.

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

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

This proposal was published as an Emergency Rule in the November 20, 1987 issue of the *Louisiana Register*.

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

RULE

**Department of Health and Human Resources
Office of Human Development
Division of Children, Youth, and Family Services**

The Department of Health and Human Resources, Office of Human Development, Division of Children, Youth, and Family Services (DCYFS) is implementing policy limiting to \$300 per adoptive family, the fee paid to private attorneys by DCYFS for work performed on adoptions under the Adoption Subsidy Program, Special Services Subsidies described on page 2 of Section 8-715 of the DCYFS Program Policy Manual. This was published as an emergency rule in the November 20, 1987 issue of the *Louisiana Register*.

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

- (1) acquisition of three estimates, each in excess of \$300, for legal fees for the work;

- (2) family income; and
- (3) family size.

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

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

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

RULE

**Department of Health and Human Resources
Office of Human Development
Division of Children, Youth,
and Family Services**

The Department of Health and Human Resources, Office of Human Development, Division of Children, Youth, and Family Services (DCYFS) proposes implementing policy reducing the monthly maintenance payment according to the scale below to all Title IV-E eligible adoption subsidy program recipients having income exceeding the gross annual income as stated on page 2 of Section 8-730 of the DCYFS program policy manual. This reduction will only apply to Title IV-E eligible cases. This proposal was published as an emergency rule in the November 20, 1987 issue of the *Louisiana Register*.

Exceptions to increase the monthly maintenance payment to the next highest percentage of monthly maintenance payment in the scale for these adoption subsidy program recipients may be obtained after special reviews based on the:

- (1) number of children in the family or household,
 - (2) other special subsidy payments being provided to the family,
 - (3) number of children being adopted into the home,
 - (4) ages of the child(ren) being adopted into the home,
- and
- (5) extraordinary needs the child(ren) being adopted may have.

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

The scale will allow lower income families to continue to receive the maximum subsidy currently received (80 percent of

foster care board rate), while families with more income will receive a reduced subsidy.

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

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

RULE

Department of Health and Human Resources Office of Prevention and Recovery From Alcohol and Drug Abuse

The Department of Health and Human Resources, Office of Prevention and Recovery from Alcohol and Drug Abuse, is amending LAC 48:VII.117 to read as follows:

Title 48

PUBLIC HEALTH - GENERAL

Part VII. Alcohol and Drug Abuse Services

Chapter 1. Program Authorization

§117. Co-payment and Fee for Driving While Intoxicated Program

The Office of Prevention and Recovery from Alcohol and Drug Abuse may assess every patient in a driving while intoxicated program, to whom the office provides treatment services, a standard co-payment fee of \$20 per session, subject to applicable federal regulations. A patient whose treatment is provided by the Office of Prevention and Recovery from Alcohol and Drug Abuse through a private contractor shall not be assessed a co-payment fee as provided above. Private providers can assess fees otherwise allowable under applicable federal and state laws.

The co-payment provided shall be deposited in the state treasury pursuant to R.S. 39:136.1 and shall be accounted for by the commissioner of administration through appropriations pursuant to R.S. 39:334(6).

The commissioner of administration shall establish a separate cost center in the Office of Prevention and Recovery from Alcohol and Drug Abuse budget unit in the Department of Health and Human Resources for revenue generated. All funds not obligated shall revert to the state general fund at the end of the fiscal year.

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 will no longer inspect and regulate any fair or festival, even when requested to do so by the owner or promoter of the fair or festival or local governing authority.

This position is in accordance with R.S. 40:4.1, 40:4.2, 40:4.3, 40:4.4, 40:4.5, and 40:4.6; more specifically, Chapter 23A of the Louisiana State Sanitary Code will no longer apply to those legislatively exempt activities.

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

RULE

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

The Department of Health and Human Resources, Office of Preventive and Public Health Services has amended Chapter XIII (Sewage and Refuse Disposal) of the Sanitary Code, state of Louisiana. This rule change amends Chapter XIII to provide for an acceptable alternate form of sewage disposal for individual camps.

This amendment is necessary to allow consideration of the specified alternate system for those instances where such would be deemed the "best treatment economically available" for isolated individual camps where other forms of sewage disposal would be impractical. Language in the following sections of Chapter XIII shall be amended to read as follows:

Part I - Sewage Disposal
Subpart E - Special Applications
Section 13:022 - Paragraph 6

6. Individual camps, where no community sewage is available, shall be provided with an approved individual sewage disposal system sized for the camp as if it were a residence, and in compliance with the following:

b. if installation of a conventional disposal system is not possible (i.e. the camp is in a marsh/swamp area, located over water, etc.) and/or disinfection of the sewage system effluent would be required, the use of a system comprised of one of the following may be considered:

(1) a septic tank system consisting of three septic tanks in series (or an acceptable three-cell or three-compartment tank) followed by an automatic chlorination device/system. The first tank/cell shall have a minimum volume of 500 gallons. The second and third tanks/cells shall each have a minimum volume of 250 gallons. Each of the three septic tanks (or each compartment of a three-cell tank) shall meet all design, material and construction requirements for septic tanks as described in Section I of Appendix A of this Chapter. In addition to the construction and material requirements in Appendix A, the following restrictions/exceptions shall also apply: 1) metal tanks shall *not* be used; 2) the tanks shall be demonstrated to be watertight; 3) fiberglass tanks shall be adequately coated to prevent deterioration by ultraviolet light; 4) where multiple-compartment single tanks are used, only

one access opening, of six inch minimum diameter, per tank shall be required; and, 5) tanks set below the normal high-water level shall be anchored or otherwise secured against movement. The chlorination system shall be provided with a contact chamber of a minimum of 100 gallons, and shall be equipped with an automatic "cutoff" to prevent flow from the third septic tank/chamber if the chlorine supply is exhausted. Also, the effluent line from the chlorine contact tank shall be protected against entrance of small animals or other pests by use of a flap-type gate, screen, or other means approved by the state health officer.

(2) A U.S. Coast Guard approved type II Marine Sanitation Device (MSD).

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

RULE

Department of Health and Human Resources Office of the Secretary

Effective upon publication, the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification will implement the rules for the licensing of board and care homes. This rule is to implement R.S. 40:2151-2163 which defines a board and care home as a publicly or privately operated residence that provides personal assistance, lodging and meals for compensation to five or more adults who are unrelated to the residence licensee, operator or administrator.

For a fee, a copy of these rules for board and care homes may be obtained by writing the Division of Licensing and Certification, Box 3767, Baton Rouge, LA 70821, and requesting a copy.

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 repealed and readopted regulations in Chapter 3 of LAC 46:VII:

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part VII. Barbers

Chapter 3. Barber Demonstrator

§301. Requirements to Demonstrate

Any barber who is entitled by this board to demonstrate or hold seminars in all phases of advanced barbering such as hairstyling, hair-straightening, coloring, hair-piece fitting, styling, shaping and etc. must comply with the following.

- A. Must be a licensed barber or cosmetologist.
- B. Must abide by all the sanitation rules and regulations as

required by the Louisiana State Barber Laws.

C. Those complying with the above rules and regulations will be approved to demonstrate, or hold seminars with registered barbers, and students in hairstyling and other related services in advanced barbering after application is made in writing to the Louisiana State Board of Barber Examiners.

§303. Rules for Barber Demonstrator

A. When demonstrating or having seminars the following rules must be observed.

1. All classes must be held in private, not open to the general public.

2. All demonstrating classes will be held with all sanitation regulations observed and work must be done as approved by the board.

3. All barber shops, during the demonstration classes must keep blinds down and curtains drawn closed at all times and doors locked other than to enter or exit.

4. No advertising shall be done concerning these classes.

5. A board member, inspector or secretary may be present at all times to see that the above rules are observed.

B. Any demonstrator who fails to observe these rules and regulations may have their privileges suspended or revoked.

§305. Out-of-State Barber Demonstrator

A. Make sure before inviting someone from another state to help in a show or with any demonstrator that he or she meets and complies with the following:

1. Have available a copy of their current barber or cosmetology license available to the board for inspection while working.

§307. Barber Demonstrator Limitations

A. Demonstrators may demonstrate:

1. only to barber students that are presently enrolled in any approved Louisiana Barber College and all current Louisiana licensed barbers and/or cosmetologists in good standing.

2. not more than four days in a 30-day period to the same group, unless the demonstrator has PRIOR approval of the board.

3. as a guest to show techniques; not to teach or demonstrate on a regular basis without a valid barber instructors certificate,

B. Demonstrators who exceed the above limitations are required to hold a valid instructor (teachers) certificate.

These limitations do not cover people who teach that are not covered in the barber curriculum: such as fashion, make-up, psychology, banking business, insurance, health, management etc.

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 of Chapter 1 of LAC 46:VII:

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part VII. Barbers

Chapter 1. Shops

§107. Minimum Equipment and Supplies Required for a New Barber Shop

- A. One Chair Shop
- 3. One mirror, not less than 32 inches in diameter and/or not less than 800 square inches in size.

§113. Water Supply

- B. All barber shops shall be supplied with sanitary drinking facilities.

Kathy Berry
Secretary

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Under authority of R.S.32:1304 A and B and in accordance with the provisions of the Administrative Procedure Act, the Office of Motor Vehicles adopted the rules listed below:

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles

Chapter 9. Vehicle Emission

§907. Louisiana Parameter Vehicle Emission Inspection and Maintenance Report.

A. Form # AQTS-01 is to be used when performing the Parameter Vehicle Emission Inspection and Maintenance Inspection on 1980 and later model year passenger cars and light-duty trucks. Blank emission inspection forms may be obtained from Office of Motor Vehicles, Box 64886, 1771 N. Lodbell Avenue, Baton Rouge, LA 70896.

B. The individual vehicle reports must be submitted by public stations each week for the period covering the previous week. Dealer, fleet and government stations will be required to submit individual vehicle reports once a month for the period covering the previous month. Mail completed reports to Office of Air Quality, Box 44096, Baton Rouge, LA 70804-4096. If no inspection is made, a report is required to be submitted indicating that no inspections were made during this reporting period. Note: Failure to submit all information required on the emission report form may result in suspension or revocation of station license.

C. Use a black ink pen to complete the form (red ink will not be allowed). The form must be kept clean, unfolded, and free of grease. Print or mark the form as indicated. The form should be completed as follows:

- 1. PARISH CODE - Mark the two digit parish code as shown on form.
- 2. STATION NO. (Inspection station number of your inspection station) - Mark in space provided the number as listed on the inspection station's certificate of appointment.
- 3. DATE OF INSPECTION (MO-Month, DA-Day,

YR-Year) - Mark in space provided the number of the month, number of the day, and the year the inspection was performed. The true date of inspection must be entered.

4. MDL YR (Vehicle Model Year) - Mark the vehicle's model year in the first and second columns. For example: MDL YR 1985 - Mark number 8 in first column and mark number 5 in second column.

5. NO. CYL. (Number of cylinders in vehicle's engine) - Mark appropriate number in the space provided.

6. VEHICLE MAKE - Mark the make of the vehicle in the space provided. If the make is not printed on the form, mark "other."

7. INSPECTION PARAMETERS (Inspection parameter to be performed according to model year of vehicle). Mark in space provided the proper result of each of the parameters inspected.

8. R/R PASS - Repair or Replacement Completed - Passed

a. 1980 through 1983 year model passenger cars and light-duty trucks inspect the following:

- i. Fuel Inlet Restrictor
- ii. Catalytic Converter
- iii. Lead Test
- iv. PCV Valves and Hoses
- v. Air Injection System
- vi. Evaporative Cannister
- vii. Choke System
- viii. Exhaust Gas Recirculation System
- ix. Thermostatic Air Intake System

b. 1984 and later model year passenger cars and light-duty trucks inspect the following:

- i. Fuel Inlet Restrictor
- ii. Catalytic Converter
- iii. Lead Test
- iv. PCV Valves and Hoses
- v. Air Injection System
- vi. Evaporative Cannister
- vii. Oxygen Sensor and Valves
- viii. Choke System
- ix. Misfire
- x. Exhaust Gas Recirculation System
- xi. Thermostatic Air Intake System

9. REJECTION/REINSPECTION - Mark rejection issue if a rejection certificate was issued. Mark reinspection if this is a reinspection. If the vehicle is returning for a reinspection, a new form will be executed and the inspection certificate number issued will be shown.

10. LICENSE NUMBER OR VEH IDENTIFICATION NUMBER - Record the vehicle identification number or vehicle license plate number in the blocks provided. Leave blank any unused blocks. If there is no license plate on the vehicle, write the word "None." Out of state license, dealer's plate number, etc. are permitted.

11. CERTIFICATE NUMBER ISSUED - Mark the serial number of the vehicle inspection certificate issued in the space provided. If this is a rejection mark the rejection certificate number issued in these spaces.

12. PARTS AND LABOR; COST IN DOLLARS - Mark the cost of the parameter emission replacement or repair.

13. INSPECTOR DL. NUMBER (Certified inspectors driver's license number) - Mark in the space provided the driver's license number of the person performing the inspection. The certified inspector performing the inspection shall be re-

responsible for recording the necessary information including his driver's license number in the appropriate blocks.

LOUISIANA PARAMETER VEHICLE INSPECTION/MAINTENANCE

DO NOT USE A RED PEN OR PENCIL MARK CHOICE AS SHOWN



- CODE TO USE PARISH
- 01 Acadia
 - 02 Allen
 - 03 Ascension
 - 04 Assumption
 - 05 Avoyelles
 - 06 Beauregard
 - 07 Bienville
 - 08 Bossier
 - 09 Cado
 - 10 Calcasieu
 - 11 Caldwell
 - 12 Cameron
 - 13 Catahoula
 - 14 Claiborne
 - 15 Concordia
 - 16 De Soto
 - 17 East Baton Rouge
 - 18 East Carroll
 - 19 East Feliciana
 - 20 Evangeline
 - 21 Franklin
 - 22 Grant
 - 23 Iberia
 - 24 Iberville
 - 25 Jackson
 - 26 Jefferson
 - 27 Jefferson Davis
 - 28 Lafayette
 - 29 Lafourche
 - 30 La Salle
 - 31 Lincoln
 - 32 Livingston
 - 33 Madison
 - 34 Morehouse
 - 35 Natchitoches
 - 36 Orleans
 - 37 Ouachita
 - 38 Plaquemines
 - 39 Pointe Coupee
 - 40 Rapides
 - 41 Red River
 - 42 Richland
 - 43 Sabine
 - 44 St. Bernard
 - 45 St. Charles
 - 46 St. Helena
 - 47 St. James
 - 48 St. John The Baptist
 - 49 St. Landry
 - 50 St. Martin
 - 51 St. Mary
 - 52 St. Tammany
 - 53 Tangipahoa
 - 54 Tensas
 - 55 Terrebonne
 - 56 Union
 - 57 Vermilion
 - 58 Vernon
 - 59 Washington
 - 60 Webster
 - 61 West Baton Rouge
 - 62 West Carroll
 - 63 West Feliciana
 - 64 Winn

PARISH CODE	STATION NO.	DATE OF INSPECTION	MDL YR	NO. CYL.	VEHICLE MAKE	INSPECTION PARAMETERS				
						FUEL INLET RESTRICTOR	R/R PASS	PASS	FAIL	NA
000	0000000000	00000000	000	04	AMC FORD OPEL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
101	1010101010	10101010	101	05	AUDI GMC PLYM	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
202	2020202020	20202020	202	06	AUHE HOND PONT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
303	3030303030	30303030	303	08	AUST HYUN PORS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
404	4040404040	40404040	404	12	BMW INTE PUGT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
505	5050505050	50505050	505	16	BUCK JAGU RENA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
606	6060606060	60606060	606	07	CADI JEEP SAAB	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
707	7070707070	70707070	707	08	CHEK LINC SUBA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
808	8080808080	80808080	808	08	CHEV MAZD TOY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
909	9090909090	90909090	909	09	CHRY MEBZ TRIP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
					DODG MG VOLV	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
					FIAT OLDS OTH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		REJECTION ISSUE <input type="checkbox"/>	REINSPECTION <input type="checkbox"/>							

DO NOT USE A RED PEN OR PENCIL. PRINT YOUR CHARACTERS LIKE THIS → A B C D E F G H I J K L M N O P Q R S T U V W X Y Z 0 1 2 3 4 5 6 7 8 9

LICENSE NUMBER OR VEH IDENTIFICATION NUMBER:

CERTIFICATE NO ISSUED:

PARTS & LABOR:

INSPECTOR DL. NO:

COST IN DOLLARS:

AQTS-01 (R 2-87)

§909. Required Manuals

A. Motor Vehicle inspection stations are required to possess and maintain current editions of the Emission Control Systems Application Manual published by Cascade Automotive Resources, Inc., copies of which may be purchased from Cascade Automotive Resources, Inc., 1125 S.W. Wright Court, Troutdale, Oregon 97060-1499 or from JHD Sales and Service, 8017 Jefferson Hwy. C-2, Baton Rouge, LA 70809, Telephone (504) 926-3808.

B. This manual is to be used as a reference or secondary source of information. The Vehicle Emission Control Information label should be the primary source for determining if a vehicle was factory equipped with a specific emission control system.

John J. Politz
Assistant Secretary

RULE

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

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue and Taxation**

Chapter 11. Income: Corporation Income Tax

§1115. Modifications To Deductions From Gross Income Allowed By Federal Law

A. Dividends Received by a Corporation. R.S. 47:287.73 C(1) allows a deduction for dividends received by one corporation from another to the extent that the income from which the dividends are paid has been earned from Louisiana sources and has borne Louisiana income tax. The amount of the income from which the dividends are paid that has borne Louisiana income tax shall be determined by relating the Louisiana net taxable income to the total book net income of the declaring corporation, less adjustments.

B. Example:

During the calendar year 1986, ABC, Inc., a Louisiana corporation, derived a total Louisiana net taxable income of \$10,000 and \$10,000 of net income from Texas. The depreciation expense deducted on the tax return exceeds depreciation expense deducted on the books by \$10,000. The depletion expense deducted on the tax return exceeds depletion expense deducted on the books by \$10,000 which is a non-compensating difference. The total net income determined from the books of the corporation is \$60,000. The book income includes \$20,000 of interest on U.S. obligations that is not included in taxable income. On January 7, 1987, the corporation paid a dividend of \$30,000. The allowable deduction to recipient corporations is computed as follows:

Items	Per Books	Per Louisiana Income Tax Return
Net income	\$60,000	\$10,000
Less: Excess of tax depreciation over book depreciation	\$10,000	
Adjusted net income	\$50,000	<u>\$10,000</u>
Ratio		<u>20%</u>
Dividend paid		<u>\$30,000</u>
Allowable deduction		<u>\$ 6,000</u>

§1122. Taxes Not Deductible

A. General. R.S. 47: 287.83 provides that federal income tax levied on net income upon which no Louisiana income tax has been incurred, or upon which, for any reason whatsoever, no Louisiana income tax will be paid, is not deductible.

B. Federal Alternative Minimum Tax. Federal alternative minimum tax attributable to tax preferred items such as, but not limited to, accelerated depreciation, depletion, and intangible drilling and development cost, is not deductible. The non-deductible portion of federal alternative minimum tax after credits is the excess of the total federal alternative minimum tax after credits over the deductible portion of federal alternative minimum tax attributed to Louisiana net income.

Federal alternative minimum tax on federal alternative minimum taxable net income from sources other than tax preferred items is deductible to the extent the alternative minimum taxable net income is taxed by Louisiana. The deductible portion of federal alternative minimum tax attributable to Louisiana apportionable and allocable net income, which is taxed at alternative minimum taxable income rates, is the result obtained by multiplying the federal alternative minimum tax after credits by a fraction, the numerator of which is Louisiana apportionable and allocable net income which is taxed at alternative minimum taxable net income rates and the denominator of which is the excess of federal alternative minimum taxable income over regular federal taxable income. The determination of the amount of deductible and non-deductible federal alternative minimum tax is illustrated by the following example.

C. Example: The ABC Corporation earns 100 percent of its net income in Louisiana. ABC Corporation is on a fiscal year beginning 7-1-87 and ending 6-30-88. ABC's regular federal taxable income for fiscal year ending June 30, 1988, was \$200,000 and regular federal income tax was \$56,250. Book net income before federal income tax was \$450,000. Of the total difference between book and tax net income, \$150,000 was due to the tax preferred item, excess tax

depreciation expense over book depreciation expense, and \$100,000 was due to interest income earned on municipal bonds exempt from regular federal income tax, but not from Louisiana income tax. Louisiana apportionable and allocable net income before the federal income tax deduction is \$300,000.

Computation of Alternative Minimum Taxable Income

1. Regular Federal taxable income	\$200,000
2. Income from tax preferred items (excess tax depreciation over book depreciation expense)	\$150,000
3. Book income adjustment (interest on municipal bonds issued by a state or its political subdivisions other than Louisiana \$100,000 multiplied by 50%)	<u>\$ 50,000</u>
4. Alternative minimum taxable income (AMTI, the sum of lines 1, 2 and 3)	<u>\$400,000</u>

Computation of Alternative Minimum Tax

5. Alternative minimum taxable income (AMTI from line 4)	\$400,000
6. Less exemption	-0-
7. AMTI after exemption	\$400,000
8. Federal alternative minimum tax rate	20%
9. Tentative alternative minimum tax (line 7 multiplied by line 8)	\$ 80,000
10. Less credits	-0-
11. Less regular federal income tax (after credits)	<u>\$ 56,250</u>
12. Alternative minimum tax (AMT line 9 minus line 11)	<u>\$ 23,750</u>

Computation of Alternative Minimum Tax Attributable to Louisiana Net Income Which is Taxed at AMTI Rates

13. Louisiana allocable and apportionable net income	\$300,000
14. Less: 1. Louisiana net income which is taxed at federal ordinary and alternative capital gain tax rates \$200,000	
2. Louisiana net income which is not taxed by federal (interest on municipal bonds \$100,000 multiplied by 50 percent)	\$250,000
15. Louisiana net income which is taxed at AMTI rates (line 13 minus line 14)	\$ 50,000
16. Excess of AMTI over regular federal taxable income (\$400,000 minus \$200,000)	\$200,000
17. Ratio (Louisiana net income which is taxed at AMTI rates over the excess of AMTI over regular federal taxable income, line 15 divided by line 16)	25%
18. AMT (from line 12)	\$ 23,750
19. AMT deductible (the amount attributable to Louisiana net income which is taxed at AMTI rates, line 18 multiplied by line 17)	\$ 5,938
20. AMT not deductible (line 18 minus line 19)	<u>\$ 17,812</u>

D. Net Operating Loss Carryback. Federal income tax deducted from Louisiana net income in taxable periods to which a net operating loss is carried back shall be computed to determine the amount of federal income tax attributable to net income which is taxed by the federal but which is not taxed by Louisiana as a result of a net operating loss carryback. Federal income tax attributable to net income which is

not taxed by Louisiana as a result of a net operating loss carryback is the excess of allowable federal income tax deducted from Louisiana net income before the net operating loss carryback over the allowable deduction after the net operating loss carryback. The federal income tax attributable to net income which is not taxed by Louisiana shall be treated as a reduction to the net operating loss deduction. If the amount of federal income tax attributable to net income which is not taxed by Louisiana exceeds the Louisiana net operating loss deduction, such excess shall be treated as income in the year of the transaction that gave rise to the excess. These principles are illustrated in the following examples.

E. Examples:

Example 1

The ABC Corporation does not include its net income in a consolidated federal income return as provided by Section 1501 of the Internal Revenue Code. ABC files state and federal income tax returns on a calendar year basis. ABC Corporation's net income and other financial information used to file state and federal income tax returns for the four-year period ending December 31, 1987, include the following:

Taxable periods	1984	1985	1986	1987
Federal net income or (loss)	\$2,000,000	\$4,000,000	\$5,000,000	\$ 600,000
Louisiana net income or (loss)	1,200,000	1,800,000	3,000,000	(1,000,000)
Federal income tax	800,000	1,600,000	2,000,000	240,000
Federal income tax deducted from Louisiana net income	467,280	706,240	1,171,200	-0-
State income tax deducted from federal net income but not Louisiana net income	57,500	86,000	144,000	-0-
Income tax apportionment ratio	55%	40%	50%	50%
Louisiana taxable income	\$ 732,720	\$1,093,760	\$1,828,800	-0-

ABC Corporation elects to carry their 1987 Louisiana net operating loss back to 1984 pursuant to R.S. 47:287.86. Federal income tax attributable to net income which is not taxed by Louisiana as a result of the net operating loss carryback is computed as follows:

1. Louisiana net income, 1984	\$1,200,000
2. Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500
Multiplied by the income tax apportionment ratio	55%
Balance	\$31,625
Louisiana net operating loss, 1987	\$1,000,000
Adjustment	\$1,031,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)	\$ 168,375
4. Federal net income, 1984	\$2,000,000
5. Ratio (line 3 divided by line 4)	8.4188%
6. Federal income tax, 1984	\$ 800,000
7. Allowable federal income tax deduction after the Louisiana net operating loss carryback (line 6 multiplied by line 5)	\$ 67,350
8. Federal income tax deducted from Louisiana net income before the net operating loss carryback	\$ 467,280
9. Federal income tax attributable to net income which is not taxed by Louisiana (line 8 minus line 7)	\$ 399,930
10. Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana	\$1,000,000

11. Federal income tax attributable to net income which is not taxed by Louisiana (from line 9)	\$ 399,930
12. Louisiana net operating loss after deduction for federal income tax attributable to net income which is not taxed by Louisiana (line 10 minus line 11)	\$ 600,070

Example 2

Assume the same facts in Example 1 except that the ABC Corporation sustained a \$2,000,000 federal net operating loss in 1987 and elects to carry the federal loss back to 1984. Federal income tax after the net operating loss carryback is zero.

1. Louisiana net income, 1984	\$1,200,000
2. Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500
Multiplied by the income tax apportionment ratio	55%
Balance	\$31,625
Louisiana net operating loss, 1987	\$1,000,000
Adjustment	\$1,031,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)	\$ 168,375
4. Federal net income, 1984	\$2,000,000
5. Federal net operating loss carryback from 1987	(\$2,000,000)
6. Federal net income after federal net operating loss carryback from 1987 (line 4 minus line 5)	-0-
7. Ratio (line 3 divided by line 6)	-0-
8. Federal income tax after the federal net operating loss carryback	-0-
9. Allowable federal income tax deduction after the net operating loss carryback (line 8 multiplied by line 7)	-0-
10. Federal income tax deducted from Louisiana net income before the net operating loss carryback	\$ 467,280
11. Federal income tax attributable to net income which is not taxed by Louisiana, (line 10 minus line 9)	\$ 467,280
12. Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana	\$1,000,000
13. Federal income tax attributable to net income which is not taxed by Louisiana (from line 11)	\$ 467,280
14. Louisiana net operating loss after deduction for federal income tax attributable to net income which is not taxed by Louisiana (line 12 minus line 13)	\$ 532,720

Example 3

Assume the same facts in Examples 1 and 2 except that the Louisiana and federal net operating losses in 1987 are \$350,000 and \$1,800,000 respectively. Federal income tax after the net operating loss carryback is \$80,000.

1. Louisiana net income, 1984	\$1,200,000
2. Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500
Multiplied by the income tax apportionment ratio	55%
Balance	\$31,625
Louisiana net operating loss, 1987	\$350,000
Adjustment	\$ 381,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)	\$ 818,375
4. Federal net income, 1984	\$2,000,000
5. Federal net operating loss carryback from 1987	(\$1,800,000)
6. Federal net income after federal net operating loss carryback from 1987 (line 4 minus line 5)	\$ 200,000
7. Ratio (line 3 divided by line 6)	100%
8. Federal income tax after the federal net operating loss carryback	\$ 80,000

9.	Allowable federal income tax deduction after the net operating loss carryback, (line 8 times line 7)	\$ 80,000
10.	Federal income tax deducted from Louisiana net income before the net operating loss carryback	\$ 467,280
11.	Federal income tax attributable to net income which is not taxed by Louisiana, 1984 (line 10 minus line 9)	\$ 387,280
12.	Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana	\$ 350,000
13.	Federal income tax attributable to net income which is not taxed by Louisiana (from line 11)	\$ 387,280
14.	Louisiana net operating loss after deduction for the amount of federal income tax attributable to net income which is not taxed by Louisiana (line 12 minus line 13)	-0-
15.	Additional Louisiana taxable income for 1987 due to the excess of federal income tax attributable to net income which is not taxed by Louisiana over the Louisiana net operating loss (line 13 minus line 12)	\$ 37,280

F. Definitions. For the purposes of this Section, *alternative minimum tax*, *regular federal income tax*, *alternative tax on capital gains*, and *regular tax on ordinary net income* are defined as provided in Section 1123 F.

§1123. Federal Income Tax Deduction

A. General. R.S. 47:287.85 C permits corporations to claim as a deduction in computing net income that portion of the federal income tax levied with respect to the Louisiana net income, which is applicable to the year for which the Louisiana return is filed, regardless of the method of accounting utilized (cash, accrual, etc.). For determination of the deductible amount of federal alternative minimum tax attributable to Louisiana net income, refer to Section 1122. When a corporation includes its net income in a consolidated federal income tax return, total federal income tax for the purpose of this Section shall be the amount determined pursuant to Subsection E of this Section.

B. Computations. The deductible portion of the federal income tax, the tax attributable to Louisiana income, is the sum of the amounts determined in 1 and 2 below.

1. The deductible portion of federal income tax attributable to Louisiana apportionable and allocable net income which is taxed at alternative capital gain rates is the result obtained by multiplying the federal income tax which is calculated at alternative capital gain rates by a fraction, the numerator of which is Louisiana apportionable and allocable net income which is taxed at alternative capital gain rates and the denominator of which is federal net income which is taxed at alternative capital gain rates.

2. The deductible portion of federal income tax attributable to Louisiana apportionable and allocable net income, less adjustment for the net operating loss deduction if applicable, which is taxed at ordinary rates, is the result obtained by multiplying the federal income tax which is calculated at ordinary rates by a fraction, the numerator of which is Louisiana apportionable and allocable net income, less adjustment for the net operating loss deduction if applicable, which is taxed at ordinary rates and the denominator of which is federal net income which is taxed at ordinary rates.

C. Numerator. The numerator to be used in B above shall be determined as set forth in Paragraphs 1 and 2 below.

1. The numerator in the case of Louisiana net income which is taxed by federal at alternative capital gain rates is the sum of:

a. the amount of net apportionable and net allocable income, subject to tax at alternative capital gain rates for fed-

eral income tax purposes, apportioned and allocated to Louisiana;

b. any compensating item of income attributable to Louisiana and which is taxed by federal at alternative capital gain rates but which is not taxed by Louisiana; and

c. any compensating loss item of income, of a character which would be allowable by federal in arriving at income which is taxed at alternative capital gain rates, attributed to and allowed by Louisiana but not allowed by federal, reduced by the sum of:

d. any compensating item of income, of a character which would be subject to tax by federal at alternative capital gain rates, attributed to and taxed by Louisiana but which is not taxed by federal;

e. any compensating loss item of income attributable to Louisiana and allowed by federal in arriving at income which is taxed at alternative capital gain rates but not allowed by Louisiana; and

f. any excess of the sum of:

i. any non-compensating loss item of income attributable to Louisiana and allowed by federal in arriving at income which is taxed at alternative capital gain rates, but not allowed by Louisiana, and

ii. any non-compensating item of income, of a character which would be subject to tax by federal at alternative capital gain rates, attributed to and taxed by Louisiana but which is not taxed by federal, over

iii. any non-compensating loss item of income, of a character which would be allowable in arriving at income which is taxed at alternative capital gain rates by federal, attributed to and allowed by Louisiana but not allowed by federal.

2. The numerator in the case of Louisiana net income which is taxed by federal at ordinary rates is the sum of:

a. the amount of net apportionable and net allocable income, less adjustment for the net operating loss deduction if applicable, subject to tax at ordinary rates for federal income tax purposes, apportioned and allocated to Louisiana;

b. any compensating item of gross income attributable to Louisiana and taxed by federal at ordinary rates but which is not taxed by Louisiana; and

c. any compensating item of deduction, of a character which would be allowable by federal in arriving at income which is taxed at ordinary rates, attributed to and allowed by Louisiana but not allowed by federal, and not attributable to any item of gross income taxable by Louisiana but not by federal; reduced by the sum of:

d. any compensating item of gross income, which would be subject to tax by federal at ordinary rates, attributed to and taxed by Louisiana but which is not taxed by federal;

e. any compensating item of deduction attributable to Louisiana and allowed by federal in arriving at income which is taxed at ordinary rates but not allowed by Louisiana;

f. any excess of the sum of:

i. any non-compensating item of deduction attributable to Louisiana and allowed by federal in arriving at income which is taxed at ordinary rates, but not allowed by Louisiana, and not attributable to any item of gross income taxable by federal but not by Louisiana; and

ii. any non-compensating item of gross income, of a character which would be subject to tax at ordinary rates, attributed to and taxed by Louisiana but which is not taxed by federal; over

iii. any non-compensating item of deduction, which would be allowable by federal in arriving at income which is taxed at ordinary rates, attributed to and allowed by Louisiana but not allowed by federal, and not attributable to any item of gross income taxable by Louisiana but which is not by federal.

D. Example: The following example illustrates these principles:

1. Facts. The income reported and deductions claimed by ABC, Inc., a Delaware corporation having its commercial domicile in Louisiana and having several places of business outside this state, are reflected below. The difference between the federal depreciation deduction and the depreciation deducted in arriving at total net income is a compensating item. One-half of the total royalty income, depletion, and other expenses related thereto are attributable to a Louisiana oil property. There are \$15,000 in expenses attributable to the royalty income in addition to the depletion deduction. The portion of net income from royalties allocable to Louisiana is \$25,000. Of the total profit from the sale of capital assets, \$25,000 is allocable to Louisiana.

Items R E T U R N S	
	Federal	Louisiana
Income		
Gross profit from sales	\$ 1,400,000	\$ 1,400,000
Royalties	100,000	100,000
Interest-Bond, State of Mississippi	-0-	5,000
Interest-Bond, U.S. Government	5,000	-0-
Long-term gain from sale of capital assets	100,000	100,000
Total income	<u>\$ 1,605,000</u>	<u>\$ 1,605,000</u>
Deductions		
Louisiana income tax	\$ 10,000	\$ -0-
Officers' compensation	50,000	50,000
Repairs	10,000	10,000
Interest	15,000	15,000
Bad debts	5,000	5,000
Depletion	27,500	35,000
Depreciation	25,000	35,000
Contributions	5,000	5,000
Other deductions	350,000	350,000
Total deductions	<u>\$ 497,500</u>	<u>\$ 505,000</u>
Net Income	<u>\$ 1,107,500</u>	<u>\$ 1,100,000</u>
Federal income tax--		
Ordinary income	\$518,400	
Capital gains	25,000	
Total	<u>\$543,400</u>	

The taxpayer files on the apportionment basis and the following computation discloses the net allocable and net apportionable income derived from Louisiana sources:

Total net income		\$1,100,000
Deduct allocable income		
Profit from sale of capital assets	\$ 100,000	
Interest-Bonds, State of Mississippi	5,000	
Net royalty income	50,000	\$ 155,000
Net income for apportionment		<u>\$ 945,000</u>
Net income apportioned to Louisiana (20% of \$945,000)		\$ 189,000
Add Louisiana allocable income		
Interest	\$ 5,000	
Profit from sale of capital assets	25,000	
Royalty income	25,000	55,000

Total Louisiana apportionable and allocable income		<u>\$ 244,000</u>
2. Computations		
Net income apportioned and allocated to Louisiana	\$ 219,000	\$ 25,000
Add: Compensating items of income		
attributable to Louisiana and taxed by federal but which is not taxed by Louisiana	-0-	-0-
Compensating items of deduction		
attributed to Louisiana and allowed by Louisiana but not allowed by federal depreciation (20% of \$10,000)	2,000	-0-
Total:	\$ 221,000	\$ 25,000
Deduct: Compensating items of income		
attributed to and taxed by Louisiana but not taxed by federal		-0-
Compensating items of deduction		
attributable to Louisiana and allowed by federal but not allowed by Louisiana	-0-	-0-
TOTAL:	\$ 221,000	\$ 25,000
Excess of the sum of		
Non-compensating items of deduction attributable to Louisiana and allowed by federal but not allowed by Louisiana		
Louisiana income tax (20% of \$10,000)*	\$ 2,000	
Non-compensating items of gross income attributed to and taxed by Louisiana but which is not taxed by federal		
bond interest - State of Mississippi	5,000	
Total	\$ 7,000	
Over		
Non-compensating items of deduction attributed to and allowed by Louisiana but not allowed by federal		
depletion on oil royalties	\$ 3,750	
Excess	\$ 3,250	-0-
Louisiana net income which is taxed by federal		
	\$ 217,750	\$ 25,000
Federal net income	\$1,007,500	\$ 100,000
Ratio	21.61%	25.00%
Federal income tax liability	\$ 518,400	\$ 25,000
Deductible federal income tax		
21.61% of \$518,400	\$ 112,026	
25% of \$25,000		\$ 6,250
		<u>112,026</u>
Grand Total		<u>\$ 118,276</u>

* Where the separate method of reporting is used, the entire amount of Louisiana income tax deducted in the federal return is attributed to Louisiana under this item.

E. Consolidated Returns. When a corporation includes its net income in a consolidated federal income tax return, the portion of the consolidated federal income tax after credits attributable to such corporation shall consist of the sum of the amounts determined in Paragraphs 1, 2, and 3 below:

1. The consolidated "regular tax on ordinary net income" multiplied by the percentage determined by a fraction, the numerator of which is regular tax on ordinary net income of each member of the consolidated group computed on a separate return basis and the denominator of which is regular tax of all members of the group so computed, plus

2. The consolidated "alternative tax on net capital gains" multiplied by the percentage determined by a fraction, the numerator of which is alternative tax on net capital gains of each member of the consolidated group computed on a separate return basis and the denominator of which is alternative tax on net capital gains of all members of the group so computed, plus

3. The consolidated "alternative minimum tax" multiplied by the percentage determined by a fraction, the numerator of which is alternative minimum tax of each member of the consolidated group computed on a separate return basis and the denominator of which is alternative minimum tax of all members of the group so computed.

F. Definitions.

1. *Income taxed* means income included in taxable income, regardless of whether tax has been paid thereon.

2. *Item of deduction* means each individual deduction rather than each category of deduction, and includes loss items of gross income. For example, the amount of depreciation on a particular property, as distinguished from the amount of depreciation on all properties of the taxpayer, would be an item of deduction. Similarly, the term *item of income* means each amount of income rather than each category of income. The amount of a Louisiana item of income or deduction is the amount apportioned or allocated to Louisiana. Thus, where a taxpayer has a 10 percent apportionment ratio and has an item of deduction of \$10,000 allowed by Louisiana in arriving at apportionable net income but not allowed by federal, the amount of the Louisiana item is 10 percent of \$10,000 or \$1,000.

3. *Non-compensating item* means any item of difference between federal and Louisiana income or deductions for a particular year other than a compensating item as defined below.

4. *Compensating item* means any difference in any deduction or item of income for a particular year arising solely by reason of the fact that the item is accounted for in different periods for federal and Louisiana income tax purposes. However, if a larger federal income tax deduction would be allowable were an item treated as a compensating item than would be allowable were the item treated as a non-compensating item, the item is a compensating item only to the extent that it is equal to the result obtained by multiplying the difference in the item by a fraction determined as follows:

a. In the case of a deduction:

i. the numerator shall be the excess, if any, of the amount of the item allowed by federal over the amount allowed by Louisiana in each prior year in which the federal allowance exceeded the Louisiana allowance and which has been taken into consideration fully in determining the allowable federal income tax deduction for Louisiana income tax purposes for such prior years, plus the excess, if any, of the amount of the item to be allowed by federal over the amount to be allowed by Louisiana in each future year in which the federal allowance will exceed the Louisiana allowance and which reasonably can be expected to be taken into consideration in determining the allowable federal income tax deduction for Louisiana income tax purposes in such future years;

ii. the denominator shall be the total of all excesses of the amount of the item allowed by federal over the amount of the item allowed by Louisiana in each prior year and of all excesses of the amount of the item to be allowed by federal over the amount to be allowed by Louisiana in each future

year.

b. In the case of an item of income:

i. the numerator shall be the excess, if any, of the amount of the item taxed by Louisiana over the amount taxed by federal in each prior year in which the amount taxed by Louisiana exceeded the amount taxed by federal and which has been fully taken into consideration in determining the allowable federal income tax deduction for Louisiana income tax purposes for such prior years, plus the excess, if any, of the amount of the item to be taxed by Louisiana over the amount to be taxed by federal in each future year in which the amount to be taxed by Louisiana will exceed the amount to be taxed by federal and which can reasonably be expected to be fully taken into consideration in determining the allowable federal income tax deduction in such future years for Louisiana income tax purposes;

ii. the denominator shall be the total of all excesses of the amount of the item taxed by Louisiana over the amount taxed by federal in each prior year and of all excesses of the amount of the item to be taxable by Louisiana over the amount to be taxable by federal in each future year.

5. The term *taken into consideration fully in determining the allowable federal income tax deduction for Louisiana income tax purposes for . . . prior years* as used in this Section means fully used in reducing the amount of the federal income tax deduction for such prior years. The purpose of this provision is to allow an adjustment for an item which will increase the federal income tax deduction only to the extent that adjustments applicable to the item in prior years were used to decrease the federal income tax deduction. Similarly, the term *to be fully taken into consideration in determining the allowable federal income tax deduction in . . . future years for Louisiana income tax purposes* means to be used fully in reducing the amount of the federal income tax deduction for such future years.

6. *Regular tax on ordinary net income* means the federal net tax liability imposed on net income after net income is reduced by the amount of net capital gain subject to alternative tax rates, less credits.

7. *Alternative tax on capital gains* means the net tax liability imposed by Section 1201(a)(2) of the Internal Revenue Code on net capital gains, less credits.

8. *Alternative minimum tax* means the excess of the federal tentative minimum tax after credits for the tax year, over the federal regular tax after credits for the taxable year.

9. *Regular federal income tax* means the sum of the tax defined in Paragraphs 6 and 7 above.

G. Special rules

1. The computations prescribed in Subsection B of this Section are subject to the rules provided in R.S. 47:287.442. That is, the computations can not have the effect of attributing refunds of federal income tax which arose on account of conditions or transactions occurring after the close of the taxable year, to any year other than that in which arose the transactions or conditions giving rise to the refund. Accordingly, appropriate changes shall be made when necessary to attribute the refund to the proper year.

2. Notwithstanding the definition provided in §1123.F.3 and 4, deductions which are declared as allowable in the computation of Louisiana net income pursuant to R.S. 47:287.73 C 4 shall be treated as a compensating item of deduction for the purpose of computing the amount of federal income tax deduction under §1123.C.

3. The federal income tax deduction determined under §1123 must take into account R.S. 47:287.83 which provides in part that no federal income tax deduction shall be allowed on net income upon which no Louisiana income tax has been incurred, or upon which, for any reason whatsoever, no Louisiana income tax will be paid.

4. If the tax of any member computed on a separate return basis under Subsection E, Paragraphs 1, 2, and 3 of this Section is less than zero, then for the purposes of Subsection E, such member's separate return tax shall be zero.

5. The secretary may adjust the consolidated federal income tax allocation formula prescribed in Subsection E of this Section when in his opinion such action is necessary to obtain a reasonable allocation and to clearly reflect Louisiana taxable income.

6. The sum of the net consolidated federal income tax attributed to all members of the consolidated group for the taxable period cannot exceed the amount of consolidated federal income tax paid to the U.S. Government for the taxable period.

7. When the alternative tax rate on net capital gains is the same as the regular tax rate on ordinary net income reduced by net capital gains, consolidated regular tax on ordinary net income and alternative tax on capital gains, after credits, may be combined and then attributed to each member of the consolidated group.

§1128. Segregation Of Items Of Gross Income

For the purpose of applying rules for determining the amount of income earned within or derived from sources in Louisiana, all items of gross income must be divided into two general classes-allocable income and apportionable income. The various types of income constituting allocable income are set forth in R.S. 47:287.92 B, and the specific basis for allocating each of these types of income is prescribed in R.S. 47:287.93. Any income which does not fall within any of the types of allocable income as listed in the statute must be treated as apportionable income. When Louisiana net apportionable income is derived primarily from the business of making loans, refer to R.S. 47:287.95 E and Section 1134 E for the determination of the Louisiana apportionment percent.

§1130. Computation Of Net Allocable Income From Louisiana Sources

A. R.S. 47:287.93 provides that items of gross allocable income or loss shall be allocated directly to the states within which such items of income are earned or derived.

1. Blank
2. Blank

3. Profits from sales or exchanges of property not made in the regular course of business requires that both profits and losses from such transactions be included in income allocated directly to the state in which the property had its situs at the time of the transaction. Whether a sale or exchange is a sale "not made in the regular course of business" is a factual determination required to be made with respect to each property sold which will take into consideration such factors as the frequency of sales of similar properties and the relationship of the particular sale to other business transacted by the taxpayer.

4. Dividends, profits from the sale or exchange of capital assets consisting of incorporeal property or rights, and interest, other than interest on customers' notes and accounts and interest on securities having their situs in Louisiana re-

ceived from a controlled corporation by its parent, shall be allocated to the state in which the securities or credits have their situs. If the securities or credits have been so employed as to acquire a business situs, the place of business situs controls. In the absence of a business situs the place of commercial domicile controls in the case of a corporation. (For special rules governing the situs of stock cancelled in corporate liquidations see R.S. 47:287.747.) These rules are subject to the exception that dividends upon stock having a situs in Louisiana received by a corporation from another corporation which is controlled by the former, through ownership of 50 percent or more of the voting stock of the latter, shall be allocated to the state or states in which is earned the income from which the dividends are paid, such allocation to be made in proportion to the respective amounts of such income earned in each state.

5. Royalties or similar revenue received for the use of patents, trademarks, copyrights, secret processes and other similar intangible rights shall be allocated to the state or states in which such rights are used. The use referred to is that of the licensee rather than that of the licensor.

Example: X Company, Inc., a Delaware corporation with its commercial domicile in California, owns certain patents relating to the refining of crude oil, which at all times were kept in its safe in California. During 1987, the X Company, Inc. entered into an agreement with the Y Corporation whereby that company was given the right to use the patents at its refineries in consideration for the payment of a royalty based upon units of production. The Y Corporation used the patents exclusively at its Louisiana refinery and paid the X Company, Inc. the amount of \$100,000 for such use. The entire royalty income of \$100,000 is allocable to Louisiana.

6. Income from construction, repair or other similar services is allocable. The phrase *other similar services* means any work which has as its purpose the improvement of immovable property belonging to a person other than the taxpayer where a substantial portion of such work is performed at the location of such property. For the purpose of this Section, mineral properties, whether under lease or not, constitute immovable properties. It is not necessary that the services rendered actually result in the improvement of the immovable property. Thus, the drilling of a well on a mineral lease is considered to have as its purpose the improvement of such property notwithstanding the fact that the well may have been dry. Examples of "other similar services" are: (a) landscaping services; (b) the painting of houses; (c) the removal of stumps from farm land; (d) the demolition of buildings.

7. Interest on securities and credits having a situs in Louisiana which is received by a corporation from another corporation controlled by the former through the ownership of 50 percent or more of the voting stock of the latter shall be allocated to the state or states in which the real and tangible personal property of the controlled corporation is located. The allocation shall be made on the basis of the ratio of the value of such property located in Louisiana to the value of such property within and without the state, determined as provided below. Whether the securities and credits have a situs in Louisiana shall be determined in accordance with the rules provided in §1130.A.4. For the purpose of this Section, real and tangible personal property includes all such property of the controlled corporation regardless of whether the property is idle or productive and regardless of the nature of the

income which it produces.

a. Value of property to be used. For purposes of this Section, the value of property is cost to the taxpayer, less a reasonable reserve for depreciation, depletion, and obsolescence. The reserves reflected on the books of the taxpayer shall be deemed reasonable, subject to the right of the secretary to adjust the reserves when in his opinion such action is necessary to reflect the fair value of the property.

b. Average values. For the purpose of this Section, the value of Louisiana real and tangible property and real and tangible property within and without the state shall be the average of such property at the beginning and close of the year, determined on a comparable basis.

B. From the total gross allocable income from all sources and from the gross allocable income allocated to Louisiana there shall be deducted all expenses, losses, and other deductions, except federal income taxes, allowable under the Louisiana income tax law which are directly attributable to such income plus a ratable portion of the allowable deductions, except federal income taxes, which are not directly attributable to any item or class of gross income.

Direct and indirect expenses attributed to allocable income from foreign sources for federal purposes are deductible in arriving at total net allocable income. Expenses sourced pursuant to federal law and regulations to allocable income from foreign sources are presumed to be attributed to such income.

The approach set forth in these regulations for the allocation and apportionment of interest expense is based upon the concept of the fungibility of money and requires that interest expense ordinarily be allocated to all of the taxpayer's income-producing activities and properties, regardless of the specific purpose for which the borrowing was incurred; it does not directly require allocation of interest deductions to income. That is, these regulations assume that: (a) money is fungible in that all of the taxpayer's activities and properties need funds; (b) the taxpayer's management has substantial flexibility in the source and use of its funds; (c) the creditors of the taxpayer look to its general credit for repayment and thereby subject the money loaned to the risk of all of the taxpayer's activities; and (d) the use of money for one purpose frees funds for other purposes. Accordingly, the reasoning continues, it is appropriate to associate part of the cost of money borrowed for a specific purpose to other purposes as well.

1. Interest expense which is applicable to investments which produce or which are held for the production of allocable income within and without Louisiana, shall be an item of deduction in determining net allocable income or loss. For the purpose of this Subsection, investments which produce or which are held for the production of allocable income include but are not limited to investments in and advances or loans to affiliated corporations whether or not such investments, advances, or loans produce any income. The amount of interest which is applicable to such investments shall be determined by multiplying the total amount of interest expense by a ratio, the numerator of which is the average value of investments which produce or which are held for the production of allocable income, and the denominator of which is the average value of all assets of the taxpayer. Although interest on U.S. Government bonds and notes is not taxable and hence is not included in allocable income, the adjustment for the amount of interest expense applicable to investments producing such

income is computed in the same manner as in the case of investments producing allocable income. Thus for convenience of computation such investments are grouped with investments producing or held for the production of allocable income. Whenever interest expense applicable to U. S. Government bonds and notes which are held as temporary cash investments determined as provided above, exceeds the amount of income derived from such investments, the interest expense which is attributable to such investments shall be limited to the amount so derived. The amount of interest expense applicable to U. S. Government bonds and notes which are held as temporary cash investments, determined without reference to the income therefrom, is that portion of the interest expense applicable to investments which produce or which are held for the production of allocable income, which the ratio of the average value of U. S. Government bonds and notes held as temporary cash investments bears to the average value of all investments which produce or which are held for the production of allocable income.

2. Interest expense which is applicable to investments which produce or which are held for the production of Louisiana allocable income shall be an item of deduction in determining net allocable income or loss from Louisiana. Except when Louisiana apportionable income is determined on the separate accounting method, the amount of interest which is applicable to such investments shall be determined by multiplying the amount of interest expense allocated to total allocable investments, determined without reference to the income limitation in the case of investments in U. S. Government bonds and notes held as temporary cash investments, by a ratio, the numerator of which is the average value of investments which produce or which are held for the production of Louisiana allocable income and the denominator of which is the average value of investments which produce or which are held for the production of allocable income within and without Louisiana. When Louisiana net apportionable income is determined on the separate accounting method, refer to §1132.C.1 for rules pertaining to the determination of the amount of interest expense applicable to Louisiana allocable income.

3. Value to be used. For purposes of this Section, value means cost to the taxpayer, less a reasonable reserve for depreciation, depletion, and obsolescence. The reserves reflected on the books of the taxpayer shall be considered reasonable, subject to the right of the secretary to adjust the reserves when in his opinion such action is necessary to reflect the fair value of the property.

4. Average value. For purposes of this Section, *average value* means the average of the value of the property at the beginning and at the close of the year.

5. Example: The XYZ Corporation has incurred interest expense in the amount of \$150,000 during the year 1986. During 1986 it derived total allocable income and Louisiana allocable income as follows:

	Louisiana	Total
*Interest on U.S. Treasury notes . . . \$	-0-	\$15,000
Dividends	-0-	5,000
Net rent income	10,000	10,000
Total	<u>\$10,000</u>	<u>\$30,000</u>

*Treated as allocable income only for convenience in computing the applicable expense.

Its assets, liabilities, and net worth as of January 1, 1986, and December 31, 1986, were as follows:

	12-31-86	1-1-86
Cash	\$ 100,000	\$ 150,000
Accounts receivable	780,000	800,000
Inventories	600,000	1,000,000
Stocks	100,000	100,000
U.S. Treasury Notes	420,000	650,000
Real estate (rental property)	100,000	100,000
Less depreciation reserve	<u>20,000</u>	<u>25,000</u>
Net	80,000	75,000
Real estate	5,000,000	5,125,000
Less depreciation reserve	1,080,000	1,300,000
Net	<u>3,920,000</u>	<u>3,825,000</u>
Total assets	<u>\$6,000,000</u>	<u>\$6,600,000</u>
Liabilities:		
Accounts payable	\$ 400,000	\$1,000,000
Bonds	<u>3,000,000</u>	<u>3,000,000</u>
Total liabilities	\$ 3,400,000	\$ 4,000,000
Net worth:		
Capital stock	\$ 2,000,000	\$ 2,000,000
Earned surplus	600,000	600,000
Net worth	<u>\$ 2,600,000</u>	<u>\$ 2,600,000</u>
Total liabilities and net worth	<u>\$ 6,000,000</u>	<u>\$ 6,600,000</u>

The amount of interest which is applicable to the investments which produce or are held for the production of allocable income within and without Louisiana is \$16,963.50, determined as follows:

	Allocable Investments		Total Assets	
	1-1-86	12-31-86	1-1-86	12-31-86
U.S. Treasury Notes	\$ 420,000	\$ 650,000	\$ 420,000	\$ 650,000
Rental property (net)	\$ 80,000	75,000	80,000	75,000
Stock	100,000	100,000	100,000	100,000
Other assets	-	-	5,400,000	5,775,000
Totals	<u>\$ 600,000</u>	<u>\$ 825,000</u>	<u>\$ 6,000,000</u>	<u>\$ 6,600,000</u>
1-1-86 Totals		<u>600,000</u>		<u>6,000,000</u>
Totals		<u>\$ 1,425,000</u>		<u>\$12,600,000</u>
Average		<u>\$ 712,500</u>		<u>\$ 6,300,000</u>
Ratio11309
Interest expense allocated to total allocable assets (.11309 × \$150,000)				<u>\$ 16,963.50</u>

The amount of interest expense which is applicable to the investments which produce or are held for the production of Louisiana allocable income is \$1,845.12, determined as follows:

Louisiana allocable assets (rental property):	
January 1, 1986	\$ 80,000
December 31, 1986	75,000
Total	<u>\$ 155,000</u>
Average	\$ 77,500
Total allocable assets - average	712,500
Ratio	10.877
Interest expense allocated to total allocable assets	\$ 16,963.50
Interest expense allocated to Louisiana allocable assets (.10877 × \$16,963.50)	<u>\$ 1,845.12</u>

6. Overhead expense attributable to items of gross allocable income derived from sources within and without Louisiana, except gross allocable income from rent of immovable or corporeal movable property or from construction, repair or other similar services, may be determined by any reasonable method which clearly reflects net allocable income from such items of income.

7. Overhead expense attributable to total gross allocable income derived from rent of immovable or corporeal mov-

able property or from construction, repair, or other similar services shall be deducted from such income for the purposes of determining net allocable income or loss from such items of income. The amount of overhead expense attributable to such income shall be determined by multiplying total overhead expense by the arithmetical average of two ratios, as follows:

a. The ratio of the amount of total gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total gross income derived from all sources.

b. The ratio of the amount of direct cost incurred in the production of total gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total direct cost incurred in the production of gross income from all sources.

8. Overhead expense attributable to Louisiana gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services shall be deducted from such income for the purposes of determining Louisiana net allocable income or loss from such items of income. The amount of overhead expense attributable to such income shall be determined by multiplying overhead expense attributed to total gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services by the arithmetical average of two ratios, as follows:

a. The ratio of the amount of Louisiana gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total gross allocable income from such sources.

b. The ratio of the amount of direct cost incurred in the production of Louisiana gross allocable income derived from rent of immovable or corporeal movable property and from construction, repair, or other similar services to total direct cost incurred in the production of such income.

9. Special rules

a. When a corporation has a Louisiana commercial domicile and directly owns 50 percent or more of the voting stock of another corporation, the stock shall be included in Louisiana allocable assets in calculating the amount of interest expense attributable to investments which produce or which are held for the production of Louisiana allocable income, except stock owned in a corporation exempt from Louisiana corporation income tax. The stock shall be attributed to Louisiana allocable assets on the basis of the respective amounts of income earned within Louisiana to the income earned everywhere of the controlled corporation.

b. When a corporation has a Louisiana commercial domicile and advances interest bearing funds to a corporation of which it directly owns 50 percent or more of the voting stock, the receivable shall be included in Louisiana allocable assets in calculating the amount of interest expense attributable to investments which produce or which are held for the production of Louisiana allocable income. The receivable shall be attributed to Louisiana allocable assets on the same basis as the income from which the receivable is attributed to Louisiana. For the purpose of this Subparagraph, real and tangible personal property includes all such property of the controlled corporation whether or not the property is idle or productive and regardless of the type of income which it produces.

c. Accounts or notes receivable resulting from ad-

vances of non-interest bearing funds from one corporation to another corporation are deemed to be assets producing or held for the production of allocable income for the purpose of determining the amount of interest expense applicable to investments which produce or which are held for the production of allocable income from sources within and without Louisiana.

d. When a corporation has a Louisiana commercial domicile, accounts or notes receivable resulting from advances of non-interest bearing funds from one corporation to another corporation shall not be included in the numerator of the interest expense allocation formula for the purpose of §1130.B.2, except when the secretary, in order to clearly reflect Louisiana apportionable and allocable net income, imputes interest income on such receivables.

e. For the purpose of Subparagraph a and b above, direct ownership of 50 percent or more of the voting stock of a corporation constitutes control of that corporation.

f. The secretary is authorized to adjust the allocation of interest expense and/or overhead expense applicable to investments which produce or which are held for the production of allocable income within and without Louisiana if he determines that such adjustment is necessary in order to clearly reflect apportionable and allocable net income.

§1132. Computation Of Net Apportionable Income From Louisiana Sources

A. General. From the total gross apportionable income there shall be deducted all expenses, losses and other deductions except federal income taxes, allowable under this Chapter, which are directly attributable to such income, and there also shall be deducted a ratable portion of allowable deductions, except federal income taxes, which are not directly attributable to any item or class of gross income. Direct and indirect expenses attributed to total allocable income derived from foreign sources, for federal purposes, are not deductible in arriving at total net apportionable income. Expenses sourced pursuant to federal law and regulations to allocable income from foreign sources are presumed to be attributed to such income.

R.S. 47:287.94 provides two methods for computing the amount of net apportionable income from Louisiana sources, viz., the apportionment method and the separate accounting method. The apportionment method must be used unless it produces a manifestly unfair result and the conditions prescribed by R.S. 47:287.94 are met. Where the apportionment method is utilized, the apportionment percentage must be applied to the total apportionable net income without exception. For rules pertaining to the determination of the apportionment percentage refer to §1134.

B. Separate accounting method; permission obtained from secretary. Any taxpayer desiring to use the separate accounting method in determining the portion of the total net apportionable income derived from Louisiana sources must first obtain permission from the secretary to use that method. A written request for such permission should be submitted to the secretary not more than 30 days after the close of the taxable year for which the first use of the separate accounting method is to be made if the permission is granted. The secretary will grant such permission if the taxpayer demonstrates to his satisfaction that the apportionment method as applied to the business operations of the taxpayer would produce a manifestly unfair result, that the separate accounting method produces a fair and equitable determination of the amount of

net income taxable by Louisiana, and that the other conditions of R.S. 47:287.94 are met. The application of the taxpayer must be accompanied by the following information:

1. a complete description of the nature of the business operations of the taxpayer in Louisiana;

2. a complete description of the nature of the business operations of the taxpayer in other states;

3. a comprehensive statement as to the sources of goods or commodities sold by the taxpayer in Louisiana;

4. a comprehensive statement as to the disposition of goods or commodities produced by the taxpayer in Louisiana;

5. a computation for the preceding taxable year showing the Louisiana net apportionable income on the apportionment basis and on the separate accounting basis;

6. a statement of the particular circumstances in the taxpayer's business operations and the particular factors or elements in the apportionment formula which give rise to the difference between the amounts of Louisiana net apportionable income as computed under the two methods;

7. a statement as to whether the circumstances, factors, and elements mentioned in Paragraph 6 above are relatively permanent so that the two methods would reasonably be expected to yield similar differences in results each year, or whether in the ordinary course of the taxpayer's business those circumstances have changed from time to time and may be expected to do so in the future; and

8. any other information which the taxpayer may consider pertinent.

C. Separate accounting of apportionable income. When the separate accounting method is used, the net apportionable income taxable in Louisiana shall be determined by deducting from the gross apportionable income from sources in Louisiana all costs and expenses directly attributable to such income and a ratable part of overhead expenses and other expenses which are attributable in part to the Louisiana gross apportionable income.

1. When Louisiana net apportionable income is determined on the separate accounting method, interest expense applicable to Louisiana gross apportionable and allocable income shall be deducted from such gross income for the purposes of determining Louisiana net apportionable and allocable income or loss. The amount of interest expense applicable to Louisiana gross apportionable and allocable income shall be determined by multiplying total interest expense by a ratio, the numerator of which is the average value of assets in Louisiana and the denominator of which is the average value of all assets of the taxpayer.

For the purposes of this Paragraph, *value to be used* and *average value* mean the same as defined in §1130.B.3 and 4. Special rules as provided in §1130.B.9 also apply to this Section.

2. When Louisiana net apportionable income is determined on the separate accounting method, overhead expense shall be deducted from Louisiana gross apportionable income for the purposes of determining Louisiana net apportionable income or loss. The amount of such overhead expense shall be determined by multiplying total overhead expense attributable to gross apportionable income by a ratio, the numerator of which is the amount of direct cost incurred in the production of Louisiana gross apportionable income determined on a separate accounting method and the denominator of which is total direct cost incurred in the production of gross apportionable income from all sources. For the

purpose of this Paragraph, the secretary is authorized to adjust the amount of overhead expense allocated to Louisiana gross apportionable income if he determines that such action is necessary in order to clearly reflect Louisiana apportionable net income. For rules pertaining to the determination of the amount of overhead expense attributable to gross allocable income refer to §1130.B.6, 7, and 8.

3. Income from natural resources. If the separate accounting method is used by a taxpayer whose business includes the production of natural resources, such as oil, gas, other liquid hydrocarbons, or sulphur, (a) which are sold by the taxpayer prior to refining or processing, or (b) which are transported by the taxpayer into or from the state of Louisiana for refining or processing prior to sale and at the time of production or transfer into or from this state have an ascertainable market value, the Louisiana net apportionable income of such taxpayer shall be computed as set forth below.

a. The gross apportionable income of the taxpayer from sources in Louisiana shall be determined by dividing the activities of the taxpayer into three classes: (i) the production of natural resources; (ii) the marketing of refined or manufactured products; and (iii) all other activities.

b. The Louisiana gross apportionable income from the production of natural resources shall include (i) sales of natural resources produced in Louisiana and sold in this state; (ii) the market value, at the time of transfer, of all natural resources produced in this state and transferred by the taxpayer to another state for sale, refining, or processing, provided that if the natural resources are sold by means of an "arm's length" transaction prior to refining or processing, the market value prescribed herein shall not exceed the selling price; and (iii) the market value, at the time of transfer, of all natural resources produced by the taxpayer in Louisiana and transferred to a refinery or processing plant of the taxpayer located in Louisiana.

c. The Louisiana gross apportionable income from the marketing of refined or manufactured products shall be the amount of gross sales of such products in this state. From such gross sales there shall be deducted, in lieu of the usual deduction for cost of goods sold, the market value of the products sold as of the time of transfer into this state. In determining the market value, the customary prices for the quantities transferred shall be applied.

d. The Louisiana gross apportionable income from all activities in this state other than the production of natural resources and the marketing of refined or manufactured products shall include all sales and other apportionable revenues derived in this state from such other activities.

e. The net income of the taxpayer from each of the three classes of income set forth in Subparagraphs b, c, and d of this Paragraph shall be determined by deducting from each such class of gross income all allowable deductions directly attributable to the production of such income and a ratable part of all allowable deductions which are attributable in part to the production of such class of income.

4. For the purpose of this Section, a natural resource shall be deemed to be sold in Louisiana if it is located in this state at the time title thereto passes to the purchaser.

5. In the absence of specific proof of the value of natural resources at the time of transfer from or into this state, the value of the natural resources at the time of production, to be determined in accordance with the methods prescribed for the determination of "gross income from the property" for

purposes of percentage depletion under R.S. 47:287.745 B, shall be deemed to be the market value at the time of transfer.

D. Change from separate accounting to apportionment method. A taxpayer who has obtained permission to use the separate accounting method, or who has been required by the secretary to use that method, shall continue to use that method for succeeding taxable years until a change occurs in the nature of the taxpayer's operations which would warrant a change in accounting method. When such a change occurs, the taxpayer shall report the facts to the secretary not later than 30 days after the close of the taxable year in which the change occurred. If the secretary finds, on the basis of the facts reported by the taxpayer or otherwise obtained by the secretary, that the apportionment method should be used, the taxpayer will be notified to use that method for the year in which the change in operations occurred. The apportionment method shall then be used until a change is made pursuant to R.S. 47:287.94.

§1134. Determination Of Louisiana Apportionment Percent

A. General. R. S. 47:287.95 provides for an apportionment percent which is to be applied to the taxpayer's total net apportionable income in determining the Louisiana net apportionable income. Specific formulae are prescribed for air, pipeline, and other transportation businesses, certain service enterprises, and loan businesses. A general formula is prescribed for manufacturing, merchandising and any other business for which a formula is not specifically prescribed. The statute contemplates that only one specific formula be used in determining the apportionment percent, that being the formula prescribed for the taxpayer's primary business. As a general rule, where a taxpayer is engaged in more than one business, the taxpayer's primary business shall be that which is the primary source of the taxpayer's net apportionable income. When the numerator and denominator is zero in any one or more factors in the apportionment formula, such factor shall be dropped from the apportionment formula and the arithmetical average determined from the total remaining factors.

B. Property factor. The value of immovable and corporeal movable property owned by the taxpayer and used in the production of net apportionable income is a factor in each formula except those provided for loan businesses and certain service businesses. Where only a part of the property is used in the production of apportionable income, only the value of that portion so used shall be included in the property factor. However, where the entire property is used in the production of both allocable and apportionable income, such as a railroad track owned by the taxpayer and used jointly with another, the value of the entire property shall be included in the property factor. Idle property and property under construction, during such construction and prior to being placed in service, shall not be included in the property factor. Property held as reserve or standby facilities, or property held as a reserve source of materials shall be considered used. For example, a taxpayer who purchases a lignite deposit which is held as a reserve source of fuel, should include the value of such deposits in the property factor. Non-productive mineral leases are considered to be held for such use and should be included in the property factor. Aircraft owned by a taxpayer whose net apportionable income is derived primarily from air transportation should not be included in the property factor. The value of inventories of merchandise in transit shall be

allocated to the state in which their delivery destination is located in the absence of conclusive evidence to the contrary.

1. Value of property to be used. For purposes of this Section, the value of property is cost to the taxpayer, less a reasonable reserve for depreciation, depletion and obsolescence. Such reserves, reflected on the books of the taxpayer, shall be used in determining value, subject to the right of the secretary to adjust the reserves when in his opinion such action is necessary to reflect the fair value of the property.

2. Proration of rolling stock and other mobile equipment. The average value of rolling stock and other mobile equipment owned by the taxpayer shall be prorated within and without Louisiana as set forth below.

a. The value of diesel locomotives shall be allocated to Louisiana on the basis of the ratio of diesel locomotive miles in Louisiana to total diesel locomotive miles.

b. The value of other locomotives shall be allocated to Louisiana on the basis of the ratio of other locomotive miles in Louisiana to total other locomotive miles.

c. The value of freight train cars shall be allocated to Louisiana on the basis of the ratio of freight car miles in Louisiana to total freight car miles.

d. The value of passenger cars shall be allocated to Louisiana on the basis of the ratio of passenger car miles in Louisiana to total passenger car miles.

e. The value of passenger buses shall be allocated to Louisiana on the basis of the ratio of bus miles in Louisiana to total bus miles.

f. The value of diesel trucks shall be allocated to Louisiana on the basis of the ratio of diesel truck miles in Louisiana to total diesel truck miles.

g. The value of other trucks shall be allocated to Louisiana on the basis of the ratio of other truck miles in Louisiana to total other truck miles.

h. The value of trailers shall be allocated to Louisiana on the basis of the ratio of trailer miles in Louisiana to total trailer miles.

i. The value of towboats shall be allocated to Louisiana on the basis of the ratio of towboat miles in Louisiana to total towboat miles. In the determination of Louisiana towboat miles, one half of the mileage of all navigable streams bordering on both Louisiana and another state shall be considered Louisiana miles.

j. The value of tugs shall be allocated to Louisiana on the basis of the ratio of tug miles in Louisiana to total tug miles. In the determination of Louisiana tug miles, one half of the mileage of all navigable streams bordering on both Louisiana and another state shall be considered Louisiana miles.

k. The value of barges shall be allocated to Louisiana on the basis of the ratio of barge miles in Louisiana to total barge miles. In the determination of Louisiana barge miles, one half of the mileage of all navigable streams bordering on both Louisiana and another state shall be considered Louisiana miles.

l. The value of work and miscellaneous equipment shall be allocated to Louisiana on the basis of the ratio of track miles in Louisiana to total track miles in the case of a railroad, on the basis of the ratio of bank miles operated in Louisiana to total bank miles operated in the case of inland waterway transportation and on the basis of the ratio of route miles operated in Louisiana to total route miles operated in the case of truck and bus transportation. In the determination of bank miles, one half of the bank mileage of navigable streams bor-

dering on both Louisiana and another state shall be considered Louisiana bank miles.

m. The value of other floating equipment shall be allocated to Louisiana on the basis of the ratio of operating equipment miles within Louisiana to the total operating equipment miles, for the particular equipment to be allocated. In the determination of Louisiana operating equipment miles, one half of the mileage of all navigable streams bordering on both Louisiana and another state shall be considered Louisiana bank miles.

3. Insufficient records. In any case where the information necessary to determine the ratios listed above is not readily available from the taxpayer's records, the secretary, in his discretion, may permit or require the allocation of such equipment on any method deemed reasonable by him.

C. Wage factor. Salaries, wages and other compensation for personal services as used in R.S. 47:287.95 includes only compensation paid to employees or to a deferred plan for the benefit of employees of the taxpayer for services rendered in connection with the production of net apportionable income. It does not include fees and commissions paid to independent contractors.

D. Revenue factor. Revenue is a factor in each formula except that provided for loan businesses. This factor is generally composed of sales, charges for service, and other gross apportionable income.

1. Revenue from transportation other than air travel. Gross apportionable income attributable to Louisiana from transportation other than air includes all such revenue derived entirely from sources within Louisiana plus a portion of revenue from transportation performed partly within and partly without Louisiana, based upon the ratio of the number of units of transportation service performed in Louisiana to the total of such units. A unit of transportation shall consist of the following:

a. in the case of the transportation of passengers, the transportation of one passenger a distance of one mile;

b. in the case of the transportation of liquid commodities, including petroleum or related products, the transportation of one barrel of the commodities a distance of one mile;

c. in the case of the transportation of property other than liquids, the transportation of one ton of the property a distance of one mile;

d. in the case of the transportation of natural gas, the transportation of one M. C. F. a distance of one mile. (See, however, Paragraph 2 below).

Transportation revenue should be segregated on the basis of the four classes enumerated above and the gross apportionable income attributable to Louisiana shall be determined by application of the respective ratios to each segregated amount. In any case where another method would more clearly reflect the gross apportionable income attributable to Louisiana, or where the above information is not readily available from the taxpayer's records, the secretary, in his discretion, may permit or require the use of any method deemed reasonable by him.

2. Sales made in the regular course of business. The sales attributable to Louisiana under R. S. 47:287.95 are those sales made in the regular course of business where the goods, merchandise or property are received in Louisiana by the purchaser. Similarly, where the goods, merchandise or property are received in some other state, the sale is attributable to that state. Sales made in the regular course of busi-

ness include all sales of goods, merchandise or products of the business or businesses of the taxpayer. They do not include the sale of property acquired for use in the production of income. Where a taxpayer under a contract performs essentially a management or supervision function and receives therefor a reimbursement of his costs plus a stipulated amount, the amounts received as reimbursed costs are not sales although the contract so designates them. The stipulated amount constitutes other gross apportionable income and shall be attributed to the state where the contract was performed. Where goods are delivered into Louisiana by a public carrier, or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed shall be considered as the place at which the goods are received by the purchaser. The transportation in question is the initial transportation relating to the sale by the taxpayer, and not the transportation relating to a sale or subsequent use by the purchaser.

a. Where the goods are delivered by the taxpayer-vendor in his own equipment, it is presumed that such transportation relates to the sale. Where the goods are delivered by a common or contract carrier, whether shipped F.O.B. shipping point, and whether the carrier be a pipeline, trucking line, railroad, airline or some other type of carrier, the place where the goods are ultimately received by the purchaser after the transportation by the carrier has ended is deemed to be the place where the goods are received by the purchaser. Actual delivery rather than technical or constructive delivery controls.

b. Where the transportation involved is transportation by the purchaser, in determining whether or not the transportation relates to the sale by taxpayer, consideration must be given to the following principles.

i. To be related to the initial sale, the transportation should be commenced immediately. However, before a lapse of time is conclusive, consideration must be given to the nature and character of the goods purchased, the availability of transportation, and other pertinent circumstances.

ii. The intent of the parties to the sale must also be considered. The intent and purpose of the purchaser may be determined directly, or by an evaluation of the nature and scope of his operation, customs of the trade, customary activities of the purchaser, and all pertinent actions and words of the purchaser at the time of the sale.

iii. In order for the transportation by the purchaser to be related to the initial sale by the taxpayer to the purchaser, such transportation must be generally the same in nature and scope as that performed by the vendor or by the carrier. There is no difference between a case where a taxpayer in Houston ships F.O.B., Houston, to a purchaser in Baton Rouge, by common carrier, and a case where all facts are the same except that the purchaser goes to Houston in his own vehicle and returns with the goods to Baton Rouge.

c. The sales of natural resources to a pipeline company are attributable to the state in which the goods are placed in the pipeline. Such purchasers are engaged in the business of moving or transporting their own property through their own lines. Thus, all transportation of the natural resources after introduction into the line is related to the use or sale by the pipeline, and is not related to the sale by the taxpayer.

d. Generally, transportation by public carrier pipelines is accorded the same treatment as transportation by any other

type of public carrier. Actual delivery to the purchaser controls, rather than technical or constructive delivery. However, because of the nature and character of the property, the type of carrier, and customs of the trade, the natural resources in the pipeline carrier may become intermixed with other natural resources in the pipeline and lose their particular identity. Where delivery is made to a purchaser in more than one state, or to different purchasers in different states, peculiar problems of attribution arise. In solving such problems consideration must be given to the following principles.

i. Where it can be shown that a taxpayer in one state sold a quantity of crude oil to a purchaser in another state, and the oil was transported to the purchaser by pipeline carrier, the sale will be attributed to the state where the crude oil is received by the purchaser, even though the crude oil delivered might not be the identical oil sold because of commingling in the pipeline. Custom of the trade indicates the purchaser buys a quantity of oil of certain quality rather than any specific oil.

ii. In situations involving several deliveries in several different states to one or more purchasers, the general rules should be applied with logic and common sense.

e. Examples:

i. Three different taxpayers, A, B, C, all in Texas, each sells to X Refinery, in Louisiana, 10,000 barrels of crude oil, shipped F.O.B., Texas, by public carrier pipeline. (a) If X Refinery received all 30,000 barrels in Louisiana, each taxpayer must attribute his total sale to Louisiana. (b) If X Refinery receives 10,000 barrels in Louisiana, 10,000 barrels in Mississippi, and 10,000 barrels in Alabama, it cannot be said by any taxpayer that all of his sale was received either in Louisiana or in one of the other states. Since each taxpayer contributed one-third of the mass of commingled crude oil, it follows that one-third of each taxpayer's sale was received in Louisiana, and accordingly must be attributed to Louisiana.

ii. Three different taxpayers, A, B, and C, in Texas, sell to three different purchasers, X Refinery in Louisiana, Y Refinery in Mississippi, and Z Refinery in Alabama. If A sells to X Refinery in Louisiana and delivery is by public carrier pipeline, the oil is received in Louisiana and the entire sale is attributed to Louisiana, even though the crude oil delivered might not be the identical oil sold because of commingling in the pipeline with oil sold by B and C to Y Refinery and Z Refinery.

f. In determining the place of receipt by the purchaser after the initial transportation has ended, peculiar problems may be created by the storage of the property purchased immediately upon purchase at a place other than the place of intended use. The primary problem created by such storage is in determining whether or not the transportation after storage relates to the sale by the taxpayer. Generally, the rules and principles set forth above will control where the storage is of temporary nature, such as that necessitated by lack of transportation, by change from one means of transportation to another, or by natural conditions. In cases where the storage is permanent or semi-permanent, delivery to the place of storage concludes the initial transportation, and the sale is attributed to the place of storage.

E. Loans factor. Loans made by the taxpayer as provided in R.S. 47:287.95 E is the arithmetical average of the loan balances outstanding at the beginning and end of the taxable period. This factor is to be used only by taxpayers whose income is derived primarily from the business of mak-

ing loans. If the average at the beginning and end of the year does not fairly represent the average of loans outstanding during the year, the average may be obtained by dividing the sum of the monthly balances by 12.

§1137. Exceptions To Taxable Year Of Inclusion; Taxable Year Deductions Taken

A. Improperly reported item of income. R.S. 47:287.442 A does not relieve a taxpayer of the responsibility of filing a true and correct return and immediately correcting any errors which are discovered after the return is filed. If an error is discovered, it is the obligation of the taxpayer to file promptly an amended return reflecting the correct tax liability. The purpose of R.S. 47:287.442 A, so far as it deals with improperly reported items of income, is to preclude a taxpayer's being required to pay again on an item of income which has borne tax in full previously, even though for a period in which it was not properly reportable. An item of income will be deemed to have previously borne tax in full if the item, when multiplied by the lowest tax rate applicable to the taxpayer, results in a tax not less than the amount of tax actually paid on the return. If the item has not previously borne tax in full, R.S. 287.442 A is not applicable to that portion of the item which has not previously borne tax. That portion, which shall be the difference between the item of income and the taxable balance of net income, shall be reported as income during the year it was properly reportable.

B. Example: The ABC Corporation, by mistake, reported on its 1982 income tax return an item of accrued interest in the amount of \$5,000 which was properly reportable in 1983. It paid the Louisiana income tax shown to be due on the return. The company never discovered its error. In 1987, the secretary discovers the error. The return for 1982 shows the following:

Accrued interest	\$ 5,000
Income from operations	20,000
	<hr/>
Total income	\$25,000
Less total authorized deductions	\$21,000
	<hr/>
Taxable income	\$ 4,000
Tax per return	\$ 160
	<hr/> <hr/>
Computation to determine if item has borne tax in full:	
Amount improperly reported	\$ 5,000
	<hr/>
Tax at lowest rate of taxpayer	\$ 200
Tax paid	160
	<hr/>
Amount of tax unpaid	\$ 40
	<hr/> <hr/>
Computation of portion of item to be reported in 1983:	
Improperly reported item	\$ 5,000
Taxable balance of net income in 1982	4,000
	<hr/>
Portion of item to be reported	\$ 1,000
	<hr/> <hr/>

§1140. Exemption From Tax On Corporations.

A. An organization claiming exemption under R.S. 47:287.501 must submit a copy of the Internal Revenue Service ruling establishing its exempt status. Once an organization establishes with the department its right to an exemption, it need not file any further reports until such time its right to an exemption changes. An organization that has furnished information to the department establishing its right to exemption under the prior law need not submit additional information until such time its exempt status with the Internal Revenue Service changes. A corporation is either entirely ex-

empt or it is wholly taxable. A partial exemption is not permitted.

B. Mutual savings banks, national banking corporations, building and loan associations, and savings and loan associations are exempt from the tax imposed by this Chapter regardless of where organized.

Banking corporations organized under the laws of the state of Louisiana which are required by other laws of this state to pay a tax for their shareholders, or whose shareholders are required to pay a tax on their shares of stock, are exempt. Banking corporations, other than those described above, organized under the laws of a state other than the state of Louisiana are not exempt from the corporation income tax.

§1147. Notice Of Regulations Requiring Records, Statements And Special Returns

Every corporation subject to the provisions of Part II.A. of Chapter 1 shall, for the purpose of enabling the secretary to determine the correct amount of income subject to tax, keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income and the deductions, credits, and other information required to be shown in any return. Such books or records required by this Section shall be available at all times for inspection by the secretary, and shall be retained so long as the contents thereof may be material in the administration of the income tax law. The secretary may at any time require the taxpayer to submit statements of net worth as of the beginning and end of the taxable year.

§1148. Corporation Returns

A. General rules. Every corporation deriving income from Louisiana sources shall file a return on forms secured from the secretary, unless expressly exempt from the tax. The first return and the last return of a corporation are returns for a full year and not for a fractional part of a year. A corporation does not go out of existence by virtue of being managed by a receiver or trustee who continues to operate it.

B. Liquidation. Upon liquidation or dissolution of a corporation there shall be attached to the final return a statement showing:

1. an outline of the plan under which the corporation was dissolved,
2. the date the dissolution was formally commenced,
3. the date the dissolution was completed,
4. the name and address of each shareholder at dissolution and the number and par value of the shares of stock held by each,
5. a description of assets conveyed to each shareholder, creditor, or other person, showing book value, fair market value, and location, as well as the name and address of each such person,
6. the consideration paid by each person for the assets received, and
7. whether the plan is intended to qualify under one of the sections of the Internal Revenue Code relating to nonrecognition in whole or in part of gain by a shareholder, and, if so, the section involved.

C. Receivers. Receivers, trustees in dissolution, trustees in bankruptcy, and assignees, operating the property or business of corporations, must file returns for such corpora-

tions. If a receiver has full custody of and control over the business or property of a corporation, he shall be deemed to be operating such business or property within the meaning of R.S. 47:287.612 whether he is engaged in carrying on the business for which the corporation was organized or only in marshaling, selling, and disposing of its assets for purposes of liquidation. However, a receiver in charge of only part of the property of a corporation, as, for example, a receiver in mortgage foreclosure proceedings involving merely a small portion of its property, need not file a return.

§1168. Notice Of Fiduciary Relationship

A. Notice. As soon as the secretary receives notice that a person is acting in a fiduciary capacity, such fiduciary must, except as otherwise specifically provided, assume the powers, rights, duties, and privileges of the taxpayer with respect to the income tax imposed by Part II.A. of Chapter 1. If the person is acting as a fiduciary for a transferee or other person subject to the liability specified in R.S. 47:287.682, such fiduciary is required to assume the powers, rights, duties, and privileges of the transferee or other person under that section. The amount of the tax or liability is ordinarily not collectible from the personal estate of the fiduciary, but is collectible from the estate of the taxpayer or from the estate of the transferee or other person subject to the liability specified in R.S. 47:287.682. [See however R.S. 47:1673]. The "notice to the secretary" provided for in R.S. 47:287.683 shall be a written notice signed by the fiduciary and filed with the secretary. The notice must state the name and address of the person for whom the fiduciary is acting, and the nature of the liability of such person; that is, whether it is a liability for tax, and if so, the year or years involved, or a liability at law or in equity of a transferee of property of a taxpayer, or a liability of a fiduciary in respect of the payment of any tax from the estate of the taxpayer. Any such written notice which has previously been filed with the secretary shall be considered as sufficient notice. Unless there is already on file with the secretary satisfactory evidence of the authority of the fiduciary to act for such person in a fiduciary capacity, such evidence must be filed with and made a part of the notice. If the fiduciary capacity exists by order of court, a certified copy of the order may be regarded as such satisfactory evidence. When the fiduciary capacity has terminated, the fiduciary, in order to be relieved of any further duty or liability as such, must file with the secretary written notice that the fiduciary capacity has terminated as to him, accompanied by satisfactory evidence of the termination of the fiduciary capacity. The notice of termination should state the name and address of the person, if any, who has been substituted as fiduciary.

B. Effect of failure to give notice. If the notice of the fiduciary capacity described in Subsection A above is not filed with the secretary before the sending of notice of assessment by registered mail to the last known address of the taxpayer, or the last known address of the transferee or other person subject to liability, no notice of the deficiency will be sent to the fiduciary. In such a case the sending of the notice to the last known address of the taxpayer, transferee, or other person, as the case may be, will be a sufficient compliance with the requirements of the income tax law, even though such taxpayer, transferee, or other person is deceased, or is under a legal disability, or in the case of a corporation, has terminated its existence. Under such circumstances if no petition is

filed with the Board of Tax Appeals within 60 days after the mailing of the notice to the taxpayer, transferee, or other person, the assessment becomes final upon the expiration of such 60-day period and demand for payment will be made.

C. Definition. The term *fiduciary* means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

D. Limitation. This regulation shall not be taken to abridge in any way the powers and duties of fiduciaries provided for in other sections of the income tax law.

§1189. Situs Of Stock Cancelled or Redeemed in Liquidation

A. General rule. R.S. 47:287.747 provides that the situs of stock cancelled or redeemed in the liquidation of a corporation, whether domestic or foreign, shall be in Louisiana in the same ratio that property located in Louisiana, and received by a shareholder, bears to the total property received in the liquidation. Property as used in R.S. 47:287.747 means all of the assets of the liquidating corporation without regard to liabilities. For the purpose of determining the situs of the stock cancelled or redeemed in liquidation, the fair market value of the property distributed in liquidation shall be used. The location of the property of the corporation shall be determined in accordance with the provisions of R.S. 47:287.93.

B. Example: X, shareholder, owns 10 percent of the shares of ABC, Inc., a foreign corporation. The basis of X's shares is \$1,000. On July 1, 1986, ABC, Inc., liquidates and exchanges the following property for its outstanding stock, which it cancels.

	Total Assets (Fair market value)	Louisiana Assets (Fair market value)
Cash	\$ 10,000	\$ 2,000
Accounts receivable	50,000	8,000
Buildings	60,000	30,000
Land	60,000	10,000
Stocks	20,000	-0-
	\$ 200,000	\$ 50,000

Since one-fourth of the assets distributed in liquidation are located in Louisiana, one-fourth of X's stock has its situs in Louisiana.

Gain is computed as follows:

Fair market value of property received	\$ 20,000
Basis of property received	1,000
Gain	\$ 19,000
Louisiana taxable gain (1/4 of \$19,000)	\$ 4,750

Shirley McNamara
Secretary

RULE

**Department of Revenue and Taxation
Tax Commission**

The Louisiana Tax Commission, in accordance with the Administrative Procedure Act, has amended parts of the Louisiana Tax Commission Real/Personal Property rules and regulations as follows:

**Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation**

Chapter 27. Use Value

Appendix A

§2717. (B) Average Assessed Value per Acre of Timberland by Class (Manual Page UV-12)

Changed to read:

CLASS	ASSESSED VALUE
Class 1	\$18.34
Class 2	\$15.25
Class 3	\$10.63
Class 4	\$ 7.64

Betty J. Lowery
Member

Notices of Intent

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

The State Civil Service Commission will hold a public hearing on Wednesday, March 2, 1988 to consider amending Civil Service rules 17.14 and 17.24(a) and adopting proposed rules 17.14.1 and 17.28. The public hearing will begin at 8 a.m. in the Twelfth Floor Commission Hearing Room, Republic Tower Building, 5700 Florida Boulevard, Baton Rouge, Louisiana.

Consideration will be given to the following:

PROPOSAL - AMEND RULE 17.14

17.14 Notification and Authority for Layoff.

When an appointing authority determines that it is necessary to reduce force, and when such decision affects any permanent employee(s), the necessary number of employees shall be laid off subject to the following procedure:

- (a) . . .
- (b) . . .
- (c) . . .

EXPLANATION

See the explanation for Rule 17.14.1

PROPOSAL - NEW RULE 17.14.1

17.14.1 Notification and Authority for a Layoff of Probationary Employees Only

When an appointing authority determines that it is necessary to reduce force by the layoff of probationary employees only, he shall notify the director by submission of the applicable standard form(s) 1 prior to the effective date of the layoff.

EXPLANATION

The amendment to Civil Service Rule 17.14 and the adoption of Civil Service Rule 17.4.1 are being proposed as a time-saving and cost-saving measure. When a layoff involves only probationary employees who have no bumping or preferred reemployment eligibility, submission of a formal written layoff plan involves the compilation of information on contracts, unclassified employees, etc. Considerable time would be saved by eliminating the preparation and review of these materials. This would allow Civil Service to concentrate its efforts in the protection of permanent employees.

PROPOSAL - AMEND RULE 17.24

17.24 Department Preferred Reemployment Lists . . .

(a) . . .

1. . . .

2. equivalent or lower levels of jobs for which he qualifies in his career field, subject to Subsection (d) of this rule; however, an employee who is displaced, as opposed to actually laid off, shall not be eligible to be placed on such list for any job lower than the one to which he was displaced.

(b) . . .

(c) . . .

(d) . . .

(e) . . .

(f) . . .

(g) . . .

(h) . . .

EXPLANATION

Subsection (a)2 of the rule has been amended because there is no real justification for allowing an employee who has bumped to a lower position as the result of a layoff to get on the department preferred reemployment list for yet lower positions. This amendment will streamline the administering of the preferred list and spare agencies having these names go out on lists when it is almost certain that the employee will not accept a lower job than he already has.

PROPOSAL - NEW RULE 17.28

17.28 Changes in Allocations

Any approval to changes in allocations made subsequent to the submission of a layoff plan shall not affect such layoff.

EXPLANATION

This new rule duplicates a portion of Rule 18.4. Such a rule is necessary on a permanent, rather than just a transitional basis, since changes to allocations will continue beyond the transition period.

Changes in allocations, which include title changes, re-evaluations and new positions, are effective retroactively, the only personnel actions to be so handled, thus making this rule necessary. These requests and their relation to layoffs are already covered by Rule 18.4.

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

Herbert L. Sumrall
Director

NOTICE OF INTENT

Department of Commerce Office of Financial Institutions

Under authority granted by R.S.6:902(B) and 6:903, the commissioner of financial institutions intends to adopt the following rule for the purpose of providing a means by which state chartered savings and loan associations may have authority consistent with that granted federal associations by the Competitive Equality Banking Act of 1987 enacted by the Congress of the United States on August 7, 1987, and all other authority previously granted by federal law affecting federal associations.

PROPOSED RULE

Notwithstanding any limitations imposed by R.S. 6:701, et seq., state chartered savings and loan associations may organize savings and loan holding companies as authorized by the Competitive Equality Banking Act of 1987 enacted by the Congress of the United States on August 7, 1987, and all other authority previously granted by federal law affecting federal associations.

Effective Date

This rule will become effective upon being published in the *Louisiana Register*.

I. Definitions

A. *Savings and loan holding company* means any company:

a. which directly or indirectly owns, controls, or has power to vote 25 percent or more of any class of the voting shares of any savings and loan association;

b. which controls in any manner the election of a majority of the directors of any savings and loan association;

c. for the benefit of whose shareholders of which 25 percent or more of the voting shares of any savings and loan association or any savings and loan holding company is held by trustees;

d. which includes, but is not limited to the following types of holding companies: unitary savings and loan holding company, multiple savings and loan holding company, diversified savings and loan holding company and non-diversified savings and loan holding company.

2. For the purposes of this Chapter, any successor to a savings and loan holding company shall be deemed to be a savings and loan holding company from the date as of which such predecessor company became a savings and loan holding company.

3. Notwithstanding Paragraphs 1 and 2:

a. No company shall be deemed to be a savings and loan holding company by virtue of its ownership or control of shares acquired in connection with its underwriting of securities, provided such shares are held only for such period of time as will permit the sale thereof upon a reasonable basis.

b. No company formed for the sole purpose of participating in a proxy solicitation shall be deemed to be a savings and loan holding company by virtue of its control of voting rights of shares acquired in the course of such solicitation.

c. No company shall be deemed to be a savings and loan holding company by virtue of its ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, provided such shares are disposed of within a period of two years from the date on which they were acquired. The commissioner is authorized upon application by a company to extend, from time to time for not more

than one year at a time, the two-year period referred to herein, under such terms and conditions as required by the commissioner, but no such extension shall in the aggregate exceed three years.

d. No company shall be deemed to be a savings and loan holding company by virtue of its ownership or control of shares acquired in a fiduciary capacity except where such shares are held for the benefit of the shareholders of such company.

B. *Company* means any corporation, business trust, partnership, association, or similar organization including a savings and loan association but shall not include any corporation the majority of the shares of which are owned by the United States or by any state.

C. *Subsidiary* with respect to a specified savings and loan holding company means the following:

1. any company 25 percent or more of the voting shares of which, excluding shares owned by the United States or by any company wholly owned by the United States, is directly or indirectly owned or controlled by such savings and loan holding company or is held by it with power to vote;

2. any company the election of a majority of the directors of which is controlled in any manner by such savings and loan holding company;

3. any company 25 percent or more of the voting shares of which is held by trustees for the benefit of the shareholders of such savings and loan holding company.

D. *Successor* includes any company which acquires directly or indirectly from a savings and loan holding company shares of any savings and loan association, when and if the relationship between such company and the savings and loan holding company is such that the transaction effects no substantial change in the control of the savings and loan association or beneficial ownership of such shares of such savings and loan association.

II. Formation

A. The procedure for formation by either a mutual savings association or a capital stock association of a savings and loan holding company shall follow the provisions in this Section.

1. The board of directors of the association shall adopt a plan of organization for the formation of a savings and loan holding company.

2. The board of directors shall submit an application which includes the proposed plan of organization to the commissioner of financial institutions for his approval.

After the commissioner has approved the plan of organization it shall be submitted to the members or stockholders for their adoption. The plan shall be adopted at a special or regular meeting of members or stockholders entitled to vote as defined by the association Articles of Incorporation and bylaws. The notification of the meeting to the members or stockholders shall include a statement that the members or stockholders will be requested to vote on a proposed plan of organization into a savings and loan holding company.

4. The plan must be approved by a majority vote of the total number of votes cast unless a larger percentage vote is required by the plan, but in no instance can the vote be less than a majority of votes cast. Evidence of member or stockholder approval of the proposed plan shall be submitted to the commissioner.

5. That any association whose members, stockholders or board of directors have adopted a plan of organization

prior to the effective date of this rule shall not be required to submit said plan to the commissioner for his approval.

B. The commissioner may approve the proposed plan if the following criteria are met:

1. the plan would not constitute an unsafe or unsound banking practice;

2. the financial and management resources of the association warrant approval;

3. the association furnishes all the information required by the commissioner;

4. the association pays the fees prescribed by this Paragraph which shall be paid at the time of initial application and are non-refundable.

a. A holding company application shall be \$250 if there is no merger involved.

b. An application for a new interim association filed solely for the purpose of organizing a holding company for an existing association shall be \$250 in addition to the fee in Subparagraph (a).

c. An application fee for a new association that will conduct savings and loan association business in connection with organizing into holding company form shall be \$1,500.

C. In addition to the procedures set forth in Paragraphs A and B of this Section, the following procedures shall be followed for the formation of a savings and loan holding company by a mutual savings association.

1. a. A majority of directors of a mutual association, after receiving approval of the commissioner and its shareholders, shall charter a stock savings institution, the stock of which shall be wholly owned by the mutual institution.

b. The mutual association shall then transfer the substantial part of its assets and liabilities, including all of its insured liabilities, to the subsidiary stock savings association, or

2. A majority of the directors of a mutual association, after receiving approval of the commissioner and its shareholders, shall:

a. charter a stock corporation that will be the holding company.

b. charter an interim stock savings institution, the stock of which is to be wholly owned by the newly created holding company.

c. merge the existing mutual institution with the interim savings institution whereby all or substantially all of the assets and liabilities, including all of the insured liabilities of the mutual institution are exchanged for stock in the stock institution, or

3. Any other method, approved in advance and in writing by the commissioner, that accomplishes the same objective.

4. All shareholders having ownership, liquidation or voting rights in the mutual savings association pursuant to any provision of law or articles or bylaws of the association shall after the transfer, have the same rights in the mutual holding company.

D. In addition to the procedures set forth in Paragraphs A and B of this Section, the following procedures shall be followed for the formation of a savings and loan holding company by a capital stock association.

1. A corporation, upon the prior written approval of the commissioner, may purchase the required number of shares of stock of an existing stock savings association, or

2. A majority of the directors of a stock association, after receiving approval of the commissioner and its share-

holders, shall:

a. charter a new stock savings institution;

b. the original stock association shall then transfer the substantial part of its assets and liabilities, including all of its insured liabilities, to the new stock savings association in exchange for the stock of the new savings association, or

3. A majority of the directors of a stock association, after receiving approval of the commissioner and its shareholders, shall:

a. charter a stock corporation that will be the holding company;

b. charter an interim stock savings institution, the stock of which is to be wholly owned by the holding company;

c. merge the existing stock association with the interim stock association and exchange shares of stock of the holding company with the association stockholders for shares of stock in the existing stock association as previously agreed in the plan of organization, or

4. Any other method, approved in advance and in writing by the commissioner that accomplishes the same objective.

III. Administration

A. The commissioner of financial institutions shall administer and carry out the provisions of this Chapter and may issue such regulations and orders as may be necessary to discharge this duty and to prevent evasions of this Chapter.

B. The commissioner may promulgate reporting, examination, and regulations for savings and loan holding companies in accordance with the Administrative Procedure Act. Such regulations may include, but shall not exceed, the requirements established herein:

1. Reports. Each savings and loan holding company shall provide the office of financial institutions with a copy of its annual report.

2. Examinations. The office may examine annually a savings and loan holding company which has as its subsidiary or subsidiaries only state chartered savings and loan associations. The office may examine a savings and loan holding company having more than one savings and loan association subsidiary, one of which is a federally chartered savings and loan, whenever the commissioner knows or has reasonable cause to believe that an unsafe or unsound practice or condition exists or is likely to occur in any state chartered savings and loan association subsidiary of such savings and loan holding company.

3. Fees. Each savings and loan holding company examined by the office shall pay an examination fee not to exceed \$500.

Interested persons may submit written comments to Henry Harris, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095. Phone: (504) 925-4661.

Fred C. Dent
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Savings and Loan Holding Companies

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

FY 87-88	FY 88-89	FY 89-90
\$7,100	\$9,900	\$13,600

Costs will be salaries, expenses and supplies for Office of Financial Institutions personnel. Revenues generated will be more than adequate to cover costs of OFI. There is a possibility that examinations may have to be expanded to supervise non-financial subsidiaries of the holding companies. Statutes provide for the assessment of the cost of these examinations. First year costs will be absorbed through existing budget.

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

	FY 87-88	FY 88-89	FY 89-90
State General Fund	\$ 4,200	\$ 5,600	\$ 7,000
Restricted Funds	7,800	10,400	13,000
	<u>\$12,000</u>	<u>\$16,000</u>	<u>\$20,000</u>

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

	FY 87-88	FY 88-89	FY 89-90
State General Fund	\$ 4,200	\$ 5,600	\$ 7,000
Restricted Funds	7,800	10,400	13,000
	<u>\$12,000</u>	<u>\$16,000</u>	<u>\$20,000</u>

The revenues collected will be non-recurring. Office of Financial Institutions maintains 65 percent of revenues generated with 35 percent allotted to the State General Fund. Application fees paid to the Office of Financial Institutions will be (a) \$250 for a holding company; (b) \$250 for a new interim association; and (c) \$1,500 for a new association that will conduct savings and loan association business in connection with organizing into a holding company. These fees parallel the fees for bank holding companies and new association charter applications. It is not known the number of applications that will be filed; however, there are 50 savings and loan associations and it is expected that at least 24 will apply in the next three years. Failure to adopt this rule could result in some state-chartered associations converting to a federal charter with a loss of annual assessments or forming a holding company without making proper application.

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

Costs will be minimal. Utilization of this authority will be on a voluntary basis and expenditures will be limited to application fees and corporate structural and filing costs.

Costs of applying for a holding company will be borne by the applicant and application will be on a voluntary basis after a majority of the association's membership have approved the formation of a holding company. There is a possibility that examinations may have to be expanded to supervise non-financial subsidiaries of the holding companies. Existing statutes provide for costs of examinations to be assessed against the holding company.

Benefits to the applicant will be the ability to better compete in the financial marketplace and adoption of this rule could contribute to the profitable operations of savings and loan associations and create additional leverage to raise capital (net worth) of associations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no adverse effect on competition or employment. Additional powers were granted to savings and loan associations by the Competitive Equality Banking Act so they could be competitive and have parity with other financial institutions. Additional employees will be needed in the formation of some of the holding companies.

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 adopt rule LAC 35:XV.12336 "Off-Track Breakage" as follows:

**Title 35
HORSE RACING
Part XV: Off-Track Wagering**

**Chapter 123. General Rules
§12336. Off-Track Breakage**

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

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

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission.

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The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Tom Trenchard or Judy A. McGinity at (504) 568-5870 or LINC 621-5870, holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, March 7, 1988 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: LAC 35:XV.12336
"Off-Track Breakage"**

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

There is no cost to implement this new rule.

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

There is no effect on revenue collections.

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

Since this new rule is implemented to clarify the calculation of breakage the only groups that are affected are those receiving the benefits of the breakage: the associations and the horsemen (purses).

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 Commerce
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to adopt Part XV: Off-Track Wagering of Title 35: Horse Racing, §12101 through §12519 as follows:

**Title 35
HORSE RACING
Part XV. Off-Track Wagering (New Part)**

**Chapter 121. Definitions
§12101. Definitions**

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

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

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

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

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

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

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

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

**Chapter 123. General Rules
§12301. Authority of Commission**

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

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

§12303. Proprietary Rights

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

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

§12305. Impermissible Conduct

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

A. use improper, profane or indecent language to any racing official;

B. in any manner or at any time, disturb the peace or make himself or herself obnoxious to others;

C. make a handbook or foreign book, or solicit for or bet with a handbook or foreign book.

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

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

§12307. Complaints Against Officials

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

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

§12309. Strikes

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

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

§12311. Minors

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

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

§12313. Ejections

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

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

§12315. Employee List; Identification Badges

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

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

§12317. Facility Racing Officials

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

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

§12319. Minors as Employees

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

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

§12321. Access by Commissioners

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

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

§12323. Non-Pari-Mutuel Wagering

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

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

§12325. Telephones and Telegraphs

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

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

§12327. Prohibited Transmission Equipment

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

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

§12329. Simulcast Video Transmission

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

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

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

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

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

F. The transmission of data between the totalizator system at the host association and the remote terminals at the off-track wagering facility shall be independent of the simulcast transmission. A separate point-to-point leased data communications line, using either analog or digital transmission methods, shall be required between the host association and each off-track wagering facility.

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

§12331. Simulcast Audio Transmission

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

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

§12333. Security Controls

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

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

§12334. Licensee's Authority to Make Rules

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

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

§12335. Wagering Pools

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

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

§12337. Totalizator Equipment

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

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

§12339. Close of Wagering

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

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

§12341. Pari-Mutuel Tickets

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

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

§12343. Concessionaires and Caterers

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

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

§12345. Concession Services

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

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

§12347. Cleanliness and Inspection

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

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

§12349. Sanitation and Health Rules

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

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

§12351. Method of Accounting

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

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

§12353. Wagering Distribution Report

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

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

§12355. Race Meeting Report

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

conducted by a host association.

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

§12357. Other Reports

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

- A. copies of all written contracts;
- B. a list of directors and officers, compensation paid to each, and/or a report of any changes thereof;
- C. a statement listing all unclaimed ticket fund accruals for the preceding month and/or to date.

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

§12359. Books and Records

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

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

§12361. Inspection and Delivery

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

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

§12363. Remedies

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

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

Chapter 125. Licensing

§12501. Licensing

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

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

§12503. Applications

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

regular or special meeting of the commission.

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

§12505. Application Submission

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

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

§12507. License Application Stages

License applications shall be in two stages.

A. Preliminary Application

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

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

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

B. Final Application

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

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

a. The criteria required by R.S. 4:159 and required under R.S. 4:214(A).

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

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

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

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

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

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

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

ble.

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

§12509. License Procedures

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

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

§12511. License for Facility Beyond 55-Mile Limit

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

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

§12513. Hearing Notice

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

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

§12515. Review and Completeness of Information

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

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

§12517. Notification of Requirements

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

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

§12519. Eligibility; Joint Application

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

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

The office of the Louisiana State Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Tom Trenchard or Judy A. McGinity at (504) 568-5870 or LINC 621-5870, holidays and weekends excluded, for more information. All interested persons may submit written com-

ments relative to this rule through March 7, 1988 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: LAC 35:XV (New Part) §12101-12519 Off-Track Wagering

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The costs of implementing off-track betting are borne almost solely by the racing associations. Some additional work will be generated for the auditors and office personnel. Costs, if any, are indeterminate.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The effect on revenue collections could either be positive or negative. If patrons begin attending OTB facilities *instead* of the tracks, then the amount received by the state will *decrease* (three to five percent to state at host track; one and one-half percent at OTB facility). Should OTB simply generate *new* patrons at OTB facilities (and track patrons continue attending at the host track), then state revenue will *increase*.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Benefits are to everyone, except possibly to the state as mentioned in II. Patrons have more places to wager; the handle will increase; the tracks will get additional funds; purses will increase (benefitting horsemen).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The effect on employment is anticipated to be positive. As a long-term projection, as many as 1,200 jobs will be created by off-track wagering.

Albert M. Stall
Chairman

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:XI.9905 "Timing of Entering Next Claiming Race" as follows:

Title 35

HORSE RACING

Part XI: Claiming Rule and Engagements

Chapter 99. Claiming Rule

§9905. Timing of Entering Next Claiming Race

Except as otherwise provided herein, a claimed horse shall not enter in starter, optional or claiming races for 30 days after being claimed in a race in which the determining

eligibility price is less than 25 percent more than the price at which the horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the thirty-first day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

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

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

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Tom Trenchard or Judy A. McGinity at (504) 568-5870 or LINC 621-5870, holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Monday, March 7, 1988 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: LAC 35:XI.9905
"Timing of Entering Next Claiming Race"**

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

There are no costs to implement this rule change.

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)

The rule change benefits horsemen because a new clause avoids contradiction with other claiming rules.

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 Commerce
Real Estate Commission**

Notice is hereby given that the Louisiana Real Estate Commission will consider amendments to LAC 46:LXVII.

6529.C., to provide additional causes for the commission to discipline certified real estate schools through suspension or revocation of Certificate of Authority of any school determined to be in violation of commission rules and regulations.

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

**Chapter 65. Real Estate Schools
§6529. Causes for Suspension or Revocation of School Certificate of Authority**

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

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

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

Anna-Kathryn Williams
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Causes for Suspension or
Revocation of School Certificates of Authority**

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

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

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

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

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

There is no way to estimate costs. Certified schools found to be in violation of the law and/or rules and regulations could be subject to disciplinary action by the commission.

The benefit would be to the public, mostly those who attend the real estate schools, in passage of rules to insure compliance with the law and rules on the part of the schools.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All schools certified by the commission are bound to comply with the law and rules. In this case, there is no effect on competition and employment as a result of adoption of this rule. Only in cases where certified schools are found to be in violation of the law and/or rules could disciplinary action be ordered by the commission in accordance with this rule.

Anna-Kathryn Williams
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amend Standard 1.009.16 of Bulletin 741

In accordance with the Louisiana Revised Statutes et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education upheld the recommendation of the Department regarding the counting of parental conferences as co-curricular activities and approved the following procedural blocks to be added under Standard 1.009.16 of Bulletin 741:

“Two or more partial days may be combined to meet the minimal school year requirement of 175 days of 330 minutes of instructional time.”

“The class schedule must be abbreviated in order to ensure that all classes are taught during partial days.”

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m. April 11, 1988 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

NOTE: This was also adopted as an Emergency Rule, effective January 20, 1988. (See January, 1988 issue of Register.)

Dr. James Meza, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Minimum Session/Instructional Day
Standard 1.009.16**

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

Addition to Bulletin 741 of the procedural block explains the change in Standard 1.009.16 and dissemination of the information will cost approximately \$50.00. This includes printing and postage to notify the LEAs.

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

No effect on revenue collections of state or local governmental units is expected.

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

No cost and/or economic benefits to directly affected persons or non-governmental groups is expected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition and employment is expected.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revisions to Summer School Standards-Bulletin 741

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following revisions to the summer school standards (Bulletin 741) as recommended by the Department:

Page 105, change the wording of policies 1.113.00 and 2.113.00 to state the following:

Schools may offer a summer school program to enable students who have failed in subjects to remove deficiencies and be considered for promotion to the next grade. Local systems which offer summer school for promotional purposes shall adhere to the following standards.

Page 106, change standards 2.113.06 and 2.113.08 to state:

2.113.06 The teaching load shall not exceed 20 students per teacher in a regular summer school.

Instruction

2.113.08 A teacher shall be allowed to teach only one subject for removal of deficiencies during a single period.

Page 107, change standard 2.113.15 to state:

2.113.15 Daily time requirements shall be as follows:

Program	35 days	Total Hours
Removal of	120 min.	70
Deficiencies	per subject	

Page 108 - delete entire page.

Page 110, reword Standard 2.116.06 to state:

2.116.06. Summer schools having both elementary and secondary students are required to follow elementary standards for elementary students and secondary standards for secondary students.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., April 11, 1988 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Dr. James Meza, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Elementary Summer
School Standards**

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amendment to the 8(g) Policy
and Procedures Manual**

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

It is estimated that approximately \$50 would be needed to reprint the necessary forms for elementary summer schools. This amount is presently allocated in the 1987-88 budget. Bulletin 741 presently states that school systems that offer summer school shall do so for three reasons - for promotional purposes, remediation, and enrichment. The revised rule requires LEAs to report only those programs that are offered for promotional purposes; however, they may still offer programs in the other two areas. School systems that choose to offer summer school for promotional purposes only may have less students enrolled, thereby causing less costs per student resulting in less revenues for the LEAs.

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

If fewer students attend summer school there will be less tuition collected by the LEAs.

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

Students may have fewer options as to the type of summer school program they are eligible to enroll in.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

If LEAs do not offer as many summer school programs, fewer teachers will be needed.

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

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to 8(g) Policy 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 amendment to the 8(g) Policy Manual:

Section 101 - amend A-D to read:

Chairman, or designated member of the committee

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., April 11, 1988 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Dr. James Meza, Jr.
Executive Director

NOTICE OF INTENT

**Board of Elementary and Secondary Education
8(g) Program and Budget, FY 88-89**

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 following 8(g) Program and Budget for Fiscal Year 1988-89:

1. Exemplary Programs to Enhance Student Achievement (Competitive Grants)	
A. Pre-K - 3rd grade	\$ 2,000,000
B. Remediation (grades 4-12 and vo-tech)	\$ 2,000,000
C. Educational Technology	\$ 1,000,000
D. Vocational education (postsecondary)	\$ 3,000,000
2. Exemplary Statewide Programs to Enhance Student Achievement	
A. Administrative Leadership Academy	\$ 750,000
B. Foreign language model program	\$ 2,000,000
C. Continuing education for teachers	\$ 2,000,000
3. Research and Pilot Programs for Statewide Implementation	
A. Louisiana Educational Assessment Program	\$ 1,000,000
B. Education reform package adopted by BESE	\$ 6,967,436
4. Scholarships and Stipends	
A. Education scholars program	\$ 2,000,000
5. 8(G) Administration (two percent) (auditing, monitoring, and evaluation)	\$ 450,000
	TOTAL \$23,167,436

Interested persons may comment on the proposed policy

change and/or additions, in writing until 4:30 p.m., April 11, 1988 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Dr. James Meza, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Louisiana Quality Education Support
Program and Budget for FY 1988-89**

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

The Board of Elementary and Secondary Education has adopted its Quality Education Support Fund budget for 1988-89. This budget is funded with 8(g) dedicated funds. If the Legislature appropriates these funds as proposed by BESE the additional costs over 1987-88 budgeted will be \$6,163,246. Of this amount, up to \$5,913,246 is designated for local education authorities (LEA's) or other entities. An additional \$250,000 has been proposed by BESE for administrative expenses. This includes two additional positions to assist in monitoring the use of these funds by LEA's or other entities.

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

This proposed rule will increase revenues for LEA's by up to \$5,913,246. This amount may be reduced to the extent that funding is provided to applicants other than LEA's.

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

Up to \$5,913,246 will be available for projects to enhance educational activities through the Quality Education Support Fund. These projects may be carried out either by LEA's or non-governmental entities as determined by BESE.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Dr. James Meza, Jr.
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revised Funeral Leave Policy

In accordance with R.S. 49.950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an amendment to Policy 5.02.10, Section 12.2 regarding funeral leave for employees as follows:

An employee may be granted time off without loss of pay, annual leave or sick leave when attending the funeral or burial rites of a parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grand-parent, or grand-child; provided such time off shall not exceed two days on any one occasion.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m. April 11, 1988 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Dr. James Meza, Jr.
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Funeral Leave Policy (Revised)**

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

There will be no implementation cost to state or local government 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 effect of this revision is to reduce the number of relatives whose death would warrant leave without loss of pay or accumulated annual and/or sick time. Thus, employees that wish to attend the funerals of these relatives would have to accept a loss of pay or accumulated annual and/or sick time.

**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

**Office of the Governor
Office of Women's Services**

The Office of Women's Services proposes to amend the following guidelines for allocation of marriage license surcharge fees from the Programs for Victims of Family Violence Fund.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 17. Women's Services

**Subchapter C. Programs for Victims of Family Violence
Fund**

**§1737. Guidelines for Application of Additional
Marriage License Fees**

A. - D. ...

E. Application Process

1. Notification of the availability of funds for family violence programs for fiscal year 1988-89 will be given through the Office of Women's Services.

2. Application packets will be sent to all existing family violence program providers, and all persons/organizations who have made past inquiries regarding funding. Interested potential applicants may request application packets from the Office of Women's Services, Box 94095, Baton Rouge, LA 70804-9095.

3. The application packet will be mailed within five working days of receipt of request.

4. The applications must be received by the Office of Women's Services by May 25, 1988.

5. All applications will be evaluated and prioritized according to the stated criteria for evaluation. During the evaluation process, applicants may be contacted by the Office of Women's Services to review and negotiate the application and proposed budget.

6. Applicants will be notified by the Office of Women's Services as to the final decision within 60 days of receipt of the application.

7. The contracts will be signed, and distribution of funds will begin within 45 days of final approval of the contract.

F. - G. ...

Interested persons may submit written comments on the proposed amendment until 4:30 p.m., March 20, 1988 to Judy Dunlap, Director, Office of Women's Services, Box 94095, Baton Rouge, LA 70804-9095.

Judy Dunlap
Director

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

Rule Title: Programs for Victims of Family Violence

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

The fees collected during a fiscal year will accumulate in the Programs for Victims of Family Violence Fund for allocation during the following fiscal year. Collection of the fees began September, 1986, and there were no implementation costs for 1986-87. Ninety-five percent of the monies in the fund collected in 1986-87 were allocated in 1987-88. Ninety-five percent of the monies in the fund collected in 1987-88 may be allocated in 1988-89. Ninety-five percent of the monies in the fund collection in 1988-89 may be allocated in 1989-90. The remaining five percent each year will be retained by the Office of Women's Services for administration of funds as allowed by Act 1056.

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

It is estimated that \$339,453 will be collected by local clerks of court from additional marriage license fees during 1987-88. Five percent, \$16,973, may be retained by the clerks of court for administration. The balance of \$322,480 will be deposited into the Programs for Victims of Family Violence Fund for allocation during fiscal year 1988-89. It is also estimated that \$339,453 will be collected during 1988-89 and 1989-90. Five percent, \$16,973, will be re-

tained by the clerks of court. The balance of \$322,480 will be available for allocation.

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

Family violence programs will benefit from the supplemental funding provided by the additional marriage license fees which will provide for program expansion. Persons applying for a marriage license are required to pay an additional \$12.50 to obtain a license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Job availability at the local level may increase if new family violence programs are established.

Judy Dunlap
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

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

Current policy of the Office of Family Security allows for the sanctioning of recipients for program abuse. However, no specific sanctions have been listed.

A recent study done by the Health Care Financing Administrator, Region VI, and a similar study done by the Office of Family Security indicate in 3 percent of the transports authorized by the Office of Family Security, the recipient does not keep the medical appointment. The recipient uses medical transportation to get to a medical provider's office and, after delivery to the medical provider's office, the recipient goes somewhere else. As a result of the federal study, the state has been instructed to return federal matching funds in the amount of \$232,268. Sixty-seven percent of the amount (\$155,620) is directly related to this problem. Therefore, this agency is required to immediately implement sanctions which would be a deterrent to recipient abuse and fraud. The implementation of recipient sanctions will reduce the possibility of further federal matching fund denials by HCFA.

Proposed Rule

Effective April 1, 1988, the following sanctions may be imposed against Medicaid recipients who abuse the medical transportation program by utilizing transportation for a medical appointment and not keeping that appointment.

1. Letter of warning to the recipient which would specify additional actions that could be taken if further violations occur.

2. A monetary recoupment of the value of the transportation received.

3. Bar the recipient from use of the non-emergency medical transportation program for a period of three months, six months, twelve months, or indefinitely.

4. Refer to the State Special Investigations Unit for possible prosecution under state laws relating to theft or fraud.

Interested persons may submit written comments to

the following address: Marjorie T. Stewart, Assistant Secretary, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule. A copy of this proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on this proposed rule will be held on March 10, 1988 in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing.

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

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

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Transportation Program
Recipient Sanctions**

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

It is anticipated that there will be a three percent savings to the program with the implementation of this rule. It is projected that we will spend \$16,000,000 on the transportation program this fiscal year. $3 \text{ percent} \times \$16,000,000 = \$480,000 \div 12 \text{ months} \times 3 \text{ months} = \$120,000$ anticipated savings for the fourth quarter of this fiscal year. The total projected annual savings for 1988-89 would be \$17,354,699 anticipated expenditure $\times 3 \text{ percent savings} = \$520,641$. The projected annual savings for 1989-90 would be \$18,743,075 anticipated expenditure $\times 3 \text{ percent savings} = \$562,292$.

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

The implementation of this rule will result in a decrease in the receipt of federal funds. Overall savings to the program will be three percent annually. For the last three months of 1987-88 we anticipate a loss of federal funds in the amount of \$81,912. For FY 1988-89 we anticipate a loss of federal funds in the amount of \$366,323 and for FY 1989-90 the loss in federal funds will be \$395,629.

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

Transportation providers will be affected as the proposed rule will reduce the amount of income they receive from transporting Medicaid recipients. Medicaid recipients will be affected as the rule will substantially reduce the number of inappropriate services that are being provided.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will result in a loss of income for providers. It could result in the termination of employment for some who serve as drivers for transportation providers.

Marjorie T. Stewart
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Human Resources
Office of the Secretary
Division of Licensing and Certification**

The Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification proposes to establish the rule for the adding of a drug to those contained in the Louisiana Controlled Dangerous Substances Act, R.S. 40:964:

Schedule II, Opiates, Alfentanil

Alfentanil HCl is a relatively new analgesic (pain relieving) adjunct used in the maintenance of general anesthesia and as a primary anesthetic in certain instances. Alfentanil fits into the class of drugs in Schedule II. Also, it has been placed in Schedule II by the Federal Drug Enforcement Agency. It is presently manufactured by Janssen Pharmaceuticals under the trade name Alfenta.

This addition of Alfentanil to Schedule II is necessary to provide appropriate standard of care to patients at this time. This is brought about by the need to provide optimal care for the growing number of patients who now require surgery as an out-patient.

Alfentanil is a drug with many similarities to the other opioid analgesic drugs. Its unique feature is its short duration of action. This means that patients undergoing major surgery can be provided with the safety and efficacy of an opioid analgesic without having suffered the prolonged sequelae which are associated with all of the other opioid analgesic drugs.

Anyone wishing to comment on this proposed rule may do so by writing Steve Phillips at the Division of Licensing and Certification, Box 3767, Baton Rouge, LA 70821. Comments must be made by March 10, 1988.

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

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

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

There are no estimated implementation costs or savings for this proposed rule.

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

It is estimated that this proposed rule will have no effect on revenue collections of state or local governmental units.

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

There are no estimated costs or economic benefits to any group from this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment from this proposed rule.

Steve Phillips
Director
Division of Licensing and Certification

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

The Louisiana Department of Public Safety and Corrections hereby announces its intent to amend LAC 55:I. Chapter 5 concerning Breath and Blood Alcohol Analysis Methods and Techniques as published in the *Louisiana Register*, Volume 11, No. 3, March 20, 1985.

The full text of the amended portion of the rule is published in the Emergency Rules Section of this issue of the Register.

Interested persons may submit written comments or objections until 4:30 p.m. on March 15, 1988 to Captain Bobby Achord, Louisiana State Police, at Box 66614, Baton Rouge, LA 70896.

Bobby Achord
Captain

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Blood Alcohol Analysis**

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

The estimated implementation costs of \$3,800 will be provided from the Training School Fund. The breakdown of these expenditures is \$3,300 for training, \$250 for postage and \$250 for supplies. These costs will be incurred in the current fiscal year. The number of blood alcohol analysts requiring training in subsequent years cannot be projected.

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

This rule change will have no impact on revenue collections because current rules provide for collection of fines under DWI statutes. However, because of a recent Supreme Court ruling, these fines may not be collected unless the proposed rules are adopted. Failure to adopt these rules could result in loss of self-generated revenues of \$468,000 annually to local governments and \$78,000 to the state.

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

There will be no fiscal impact on the general public or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment by adoption of these rules.

James L. Thibodeaux
Deputy Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of the Treasury
State Bond Commission**

In accordance with the applicable provisions of the Administrative Procedure Act, R. S. 49:950, et seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted on November 20, 1976, as amended:

The commission proposed to amend Rule No. 1 as follows:

The following has been adopted concerning meeting dates: Regular meetings shall be held at 10 a.m. on the third Thursday of each month, provided that: (a) any meeting at which bids are to be received for the sale of bonds may be held at either 10 a.m. or 11 a.m., any meeting held during Legislative Sessions will be held at 8 a.m. unless bids are to be received for the sale of bonds, and (b) any meeting held in lieu of a regular meeting date due to state holidays shall be deemed a regular meeting, and such new meeting date shall be determined by the chairman of the commission; special meetings may be called by the chairman of the commission on any date.

The proposed rule amendment will be made available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day after February 20, 1988 at the Office the State Bond Commission, Third Floor, State Capitol Building, Baton Rouge, LA.

Interested persons may submit their views and opinions through February 29, 1988 to Annette R. Seng, Secretary and Director of the State Bond Commission, Third Floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804. The State Bond Commission will hold a public hearing on March 1, 1988 at a time and place established in a notice posted 24 hours in advance.

Mary L. Landrieu
State Treasurer and Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bond Commission meeting dates - Rule No. 1**

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

Current Bond Commission rules require 17 meetings per year at a cost in per diem of \$600 per meeting for total costs of \$10,200 per year. This rule would require 12 meetings per year, which means an annual savings of \$3,000, assuming no special meetings are needed. However, the meetings budget for 1987-88 has already been reduced to allow for only 12 meetings per year and funding for subsequent years is likely to remain at that level. The only actual savings generated by this proposed rule will be \$83 in 1987- 88, \$500 in

1988-89 and \$575 in 1989-90 for postage, copying costs, minutes and correspondence.

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

There will be no effect on revenue collections of state and local governments.

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

There will be no estimated costs or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Annette R. Seng
Secretary, Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Urban and Community Affairs Office of the Secretary

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

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Department of Urban and Community Affairs, pursuant to the authority granted to the department under the Louisiana Legislative Act No. 505 of the 1987 Regular Session (effective July 9, 1987), is hereby giving notice of intent to administer the second phase of the Emergency Shelter Grants Program according to the requirements cited in the *Federal Register*, Vol. 52, No. 172, dated Friday, September 4, 1987. This program authorizes the Department of Urban and Community Affairs to make grants available to Louisiana units of local government under the Stewart B. McKinney Homeless Assistance Act, Title IV - Housing Assistance, Subtitle B - Emergency Shelter Grants Program. The purpose of the program is for the rehabilitation or conversion of buildings for use as emergency shelters for the homeless, and for the payment of certain operating and social service expenses in connection with that emergency shelter.

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

- (1) A minimum population of 50,000 based on 1980 census data.
- (2) A minimum unemployment rate of 7.5 percent with a minimum of 1000 individuals classified as unemployed based on Louisiana Department of Labor data for July, 1987.

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

Interested persons may provide comments by contacting Colby S. LaPlace, Assistant Secretary, Department of Urban and Community Affairs, Box 94455 Capitol Station, Baton Rouge, Louisiana 70804. Telephone number (504) 342-9790.

Michael J. Jefferson
Undersecretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Emergency Shelter Grants Program

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

The estimated cost to the state of implementing these rules (for the last six months of the current fiscal year) is \$7,759.

The estimated cost to the local governmental units is \$522,000. This is due to a dollar-for-dollar matching requirement attendant to the grant. However, this match may be in-kind.

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

An additional \$522,000 in federal funds in 1987-88 will be made available under the Emergency Shelter Grants Program for distribution to local governments. Combined with the required cash or in kind local match, six separate grants ranging from \$45,000 to \$150,000 will be distributed. Federal funds available in subsequent years have not been determined but are estimated at \$750,000 in 1988-1989 and \$800,000 in 1989-1990.

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

These individuals (the homeless) can expect to realize benefits in the form of an increased number of shelters and/or beds, and a broader provision of services for the homeless.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules will have no effect on either competition or employment.

Elaine Boyle Patin
Secretary

David W. Hood
Legislative Fiscal Analyst

Committee Reports

COMMITTEE REPORT

House of Representatives House Natural Resources Committee Oversight Review

Pursuant to the provisions of R.S.49:968, the House of Representatives Natural Resources Subcommittee on Oversight met on January 20, 1988 and reviewed certain changes in state regulations proposed by the Louisiana Department of Wildlife and Fisheries for which notice of intent was published in the December *Louisiana Register* with the following results:

1) Proposal by the Department of Wildlife and Fisheries to adopt rules to regulate the mandatory firearms and hunters education program.

Approved by a vote of 6-0.

2) Proposal by the Department of Wildlife and Fisheries to amend the Louisiana Administrative Code - Title 76, Part V, Chapter 1, 103 (Field Trials on Wildlife Management Areas). The proposed amendment omits unnecessary regulations, liberalizes the season framework, and states more clearly procedural responsibilities required by the Louisiana Department of Wildlife and Fisheries of bird and dog clubs utilizing a wildlife management area for a field trial.

Approved by a vote of 5-0.

Clyde W. Kimball
Chairman

Potpourri

POTPOURRI

Department of Agriculture Horticulture Commission

The next retail floristry examinations will be given at 10 a.m. daily at the Delta Ouachita Vo-Tech School in West Monroe, LA. The deadline for getting in application and fee is April 1, 1988. All applications must be in the Horticulture Commission office no later than 4:30 p.m. on that date. The test dates will be April 19 - 22, 1988.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 44517, Capitol Station, Baton Rouge, Louisiana 70804, phone (504) 925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Environmental Quality Office of Water Resources

The Department of Environmental Quality, Office of Water Resources will conduct a public hearing to present, for public review and comment, the Municipal Facilities Revolving Loan Fund Intended Use Plan. The plan identifies the intended uses of amounts available to the Revolving Loan Fund and the criteria and method for their distribution. The Intended Use Plan is prepared in accordance with provisions of Section 606(c) of Title VI of the Federal Water Quality Act of 1987.

The public hearing will be held on February 25, 1988, at 10 a.m. in the Mineral Board Hearing Room, in the lobby of the State Lands and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons may submit written comments to J. Dale Givens, Assistant Secretary, Office of Water Resources, Box 44091, Baton Rouge, LA 70804. Written comments will be received until March 11, 1988.

Copies of the Intended Use Plan will be available for public review at least 30 days prior to the hearing at the Department of Environmental Quality, Water Pollution Control Division, 625 North Fourth Street, Baton Rouge, LA and in the following Department of Environmental Quality Regional Offices throughout the state:

Southwest Regional Office, 1155 Ryan Street, Lake Charles, LA.

Northeast Regional Office, 804 North Thirty-First Street, Monroe, LA.

Northwest Regional Office, 1525 Fairfield Street, Room 11, Shreveport, LA.

Acadiana Regional Office, 100 Eppler Road, Lafayette, LA.

Lafourche Regional Office, 302 Baratavia Street, Lockport, LA.

Southeast Regional Office, 3945 North I-10 Service Road West, Metairie, LA.

Alexandria Sub-Regional Office, c/o LA Dept. of Wildlife and Fisheries, Highway 71 North, Adjacent to Spring Hill Courts, Pineville, LA.

Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA.

J. Dale Givens
Assistant Secretary

POTPOURRI

Department of Health and Human Resources Board of Embalmers and Funeral Directors

The Louisiana State Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Monday, March 28, 1988 at Delgado Community College, 615 City Park Avenue, New Orleans.

Interested persons may obtain further information from the Louisiana State Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 483-4684.

Dawn Scardino
Confidential Assistant

POTPOURRI

Department of Labor Office of Workers' Compensation

The Louisiana Department of Labor, Office of Workers' Compensation Administration hereby expresses its intent to adopt Form LDOL-WC-1020, Employee's Report of Monthly Earnings.

The LDOL-WC-1020 is to be used by the employee for the reporting of his/her monthly earnings, where the employee is entitled to and receiving supplemental earnings benefits. The Form LDOL-WC-1020 should be used by the employee in the reporting of monthly earnings and should be provided by the employer or employer's insurance carrier to the employee.

Gayle F. Truly
Secretary

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 57 claims amounting to \$93,013.35 were received during the month of January 1988. During the same month, nine claims, amounting to \$13,843.27 were paid.

The following claims are the subjects of public hearings to be held at the locations indicated:

Tuesday, February 23, 1988, at 3 p.m. in the L.S.U. Cooperative Extension Service Office, Greater Lafourche Port Commission Building, Highway 308, Galliano, LA. All 27 claims previously set for hearing December 10, 1987, which hearing was cancelled.

CLAIM NO. 87-88-182

Mitchell R. Serigne, of Route 1, Box 29-B, Golden Meadow, LA 70357, while trawling on the vessel, "MISS LILLIAN," in River side North of Dixon Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on September 12, 1987, causing damage and/or loss. Amount of Claim: \$1,288.75

CLAIM NO. 87-88-231

Joseph A. Cheramie, of Route 2, Box 485-A, Cut Off, LA 70345, while trawling on the vessel, "CATHY CHERAMIE," in the Gulf of Mexico, between Southwest Pass and Shell Keys, at approximate LORAN-C readings of 27,374.0 and 46,936.2, Iberia Parish, encountered an unidentified submerged obstruction on September 26, 1987, causing damage and/or loss. Amount of Claim: \$768.75

CLAIM NO. 87-88-239

Florena A. Billiot, of Box 721, Galliano, LA 70354, while trawling on the vessel, "CAPTAIN ED," in Redfish Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on September 10, 1987, causing damage and/or loss. Amount of Claim: \$4,263.78

CLAIM NO. 87-88-249

Daniel Terrebonne, of 126 W. 135th. Street, Cut Off,

LA 70345, while trawling on the vessel, "MASTER CY," in Lake Raccourci, at approximate LORAN-C readings of 28,275.7 and 46,858.1, Terrebonne Parish, encountered a submerged sunken boat on September 7, 1987, causing damage and/or loss. Amount of Claim: \$946.74

CLAIM NO. 87-88-277

Jason Joseph Guidry, of 119 East 52nd. St., Cut Off, LA 70345, while trawling on the vessel, "CAPTAIN JASON," Southeast of Bull Island, Lafourche Parish, encountered an unidentified submerged obstruction on September 22, 1987, causing damage and/or loss. Amount of Claim: \$936.85

CLAIM NO. 87-88-279

Nolan Delaune, of Route 1, Box 450, Cut Off, LA 70345, while trawling on the vessel, "LADY FRANCES," in Timbalier Bay, Lafourche Parish, encountered an unidentified submerged obstruction on October 6, 1987, causing damage and/or loss. Amount of Claim: \$95.99

CLAIM NO. 87-88-295

Rufus Deroche, of Route 4, Box 482 Y2, Cut Off, LA 70345, while trawling on the vessel, "LA SHOUCHE," in Timbalier Bay, at approximate LORAN-C readings of 28,263.3 and 46,847.1, Terrebonne Parish encountered an unidentified submerged obstruction on October 14, 1987, causing damage and/or loss. Amount of Claim: \$900.50

CLAIM NO. 87-88-307

Danny Cheramie, of Route 4, Box 482-K, Cut Off, LA 70345, while trawling on the vessel, "MISS DARLENE," in Timbalier Bay, Terrebonne Parish, encountered an unidentified submerged obstruction on October 15, 1987, causing damage and/or loss. Amount of Claim: \$1,440.81

CLAIM NO. 87-88-318

Michael Lorraine, of Route 2, Box 275, Cut Off, LA 70345 while trawling on the vessel, "JARROD AND JASON," in Bayou Lafourche one mile north of flood gates, Lafourche Parish, encountered a submerged cable on November 2, 1987, causing damage and/or loss. Amount of Claim: \$4,127.13

CLAIM NO. 87-88-330

Lawrence Charpentier, of Route 2, Box 537-A, Cut Off, LA 70345, while trawling on the vessel, "THUNDER BAY," in the Gulf of Mexico, at approximate LORAN-C readings of 28,771.0 and 46,772.6, Plaquemines Parish, encountered an unidentified submerged obstruction on October 13, 1987, causing damage and/or loss. Amount of Claim: \$1,047.48

CLAIM NO. 87-88-331

Curt Terrebonne, of West 107th, Box 142, Cut Off, LA, 70345, while trawling on the vessel, "LADY OF FATIMA," in the Gulf of Mexico, approximately one mile east of Belle Pass, Lafourche Parish, encountered an unidentified submerged obstruction on November 2, 1987, causing damage and/or loss. Amount of Claim: \$1,467.74

CLAIM NO. 87-88-348

Floyd Lasseigne, of Box 108, Grand Isle, LA 70358, while trawling on the vessel, "SUPER CHAMP," in Barataria Waterway, at approximate LORAN-C readings of 28,560.0 and 46,867.4, Jefferson Parish, encountered an unidentified submerged obstruction on October 21, 1987, causing damage and/or loss. Amount of Claim: \$757.17

CLAIM NO. 87-88-381

Antoine Chauvin, of 117 Lefort Lane, Golden Meadow, LA 70357, while trawling on the vessel, "LA 7130 BR," in Little Lake, Lafourche Parish, encountered an unidentified submerged obstruction on November 17, 1987, causing dam-

age and/or loss. Amount of Claim: \$488.26

CLAIM NO. 87-8B-315

Paul Guidry of Box 576 Grand Isle, LA 70358 while trawling on the vessel, "MASTER PAUL," in Barataria Waterway, Jefferson Parish, encountered an unidentified submerged obstruction on July 14, 1987, causing damage and/or loss. Amount of Claim: \$4,424.30

Wednesday, February 24, 1988, at 9:30 a.m., in the Louisiana State University Cooperative Extension Service Office, 511 Roussel Street, Houma, LA. All 24 claims previously set for hearing December 10, 1987, which hearing was cancelled.

CLAIM NO. 87-88-125

Howard Parfait, of 5623 Shrimpers Row, Dulac, LA 70353, while trawling on the vessel, "LA 893 EK," in Bay Monclouse, Terrebonne Parish, encountered an unidentified submerged obstruction on August 18, 1987, causing damage and/or loss. Amount of Claim: \$909

CLAIM NO. 87-88-150

William Brumley, of Box 226, Chauvin, LA 70344, while trawling on the vessel, "LADY MARGO," in Lake Pelto, Terrebonne Parish, encountered an unidentified submerged obstruction on September 4, 1987, causing damage and/or loss. Amount of Claim: \$587.94

CLAIM NO. 87-88-201

Randy P. Blanchard, of 112 Emily St., Montegut, LA 70377, while trawling on the vessel, "MISS BRANDY," in Cailou Island Field, Terrebonne Parish, encountered an unidentified submerged obstruction on September 8, 1987, causing damage and/or loss. Amount of Claim: \$430

CLAIM NO. 87-88-202

Joey P. Sevin, of Star Route Box 512, Chauvin, LA 70344, while trawling on the vessel, "MISS SANDRA," in Terrebonne Bay, Terrebonne Parish, encountered an unidentified submerged obstruction on September 8, 1987, causing damage and/or loss. Amount of Claim: \$788.35

CLAIM NO. 87-88-209

Michael A. Schexnayder, of 18416 John Broussard, Prairieville, LA 70769, while trawling on the vessel, "BLUE GOOSE," in Lake Pontchartrain, Tangipahoa Parish, encountered a submerged log on September 22, 1987, causing damage and/or loss. Amount of Claim: \$579.95

CLAIM NO. 87-88-259

Ricky Francis, of Box 32, Berwick, LA 70342, while trawling on the vessel, "LA 7319 BN," in lower Four League Bay, Terrebonne Parish, encountered an unidentified submerged obstruction on November 6, 1987, causing damage and/or loss. Amount of Claim: \$5,000

CLAIM NO. 87-88-261

Kirby R. Styron, of Box 731, Hwy. 55 Montegut, LA 70377, while trawling on the vessel, "CAROL ANDREA", inside of Belle Pass 1/4 mile from Jetties, at approximate LORAN-C readings of 28,344.0 and 46,831.4, Lafourche Parish, encountered an unidentified submerged obstruction on September 29, 1987, causing damage and/or loss. Amount of Claim: \$1,039.02

CLAIM NO. 87-88-278

Vernon Naquin, of 536 Engeron St., Houma, LA 70363, while trawling on the vessel, "NINEVEH," in East Cote Blanche, at approximate LORAN-C readings of 27,621.3 and 46,954.2, St. Mary Parish, encountered an unidentified submerged obstruction on October 16, 1987, causing damage and/or loss. Amount of Claim: \$843.69

CLAIM NO. 87-88-285

Russell Portier, of Route 2, Box 795, Chauvin, LA 70344, while trawling on the vessel, "JAMIE LYN," in the Gulf of Mexico, Oyster Bayou Area, Terrebonne Parish, encountered an unidentified submerged obstruction on October 20, 1987, causing damage and/or loss. Amount of Claim: \$4,841.37

CLAIM NO. 87-88-299

Frank Chaisson, of Box 383, Island Rd., Montegut, LA 70377, while trawling on the vessel, "MISS SANDRA," in Lake Barre, Terrebonne Parish, encountered a submerged pipe on July 13, 1987, causing damage and/or loss. Amount of Claim: \$712.62

CLAIM NO. 87-88-300

Elton J. Theriot, of 3558 East Park Avenue, Houma, LA 70363, while trawling on the vessel, "CAPT. BEN," in West Cote Blanche Bay, at approximate LORAN-C readings of 27,549.1 and 46,967.7, St. Mary Parish, encountered a submerged cypress tree on October 24, 1987, causing damage and/or loss. Amount of Claim: \$910.83

CLAIM NO. 87-88-370

Houston Trahan, of Star Route Box 513, Chauvin, LA 70344, while trawling on the vessel, "REBECCA LYNN," in Terrebonne Bay, Terrebonne Parish, encountered an unidentified submerged obstruction on October 23, 1987, causing damage and/or loss. Amount of Claim: \$500

CLAIM NO. 87-88-374

Willard Authement, of Star Route, Box 279, Chauvin, LA 70344, while trawling on the vessel, "MUD BUG," in the Gulf of Mexico, outside of Wine Island, Terrebonne Parish, encountered a submerged piling on November 13, 1987, causing damage and/or loss. Amount of Claim: \$279.66

CLAIM NO. 87-88-280

David J. Valure, of 304 Peach St., Houma, LA 70363, while trawling on the vessel, "CABANA," in Grand Caillou Bayou, Terrebonne Parish, encountered an unidentified submerged obstruction on October 2, 1987, causing damage and/or loss. Amount of Claim: \$1,378.18

CLAIM NO. 87-88-281

David J. Valure, of 304 Peach St., Houma, LA 70363, while trawling on the vessel, "CABANA," in Caillou Lake, Terrebonne Parish, encountered a submerged piling on September 17, 1987, causing damage and/or loss. Amount of Claim: \$650

CLAIM NO. 87-88-322

Terry P. Luke, of 5139 Shrimpers Row, Dulac, LA 70353, while trawling on the vessel, "MASTER TERRY," in Blue Point, at approximate LORAN-C readings of 27,735.8 and 46,884.5, Terrebonne Parish, encountered an unidentified submerged obstruction on November 2, 1987, causing damage and/or loss. Amount of Claim: \$3,635.80

CLAIM NO. 87-88-323

Terry P. Luke, of 5139 Shrimpers Row, Dulac, LA 70353, while trawling on the vessel, "MASTER TERRY," in the Gulf of Mexico, at approximate LORAN-C readings of 27,771.0 and 46,878.2, encountered an unidentified submerged obstruction on October 10, 1987, causing damage and/or loss. Amount of Claim: \$1,583.13

CLAIM NO. 87-88-344

Danny J. Segura, of Box 284, Delcambre, LA 70528, while trawling on the vessel, "MARY CAROLYN," in the Gulf of Mexico, at approximate LORAN-C readings of 27,251.5 and 46,937.4, Vermilion Parish, encountered an unidentified

submerged obstruction on November 7, 1987, causing damage and/or loss. Amount of Claim: \$2,584.30
CLAIM NO. 87-88-368

Jimmie J. Dupre, Sr., of Route 2, Box 430, Erath, LA 70533, while trawling on the vessel, "MISS ANNA," at the mouth of Delcambre Canal, at approximate LORAN-C readings of 27,532.9 and 46,987.3, Vermilion Parish, encountered an unidentified submerged obstruction on October 21, 1987, causing damage and/or loss. Amount of Claim: \$953.08

Tuesday, March 1, 1988, at 3 p.m., in the Lafitte Town Hall, Lafitte, LA.:
CLAIM NO. 87-88-35

Harold P. Toups, Jr., of 1301 West Drive, Westwego, LA 70094 while trawling on the vessel, "ONLY SON," in the Gulf of Mexico, at approximate LORAN-C readings of 27,740.4 and 46,881.9, encountered an unidentified submerged obstruction on July 2, 1987, causing damage and/or loss. Amount of Claim: \$1,200
CLAIM NO. 87-88-63

Dennis J. Coulon, of Box 460-D, Barataria, LA 70036, while trawling on the vessel, "MISS DENISE," in the Gulf of Mexico, Grand Isle Pass, at approximate LORAN-C readings of 28,565.9 and 46,861.6, Jefferson Parish, encountered an unidentified submerged obstruction on June 16, 1987, causing damage and/or loss. Amount of Claim: \$1,530.20
CLAIM NO. 87-88-98

Joseph A. Rivere, of 760 Avenue H, Westwego, LA 70094, while trawling on the vessel, "CAROLYN MARIE," in Lake Salvador, St. Charles Parish, encountered an unidentified submerged obstruction on June 30, 1987 Causing damage and/or loss. Amount of Claim: \$378
CLAIM NO. 87-88-100

Lester C. Arcement, of Box 128, Caroline St., Lafitte, LA 70067, while trawling on the vessel, "CHARLIE'S ANGELS," in South East Pass, Plaquemines Parish, encountered an unidentified submerged obstruction on July 27, 1987, causing damage and/or loss. Amount of Claim: \$2,580.95
CLAIM NO. 87-88-112

Larry J. Alexie, Sr., of Route 1, Box 0607AB, Marrero, LA 70072, while trawling on the vessel, "KASSIE BABY," East of Bay Deshin, Jefferson Parish, encountered an unidentified submerged obstruction on August 18, 1987, causing damage and/or loss. Amount of Claim: \$2,787.40
CLAIM NO. 87-88-128

Dominick Ochello, Jr., of 256 Gloria Drive, Lafitte, LA 70067, while trawling on the vessel, "LADY SUSAN," in Turtle Bay, encountered a submerged pipe on August 24, 1987, causing damage and/or loss. Amount of Claim: \$3,097.95
CLAIM NO. 87-88-133

John F. Milton, of Box 568, Lafitte, LA 70067, while trawling on the vessel, "MISS KACY," in Baptiste Collette, Plaquemines Parish, encountered an unidentified submerged obstruction on August 24, 1987, causing damage and/or loss. Amount of Claim: \$5,000
CLAIM NO. 87-88-136

Gary A. Perrin, Box 307, Lafitte, LA, 70067 while trawling on the vessel, "MR. BREEZE," in Bay Lewis, St. Charles Parish, encountered an unidentified submerged obstruction on August 23, 1987, causing damage and/or loss. Amount of Claim: \$490
CLAIM NO. 87-88-140

Jackie Ronquille, of Box 81, Lafitte, LA 70067, while trawling on the vessel, "LA 9102 BC," in Hackberry Bay, Terre-

bonne Parish, encountered an unidentified submerged obstruction on May 28, 1987, causing damage and/or loss. Amount of Claim: \$512.60
CLAIM NO. 87-88-144

Curtis Rojas, Sr., of Box 12, Lafitte, LA 70067, while trawling on the vessel, "ROXIANN," in Barataria Bay, Jefferson Parish, encountered an unidentified submerged obstruction on August 19, 1987, causing damage and/or loss. Amount of Claim: \$454.50
CLAIM NO. 87-88-146

Gareth R. LeBlanc, Sr., of Route 1, Box 509-D, Lafitte, LA 70067, while trawling on the vessel, "MISS CHARLOTTE," East of Four Bayou Pass, at approximate LORAN-C readings of 28,663.1 and 46,869.3, Jefferson Parish, encountered an unidentified submerged obstruction on August 28, 1987, causing damage and/or loss. Amount of Claim: \$4,602.57
CLAIM NO. 87-88-148

Gordon Verdin, of Route 1, Box 574-A, Lafitte, LA 70067, while trawling on the vessel, "GAMBLER," in the Gulf of Mexico, at approximate LORAN-C readings of 28,687.0 and 46,862.1, Plaquemines Parish, encountered an unidentified submerged obstruction on August 27, 1987, causing damage and/or loss. Amount of Claim: \$2,166.93
CLAIM NO. 87-88-155

Alexie A. Hebert, of 105 Farman St., Westwego, LA 70094, while trawling on the vessel, "LA 5015 BM," at Shell Island, end of Eddie's Pass, Plaquemines Parish, encountered an unidentified submerged obstruction on August 27, 1987, causing damage and/or loss. Amount of Claim: \$450
CLAIM NO. 87-88-169

Peter P. Ronquille, of Box 232, Lafitte, LA 70067, while trawling on the vessel, "LA 3012 BC," between Red Fish Bay and South Pass, Plaquemines Parish, encountered a submerged log on September 6, 1987, causing damage and/or loss. Amount of Claim: \$470
CLAIM NO. 87-88-251

Peter P. Ronquille, of Box 232, Lafitte, LA 70067, while trawling on the vessel, "LA 3012 BC," in East Bay, Plaquemines Parish, encountered a submerged pipe on October 4, 1987, causing damage and/or loss. Amount of Claim: \$1,192
CLAIM NO. 87-88-178

Bruce J. Ronquille, of Route 1, Box 602, Marrero, LA 70077, while trawling on the vessel, "JOSHUA," between Texaco Company and Three Bayou Bay in the new canal, Jefferson Parish, encountered an unidentified submerged obstruction on August 20, 1987, causing damage and/or loss. Amount of Claim: \$489.47
CLAIM NO. 87-88-179

Timothy C. Maise, Sr., of Route 1, "Box 575, Lafitte, LA 70067, while trawling on the vessel, "LADY NU," in the Gulf of Mexico, Pass-a- Loutre, Plaquemines Parish, encountered an unidentified submerged obstruction on September 11, 1987, causing damage and/or loss. Amount of Claim: \$500
CLAIM NO. 87-88-193

Larry L. Mooty, of Box 522E, LA 45, Lafitte, LA 70067, while trawling on the vessel, "WES & CHAD," in Bayou St. Denis, Jefferson Parish, encountered an unidentified submerged obstruction on September 10, 1987, causing damage and/or loss. Amount of Claim: \$906.65
CLAIM NO. 87-88-216

Bob R. Bruce, Route 1, Box 61, Perrin St., Lafitte, LA 70067, while trawling on the vessel, "BIG BRUISER," in Four

Bayous, Plaquemines Parish, encountered an unidentified submerged obstruction on September 24, 1987, causing damage and/or loss. Amount of Claim: \$424.20

CLAIM NO. 87-88-232

Ronald Thomassie, of Box 231, Lafitte, LA 70067, while trawling on the vessel, "CHRIS-RON-ED," two miles east of Grand Isle, at approximate LORAN-C readings of 28,594.7 and 46,870.1, Jefferson Parish, encountered an unidentified submerged obstruction on September 23, 1987, causing damage and/or loss. Amount of Claim: \$1,401.22

CLAIM NO. 87-88-214

Elwin Guidry, Jr., of Box 196, Barataria, LA 70036, while trawling on the vessel, "LA 7507 BJ," in Barataria Bay, at approximate LORAN-C readings of 28,568.1 and 46,890.5, Jefferson Parish, encountered an unidentified submerged obstruction on September 23, 1987, causing damage and/or loss. Amount of Claim: \$494.90

CLAIM NO. 87-88-215

Elwin Guidry, Jr., of Box 196, Barataria, LA 70036, while trawling on the vessel, "LA 7507 BJ," in Cooper Bell Point, at approximate LORAN-C readings of 28,601.3 and 46,871.54, Plaquemines Parish, encountered an unidentified submerged obstruction on September 21, 1987, causing damage and/or loss. Amount of Claim: \$459.55

CLAIM NO. 87-88-240

Gavin C. Parria, of Box 173 Lafitte, LA 70067, while trawling on the vessel, "PARRIA BROS.," in Grand Isle, Jefferson Parish, encountered an unidentified submerged obstruction on May 27, 1987, causing damage and/or loss. Amount of Claim: \$3,580.41

CLAIM NO. 87-88-268

Alex Sandras, of 614 3rd. Avenue, Harvey, LA 70058, while trawling on the vessel, "JAY LIN," in Barataria Waterway, Jefferson Parish, encountered a submerged piling on October 11, 1987, causing damage and/or loss. Amount of Claim: \$900.18

CLAIM NO. 87-88-276

Ernest Wiseman, of Box 306, Lafitte, LA 70067, while trawling on the vessel, "HAL," in Barataria Bay, Jefferson Parish, encountered an unidentified submerged obstruction on October 9, 1987, causing damage and/or loss. Amount of Claim: \$799.16

CLAIM NO. 87-88-291

Victor J. Rome, IV, of Box 207, Lafitte, LA 70067, while trawling on the vessel, "LA 8538 BR," in Little Lake, Lafourche Parish, encountered an unidentified submerged obstruction on September 30, 1987, causing damage and/or loss. Amount of Claim: \$268

CLAIM NO. 87-88-292

Victor J. Rome, IV, of Box 207, Lafitte, LA 70067, while trawling on the vessel, "LA 8538 BR," in Manila Village, Jefferson Parish, encountered a submerged pipe on October 17, 1987, causing damage and/or loss. Amount of Claim: \$191

CLAIM NO. 87-88-306

August Gisclair, of Box 173, Barataria, LA 70036, while trawling on the vessel, "MASTER KIP," in the South Pass Number 5 Spillway, Plaquemines Parish, encountered a submerged rope in wheel on October 29, 1987, causing damage and/or loss. Amount of Claim: \$5,000

CLAIM NO. 87-88-174

David M. Perrin of Box 549-A, Lafitte, LA 70067, while trawling on the vessel, "MISS BONNIE," in Barataria Bay off of

St. Mary's Point, Jefferson Parish, encountered an unidentified submerged obstruction on September 9, 1987, causing damage and/or loss. Amount of Claim: \$615.01

CLAIM NO. 87-88-396

Leon Fonseca, of Route 1, Box K11D Tregle Lane, Des Allemands, LA 70030, while enroute home from a shrimping trip on the vessel, "LA 7158 BH," in the Atchafalaya Bay northwest of Creole Pass, St. Mary Parish, encountered an unidentified submerged obstruction on November 27, 1987, causing damage and/or loss. Amount of Claim: \$2,072.88

Wednesday, March 2, 1988 at 9:30 a.m., in the Police Jury Office, 8201 West Judge Perez Drive, in Chalmette, LA.: CLAIM NO. 87-88-14

Monroe A. Meyers, Jr., of 1900 Illinois Avenue, Kenner, LA, 70062, while trawling on the vessel, "T-NAG," in Bayou Bienville, Orleans Parish, encountered an unidentified submerged obstruction on July 4, 1987, causing damage and/or loss. Amount of Claim: \$793

CLAIM NO. 87-88-48

Louis Frank Molero, III, of Route 2, Box 633, St. Bernard, LA 70085, while trawling on the vessel, "CAPTAIN COON," in Deadman's Island, St. Bernard Parish, encountered an unidentified submerged obstruction on July 1, 1987, causing damage and/or loss. Amount of Claim: \$1,212.24

CLAIM NO. 87-88-68

Rodney Weiskopf, Sr., of 2009 Deogracias St., Braithwaite, LA 70040, while trawling on the vessel, "KURT N. GENE," two and one fourth miles East-northeast of Point Chico, St. Bernard Parish, encountered an unidentified submerged obstruction on July 23, 1987, causing damage and/or loss. Amount of Claim: \$1,738.35

CLAIM NO. 87-88-74

Brad Robin, of Route 1, Box 521, St. Bernard, LA 70085, while trawling on the vessel, "MR. DOOGIE," in the Mississippi Sound, at approximate LORAN-C readings of 29,060.3 and 46,880.0, Plaquemines Parish, encountered an unidentified submerged obstruction on August 1, 1987, causing damage and/or loss. Amount of Claim: \$5,000

CLAIM NO. 87-88-84

James F. Franklin, Sr., of Route 16, Box 158, Slidell, LA 70461, while trawling on the vessel, "MISS VERA," in Terrebonne Bay, encountered an unidentified submerged obstruction on August 1, 1987, causing damage and/or loss. Amount of Claim: \$1,750

CLAIM NO. 87-88-103

Roland G. Navarro, of 3209 Bayou Rd., St. Bernard, LA 70085, while trawling on the vessel, "VALLEY LIGHT," in Breton Sound, at approximate LORAN-C readings of 29,123.3 and 46,907.1, Plaquemines Parish, encountered an unidentified submerged obstruction on August 1, 1987, causing damage and/or loss. Amount of Claim: \$4,499.55

CLAIM NO. 87-88-113

Stanley Weiskopf, Jr., of Box 501, St. Bernard, LA 70085, while trawling on the vessel, "LA 800 BR," in Lake MeChaw, St. Bernard Parish, encountered an unidentified submerged obstruction on September 17, 1987, causing damage and/or loss. Amount of Claim: \$3,080

CLAIM NO. 87-88-127

Daniel J. Despaux, of Box 572, Empire, LA 70050, while trawling on the vessel, "PEGGY SUE," in Bastian Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on August 16, 1987, causing damage and/or loss. Amount of Claim: \$1,873.20

CLAIM NO. 87-88-149

David Johnson, of 1820 Linda Lou, St. Bernard, LA 70085, while trawling on the vessel, "LA 766 GT," in Oak River, Plaquemines Parish, encountered an unidentified submerged obstruction on August 31, 1987, causing damage and/or loss. Amount of Claim: \$1,265

CLAIM NO. 87-88-154

Michael E. Gourgues, Sr., of 10801 Wales St., New Orleans, LA 70127, while trawling on the vessel, "MICHAEL, JR.," in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on August 15, 1987, causing damage and/or loss. Amount of Claim: \$891

CLAIM NO. 87-88-161

Kenneth Rodriguez, of 527 Aurora Avenue, Metairie, LA 70005, while trawling on the vessel, "FISHWIFE," in Lake Pontchartrain, Jefferson Parish, encountered an unidentified submerged obstruction on August 30, 1987, causing damage and/or loss. Amount of Claim: \$762

CLAIM NO. 87-88-162

Robert Graf, of 2201 Bayou Road, St. Bernard, LA 70085, while trawling on the vessel, "FRICKIE NICKI," in Lake Fortuna, St. Bernard Parish, encountered a submerged pipe on September 1, 1987, causing damage and/or loss. Amount of Claim: \$2,535.68

CLAIM NO. 87-88-187

David Hebert, of 2116 Farmsite Road, Violet, LA 70092, while running crab traps on the vessel, "LA 943 ZM," in the Pipe Line Canal, Plaquemines Parish, encountered a submerged steel tank on September 11, 1987, causing damage and/or loss. Amount of Claim: \$5,000

CLAIM NO. 87-88-188

Kenneth R. Adams, Jr., of 8801 Gervais St., New Orleans, LA 70127, while trawling on the vessel, "SHANNA BABY," in Barataria Pass, Jefferson Parish, encountered an unidentified submerged obstruction on September 2, 1987, causing damage and/or loss. Amount of Claim: \$3,050

CLAIM NO. 87-88-192

Peter Gerica, of Route 6, Box 285-K, New Orleans, LA 70129, while trawling on the vessel, "MISS LUCY," in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on September 8, 1987, causing damage and/or loss. Amount of Claim: \$1,443

CLAIM NO. 87-88-208

Stanley B. Weiskopf, Sr., of 729 St. Bernard Pkwy., Braithwaite, LA 70040, while trawling on the vessel, "KAREN SUSAN," in the Ship Channel, St. Bernard Parish, encountered an unidentified submerged obstruction on September 12, 1987, causing damage and/or loss. Amount of Claim: \$4,082.85

CLAIM NO. 87-88-211

Anthony Morales, of Route 1, Box 896, St. Bernard, LA 70085, while trawling on the vessel, "LIL TONY," in Black Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on September 15, 1987, causing damage and/or loss. Amount of Claim: \$1,721.30

CLAIM NO. 87-88-226

Warren J. Thibodeaux, of 8922 Dinkins St., New Orleans, LA 70127, while trawling on the vessel, "HONEY SUCKER," in Breton Sound, St. Bernard Parish, encountered an unidentified submerged obstruction on August 10, 1987, causing damage and/or loss. Amount of Claim: \$979

CLAIM NO. 87-88-228

Bret Ainsworth, of Route 2, Box 190AA, Tickfaw, LA 70466, while trawling on the vessel, "MICHELLE RENEE," in Redfish Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on September 10, 1987, causing damage and/or loss. Amount of Claim: \$476.35

CLAIM NO. 87-88-230

Eddie J. Goutierrez, of Route 1, Box 253, Braithwaite, LA 70040, while trawling on the vessel, "LA 1459 BN," in the Mississippi River Gulf Outlet, St. Bernard Parish, encountered an unidentified submerged obstruction on September 26, 1987, causing damage and/or loss. Amount of Claim: \$4,634.71

CLAIM NO. 87-88-241

Lester G. Ansardi, of Route 1, Box 887, St. Bernard, LA 70085, while trawling on the vessel, "RAMBLIN MAN," in Buttermilk Bend, Plaquemines Parish, encountered an unidentified submerged obstruction on October 3, 1987, causing damage and/or loss. Amount of Claim: \$1,653.10

CLAIM NO. 87-88-242

Malcolm J. Assevalo, of Route 2, Box 2204, Pecan Avenue, St. Bernard, LA 70085, while trawling on the vessel, "LADY CYNTHIA," three miles East of Battle Doe Reef, Plaquemines Parish, encountered an unidentified submerged obstruction on October 12, 1987, causing damage and/or loss. Amount of Claim: \$2,394.76

CLAIM NO. 87-88-244

Raymond C. Gilham, of 359 Carrollton Avenue, Metairie, LA 70005, while trawling on the vessel, "LA 2201 AP," in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on October 3, 1987, causing damage and/or loss. Amount of Claim: \$1,456.42

CLAIM NO. 87-88-246

Warren A. Perez, Sr., of Route 2, Box 669, St. Bernard, LA 70085, while trawling on the vessel, "LA 8035 BM," in Lake Borgne, St. Bernard Parish, encountered an unidentified submerged obstruction on September 17, 1987, causing damage and/or loss. Amount of Claim: \$679.13

CLAIM NO. 87-88-248

Ronnie M. Campo, of 10012 Claiborne Avenue, Violet, LA 70092, while trawling on the vessel, "MR. RONNIE," outside of Boe's Bay, Plaquemines Parish, encountered an unidentified submerged obstruction in September, 1987, causing damage and/or loss. Amount of Claim: \$3,206.81

CLAIM NO. 87-88-253

Raul Gifford, of 1010 Florissant Rd., St. Bernard, LA 70085, while trawling on the vessel, "TAMBALIER," in Dead Man Island, St. Bernard Parish, encountered an unidentified submerged obstruction on October 9, 1987, causing damage and/or loss. Amount of Claim: \$1,698

CLAIM NO. 87-88-254

Donald Waits, of 28 Albert Ct., Metairie, LA 70003, while trawling on the vessel, "LA 8887 AF," in Lake Pontchartrain, Jefferson Parish, encountered a submerged pipe on October 8, 1987, causing damage and/or loss. Amount of Claim: \$1,219.33

CLAIM NO. 87-88-260

Tony Guerra, Jr., of 832 Florissant, St. Bernard, Louisiana 70085, while trawling on the vessel, "SANTA MARIA," in Chandeleur Sound, St. Bernard Parish, encountered an unidentified submerged obstruction on October 4, 1987, causing damage and/or loss. Amount of Claim: \$3,705.32

CLAIM NO. 87-88-262

Ben Guerra, Jr., of 611A Florisand Rd., St. Bernard, LA 70085, while trawling on the vessel, "CAPT. BEN," in Black Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on October 12, 1987, causing damage and/or loss. Amount of Claim: \$850

CLAIM NO. 87-88-266

Jerry J. Latapie, Sr., of 2016 Evans St., Braithwaite, LA 70040, while trawling on the vessel, "DADDY'S BOY," in Breton Sound, at approximate LORAN-C readings of 29,018.2 and 46,935.5, St. Bernard Parish, encountered an unidentified submerged obstruction on October 12, 1987, causing damage and/or loss. Amount of Claim: \$998.50

CLAIM NO. 87-88-286

Barry J. Melerine, of Lot 11, Lil Gem Cort, Violet, LA 70092, while trawling on the vessel, "KEEPEN THE FAITH," in the Ship Channel, St. Bernard Parish, encountered an unidentified submerged obstruction on October 20, 1987, causing damage and/or loss. Amount of Claim: \$1,241

CLAIM NO. 87-88-341

Michael A. Boudreaux, of Route 1, Box 781-A, La-Place, LA 70068, while trawling on the vessel, "MISS PRISS," in Lake Pontchartrain, St. Charles Parish, encountered an unidentified submerged obstruction on November 8, 1987, causing damage and/or loss. Amount of Claim: \$1,453.79

CLAIM NO. 87-88-107

Wayne A. Nuschler, of 2405 Bartola Drive, Meraux, LA 70075, while trawling on the vessel, "LYNN ANN," in the Mississippi River Gulf Outlet about one mile south of Violet, St. Bernard Parish, encountered an unidentified submerged obstruction on July 11, 1987, causing damage and/or loss. Amount of Claim: \$1,200

CLAIM NO. 87-88-237

Robert DuRapau, of 2404 Farmsite Road Violet, LA 70092, while trawling on the vessel, "LA 962 MJ," in the Rigollets and Lake Borgne, St. Bernard Parish, encountered an unidentified submerged obstruction on September 6, 1987, causing damage and/or loss. Amount of Claim: \$1,443.70

CLAIM NO. 87-88-325

Norbert J. Guerra, of 2104 Kenneth Dr., Violet, LA 70092, while trawling on the vessel, "CAPTAIN BERT," in Cat Pass, encountered an unidentified submerged obstruction on October 30, 1987, causing damage and/or loss. Amount of Claim: \$896.43

CLAIM NO. 87-88-338

Anthony J. Rinkus, of 305 W. Celestine St., Chalmette, LA 70043, while trawling on the vessel, "MARY E.," in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on November 5, 1987, causing damage and/or loss. Amount of Claim: \$1,664

CLAIM NO. 87-88-343

Dennis J. Baldo, of 2708 Lena Drive Chalmette, LA 70043, while trawling on the vessel, "CAJUN LADY," in Lake Pontchartrain, off of Lincoln Beach, Orleans Parish, encountered an unidentified submerged obstruction on November 6, 1987, causing damage and/or loss. Amount of Claim: \$1,414

CLAIM NO. 87-88-345

Joseph G. Trosclair, of 3709 Catherine Avenue, Metairie, LA 70001, while trawling on the vessel, "LA 8627 BD," in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on October 17, 1987, causing damage and/or loss. Amount of Claim: \$1,465.71

CLAIM NO. 87-88-346

Joseph G. Trosclair, of 3709 Catherine Avenue, Metairie, LA 70001, while trawling on the vessel, "LA 8627 BD," in Lake Borgne at Chef Pass, Orleans Parish, encountered an unidentified submerged obstruction on September 1, 1987, causing damage and/or loss. Amount of Claim: \$555.45

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, LA 70804, and must be postmarked no later than seven days after the hearing(s).

B. Jim Porter
Secretary

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