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Executive Orders

EXECUTIVE ORDER EWE 88-2

WHEREAS, Governor-elect Roemer requested that certain reductions in appropriations for the current fiscal year be made and further requested that certain other actions be taken to reduce expenditures; and

WHEREAS, pursuant to such request, I, Edwin Edwards, governor of the state of Louisiana, on January 11, 1988, did issue Executive Order No. EWE-88-1, which executive order reduced certain expenditures and ordered the sale of two airplanes (one King Air and one Cessna); and

WHEREAS, Governor-elect Roemer, through a written request received from Brian E. Kendrick, Commissioner of Administration, has now requested that Executive Order EWE 88-1 be amended to rescind the proposed sale of the King Air (501) aircraft:

NOW THEREFORE I, EDWIN EDWARDS, governor of the state of Louisiana, do hereby amend Section 1 of Executive Order EWE 88-1, to rescind that portion of the order which ordered the sale of the King Air (501) aircraft and do hereby order the Department of Transportation and Development, Office of Aviation and Public Transportation, Budget Unit: 07-8279, to cancel the proposed sale of the King Air (501) aircraft.

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 12th day of February, 1988.

Edwin Edwards
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Jim Brown
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amend Bulletin 741 - Child Protection Act

The State Board of Elementary and Secondary Education, at its meeting of February 25, 1988, exercised those powers conferred by the emergency provisions of the Admin-

istrative Procedure Act, R.S. 49:953B, and approved an amendment to Bulletin 741, page 14 in order to comply with the mandates of BESE relative to the Child Protection Act (Act 760 of 1986 as amended by Act 735 of 1987) to add Policy 1.014.00 for the public sector and Policy 6.014.00 on page 3.1 of the Nonpublic School Standards as follows:

EMPLOYMENT OF PERSONNEL

1.014.00 No person who has been convicted of or has plead nolo contendere to a crime listed in R.S. 15:587.1(c) shall be hired by a public school system for a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the district attorney.

Any employee hired after September 30, 1987, must request in writing a criminal history review through the Department of Health and Human Resources on the form prepared by the Bureau of Criminal Identification.

All costs for providing the information required shall be borne by the individual applicant. Refer to R.S. 15:587.1.

6.014.00 Same wording as above, except change "public school system" to nonpublic.

This emergency adoption was necessary in order to comply with mandates of the law which became effective September, 1987. Effective date of this amendment is March 20, 1988.

Dr. James Meza, Jr.
Executive Director

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration State Purchasing

The Division of Administration, State Purchasing, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B to implement a rule, effective March 3, 1988, to be in effect for a period of 120 days.

All cash discounts used in determining awards, under the authority of the state of Louisiana rules and regulations, LAC 34:1.531.D.1, are null and void.

This emergency action was necessitated due to the severe financial problems presently experienced by the state of Louisiana.

Brian E. Kendrick
Commissioner

DECLARATION OF EMERGENCY

Office of the Governor Office of Elderly Affairs

The Office of the Governor, Office of Elderly Affairs, has exercised those powers conferred by the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend the FY 1988 - FY 1991 Louisiana State Plan on Aging, effective March 1, 1988. The purpose of the amendment is to comply with administration on aging requirements

for the receipt of the state's allotment of funds under the new program, Part D, In-Home Services for Frail Older Individuals, under Title III of the Older Americans Act of 1965, as amended.

Copies of the portions of the State Plan affected by this amendment may be obtained by contacting Betty Johnson, Elderly Affairs Planning Specialist, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374.

The notice of intent to amend the FY 1988 - FY 1991 Louisiana State Plan on Aging appears in this issue of the *Louisiana Register*.

Sandra C. Adams
Director

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

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

The Louisiana Maximum Allowable Cost (LMAC) reimbursement regulations currently cover 724 multiple source drugs. Circumstances have necessitated the review of all optional Medicaid Services. As a result, four drugs have been identified by the Pharmacy Program as readily available from multiple sources. Inclusion of these drugs under LMAC regulations will allow the Medical Assistance Program to maintain essential Medicaid services at reasonable and adequate reimbursement rates to meet the costs that must be incurred by efficiently and economically operated providers to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards. This rule is necessary to allow the Medical Assistance Program to continue providing essential medical services and avoid imminent peril to the welfare of Medicaid recipients statewide who depend upon current services to maintain their health.

Emergency Rulemaking

Effective February 22, 1988, Louisiana Maximum Allowable Cost Regulations (LMAC) for reimbursement under Title XIX are amended to include the following multiple source drugs:

- | | |
|--------------------------|----------|
| 1. Cephalexin 250 mg. | Capsules |
| 2. Cephalexin 500 mg. | Capsules |
| 3. Cephalexin 125 mg/5ml | Solution |
| 4. Cephalexin 250 mg/5ml | Solution |

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

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Human Development Division of Rehabilitation Services

Effective March 20, 1988, the Department of Health and

Human Resources, Office of Human Development, Division of Rehabilitation Services (DRS) has exercised the emergency provision of the Administrative Procedure Act R.S. 49:953(B) to institute an Order of Selection of handicapped individuals to receive vocational rehabilitation services provided through the Division of Rehabilitation Services.

The Rehabilitation Act of 1973 (P.L. 93-112) as amended (P.L. 95-602; P.L. 99-506) mandates that the designated state unit (DRS) "show in its state plan the order to be followed in selecting groups of handicapped individuals to be provided vocational rehabilitation services at any time when these services cannot be provided to all eligible individuals." [34 CFR 361.36(a) Vol. 46, No. 12, January 18, 1981, Page 5522]. The regulations further state that "the state plan must assure that those groups of individuals with the most severe handicaps are selected before any other groups of handicapped individuals." [34 CFR 361.36(b) Vol. 46, No. 12, January 18, 1981, page 5522].

The client services expenditures must be controlled to ensure that adequate funds are maintained to allow the Division of Rehabilitation Services to provide those services which are mandated by the federal regulations throughout the entire fiscal year.

This policy change is necessary to make certain the availability of services to the most severely disabled. These services are essential to this group of handicapped individuals in order that proper treatment, vocational training and related items, employment opportunities and independent living skills may be maintained.

Failure to institute this order of selection will cause the Division of Rehabilitation Services to curtail services to all eligible handicapped individuals including those who are the most severely disabled, and would bring the agency into a position of non-compliance with federal regulations.

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

DECLARATION OF EMERGENCY

Board of New Orleans - Baton Rouge Steamship Pilot Commissioners For The Mississippi River

As per state law, in order to further enhance the safety and well being of the citizens of Louisiana, as well as prevent any possible imminent peril to the public health, safety, and welfare, the Board of New Orleans-Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports intends the following actions pertaining to its rules and regulations:

1. Abolish the existing rules in order to clarify the purpose, authority and procedures of the Commission. This is accomplished via constructing new rules in lieu of the amendment process.

2. The new rules are formulated using existing Louisiana Statutes, the intent and procedural precedents of the prior rules as a foundation for effecting a clearer and more efficient system for oversight of the pilotage under the commission's jurisdiction.

In substance, the new rules differ from the old in that

they clarify the method and guidelines for making recommendations to the governor, selecting new commissioners, as well as defining the commission's authority and funding. The new document updates the criteria for rulemaking and application, record keeping, notices and meetings. Further, the new regulations provide for higher standards and qualifications for applicants and associations, and clearly defines the commission's legal authority and duty in the investigative and disciplinary process.

Louisiana Revised Statutes Title 34, Navigation and Shipping Chapter 6, Pilots.

§1041. Definitions

As used in this Part, the following terms shall have the meaning described to them in this Section, unless the context clearly indicates otherwise:

1. *Board of Commissioners* means the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River, as designated in R.S. 34:1042.

2. *Pilot* means a New Orleans and Baton Rouge Steamship Pilot, as designated in R.S. 34:1043.

§1042. Board of Steamship Pilot Commissioners: Members; Appointment; Oath of Office

The governor shall appoint, by and with the advice and consent of the Senate, three citizens who shall form the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports. The commissioners so appointed shall serve for a term of two years from July 1, 1942, and their successors shall be appointed by the governor, and shall serve for terms of two years. The commissioners shall continue in office until their successors are appointed and qualified. The first commissioners shall be appointed from those pilots who have, for at least one year immediately preceding, exercised the functions of river pilots from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports upon sea going vessels; and thereafter the appointments shall be exclusively made from the pilots commissioned by virtue of this Part. The governor, in appointing the commissioners, shall designate the president of the board. The commissioners shall be removable by the governor for cause, and shall qualify by taking an oath of office.

Article I

Board of Steamship Pilot Commissioners

§1. When there is a need for new commissioners the Board of Commissioners shall make recommendations to the governor in accordance with the law and in compliance with the commission rules.

§2. When this need arises, the commissioners shall take into consideration the following in making their recommendations:

- A. ability to serve;
- B. qualifications;
- C. length of service as a commissioned pilot.

§3. Commissioners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, commissioners shall not suffer any loss of benefits or compensation while they are performing their duties.

§4. All ordinary and necessary operating and administrative costs and expenses, including, but not limited to, the cost of, administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment,

publications, travel, pilot commissioners compensation or any other expenses incurred by the commission while performing their duties shall be provided by the pilots and paid through their pilot association.

Article II

Rules, Records, Meetings, Application

§1. All commission rules must be adopted by a majority of the commissioners, further, they must be submitted for legal approval before they are submitted for final approval and adoption.

§2. The Board of Commissioners shall maintain records in accordance with R.S. 49:950 et seq., and/or pursuant to law and/or advisory opinions.

§3. The Board of Commissioners shall file an annual report of investigations, findings, actions and accident data in accordance with state laws.

§4. The Board of Commissioners shall conduct its meeting in accordance with R.S. 49:950 et seq., and any other state laws.

§5. The commissioners shall hold quarterly meetings on the call of the president. The president has the prerogative of calling additional meetings as needed to conduct business on giving said notice to the members and the public.

§6. These rules shall apply to all New Orleans and Baton Rouge Steamship Pilots engaged in his calling within the operation territory defined in R.S. 34:1043.

§1045. Examination of Pilots; Qualifications

Whenever there exists a necessity for more pilots, the Board of Commissioners shall hold examinations, under such rules and regulations, and with such requirements as it may provide, with the governor's approval. No applicant shall be considered by said board unless he submits proper evidence of moral character and is a voter of this state, has a First Class Pilot's License issued by the United States Bureau of Marine Inspection and Navigation and served six months apprenticeship in his proposed calling. Upon the certificate of the board to the governor that the applicant has complied with the provisions of this part, the governor may, in his discretion, appoint the applicant or applicants to existing vacancies.

Article III

Minimum Requirements, Applicants, Examination, Appointments

§1. All applications for commissions to serve as New Orleans and Baton Rouge Steamship Pilots must be in writing, must be signed by the applicant and presented to the president of the board. All applications must be accompanied by satisfactory evidence of compliance with the following prerequisite to examination of the applicant by the board:

A.1. Applicant must hold a First Class Pilot's License of "any" gross tons, (the word "any" as interpreted by the United States Coast Guard) for the Mississippi River from Chalmette, Louisiana, to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana, issued to him by the United States Coast Guard, and also

2. licensed as a masters of rivers steam or motor vessels any gross tons, or licensed as master or mate of ocean steam or motor vessels any gross tons, or have acquired at least 24 months licensed service acting as master, mate, operator or pilot on vessels or towing vessels with tows, operating on the Mississippi River.

B. Applicant must have not reached his forty-fifth birthday.

C. Applicant must submit evidence of possessing a

high school diploma or G.E.D.

D. Applicant must be a registered voter of the state of Louisiana for a minimum of one year.

E. Applicant must submit evidence of good moral character.

F. Applicant must submit a certificate from a competent physician certifying that he is in good health and physical condition. This examination shall take such form as the board in its discretion from time to time elects. Such examination criteria will change, as needed.

G. Applicant must sign an obligation to abide by the Charter by-laws, rules and regulations of the New Orleans and Baton Rouge Steamship Pilots Commission and the Pilot Association.

H. Applicant must have been duly elected an apprentice in the New Orleans and Baton Rouge Steamship Pilots Association by majority vote of all members of said Association entitled to vote.

I. Applicant must serve an orientation period over the route, as an apprenticeship pilot, for not less than six months as determined by the Board of Pilot Commissioners.

J. Applicant must successfully complete an examination by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River.

§2. Those applicants who have complied with all the provisions of this Article shall be examined by the commissioners as to their knowledge of pilotage and their proficiency and capability to serve as a commissioned pilot between the Ports of New Orleans and Baton Rouge and intermediate ports. This examination shall be given in such manner and shall take such form as the board in its discretion from time to time elects.

§3. Those applicants who satisfactorily complete the examination given by the board shall be certified to the governor for his consideration in making appointments to commissions as New Orleans and Baton Rouge Steamship Pilots. Such certifications may be restrictive in job assignments, including, but not limited to, vessel size and/or draft for new appointments for a specified period of time.

§4. Commissioned pilots shall comply with all requirements to maintain their state commission and such other certifications as determined by the Board of Pilot Commissioners.

§1047. Association of Pilots

The pilots may form themselves into an association or associations, as to them may seem fit, not in conflict with law or the rules and regulations of the Board of Commissioners.

Article IV

Association of Pilots

§1. The formation of any association incorporated or non-incorporated which is for the purpose of providing pilotage service under the law, R.S. 34:1047, must be submitted to the commission for approval. Such applications must meet all legal requirements, provide for a stable pilotage system, serve the best interest of the majority of pilots and protect the life and property of the region.

§2. The Board of Pilot Commissioners hereby recognizes the fact that the New Orleans and Baton Rouge pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association; further, let it be recognized by the Pilot Commissioners that the Pilot Association has operated and is now operating within all state laws and is not in conflict with the

rules and regulations of the Board of Commissioners.

§3. No pilot association incorporated or non-incorporated has any authority to impose or legislate any rules, bylaws or charter provisions affecting the Pilot Commission, further, any attempt to exercise any authority over or affecting the commission is a violation of the rules.

§1049. Report of Incompetency, Carelessness, etc. of Pilots; Removal, Suspension or Reprimand; Attempt to Exercise Functions Without Commission

The Board of Commissioners shall report immediately to the governor all cases of incompetency, or carelessness, especially charges of incompetency or carelessness in connection with damages caused to or by the ship of which the pilot had charge, as well as all cases of neglect of duty, habitual drunkenness and gross violations of its rules. The governor shall, thereupon, refer the same for investigation to the Board of Commissioners, the members of which shall sit as investigators and report their findings to the governor, recommending, if justified, a penalty. Whereupon, the governor may remove, suspend, or reprimand in his discretion.

Article V

Report of Incompetency, Carelessness of Pilots, etc.

§1. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said commission shall conduct a preliminary investigation into the casualty to determine if there are any violations of the law or commission rules.

§2. When probable cause is found said commission shall report its findings to the governor. The governor shall, thereupon, refer the case to the Board of Commissioners for formal investigation. The board members shall sit as investigators and report their findings with recommendations to the governor, whereupon, the governor may take action in his discretion.

§3. All formal investigation shall be conducted in accordance with R.S. 49:950 et seq.

§4. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said pilot shall report such casualties as follows:

A. report the casualty by whatever means available to the Board of Commissioners as soon as practical;

B. be available for interview by the commission and furnish complete details of the casualty;

C. make a written report to the commission as soon as practical.

§5. Interviews and written reports to the board, which may thereupon, with or without complaint being made against said pilot, investigate the matter reported on.

§6. Any pilot who shall fail, neglect, or refuse to make a verbal or written report to the board as required by these rules, shall be reported to the governor for action pursuant to law.

§7. Any pilot requested, or summoned to testify before the board shall appear in accordance with said request or summons and shall make answers under oath to any question put to him touching on any matter connected with the pilot's service or the pilot's territory over which he is licensed to pilot.

§8. In any case, where the commission finds or suspects a violation of the law, or a violation of its rules, they

may charge the pilot with misconduct and remove him from duty, however, this rule shall not abrogate any of his rights pursuant to all applicable laws.

§9. When an investigation uncovers dangerous and/or unsafe condition and/or conditions that may jeopardize the interests, safety, health or welfare of the pilots, vessels, cargo, property or individuals, the commission may make recommendations for corrective measures.

§10. Pilots shall not under any circumstances make any statement to anyone until such pilot or pilots have had legal counsel when they are involved in a casualty, or any other complaint.

§11. Any commissioner who with probable cause and/or has reason to believe, suspect, and/or knows that a pilot is or has been or may be under the influence of drugs, alcohol, or any other stimulant or depressant that may affect the performance of that pilot, or has been charged with misconduct, while subject to commission rules and/or state pilotage laws, that commissioner in his discretion may immediately relieve that pilot without the necessity of a formal notice and hearing from pilotage duty, in order to protect the interest, safety, health or welfare of fellow pilots, vessels, cargo, property or individuals. Further, at the earliest practical time the commission must request permission from the governor, as in R.S. 34:1049, to conduct the appropriate formal hearing or hearings which satisfies and protects the due process and equal protection requirements as afforded that pilot by the state and federal constitutions.

§12. No person shall engage in any activities concerning the members of the New Orleans and Baton Rouge steamship pilots unless said person has been elected, or appointed to do so by one of the governing boards.

§13. No member of the Board of Pilot Commissioners, in the discharge of his duty or responsibility of his office will vote on a matter in which he is a party to or has a conflict of interest. In such cases he shall automatically be recused from participating in, or voting on such matters.

All interested parties may submit written data, documents, or comments on the following rules and regulations to: Robert A. Barnett, Assistant Attorney General, Suite 700, 234 Loyola Avenue, New Orleans, LA, 70112, by 5 p.m., April 11, 1988.

M.W. Gould
President

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of the Administrative Procedure Act (R.S. 49:953 (B)) and under the authority of R.S. 56:497 and R.S. 49:967, the Louisiana Wildlife and Fisheries Commission hereby opens the shrimp season in Louisiana's offshore territorial waters south of Shrimp Management Zone III beginning at 12:01 a.m. on Monday April 4, 1988, and south of Shrimp Management Zone I and II at 12:01 a.m. on Saturday, April 30, 1988.

Joe Palmisano, Jr.
Chairman
J. Burton Angelle
Secretary

Rules

RULE

Department of Culture, Recreation and Tourism Litter Control and Recycling Commission

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Litter Control and Recycling Commission has requested and received publication of the Notice of Intent in January, 1988, and having no revisions of rules and regulations which have an economic impact or benefit, therefore, the commission does hereby adopt the rules as previously published in L. R. January, 1988.

Title 25 CULTURAL RESOURCES Part V. Office of Tourism

Chapter 3. Placement of Litter Receptacles §301. Purpose

By provision of Act 936, the Louisiana Litter Control and Recycling Commission has been delegated authority to conduct a permanent and continuous program to control and remove litter from the state to the maximum extent possible. The purpose of these rules is to provide minimum standards for litter receptacles throughout the state, pursuant to the authority set forth in Louisiana R. S. 25:1110 et seq. as amended by Act 936 of the 1987 regular session.

§303. Definitions

The following words and phrases as used herein have the following meanings unless context clearly dictates otherwise:

A. *Anti-litter symbol* means the standard symbol adopted by this commission.

B. *Department* means the Louisiana State Department of Culture, Recreation and Tourism.

C. *The Commission* means the Louisiana Litter Control and Recycling Commission.

D. *Litter* means waste materials including, but not limited to, disposable packages or containers susceptible to being dropped, deposited, discarded, or otherwise disposed of upon any property in the state, but not including wastes of primary processes of manufacturing, farming, sawmilling, logging, mining, etc.

E. *Litter receptacle* means a container of not less than 15 gallons constructed, appropriately marked, and placed for use as a temporary depository for litter. Any containers, commonly referred to as "dumpsters," and any garbage receptacle for deposit of litter for single or multi-family residences may be used and shall in no way be governed by these rules.

F. *Person* shall mean any industry, public or private corporation, partnership, association, firm, individual, or other entity whatsoever.

G. *Public place* means any area that is used or held out for the use of the public whether owned and operated by public or private interests, but not including in-door areas. Any in-door area shall be construed to mean any enclosed area covered with a roof and protected from moisture and wind.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1110.

§305. Responsibility to Procure and Place Litter Receptacles

It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by these rules and regulations to procure, place and maintain such receptacles at their own expense on the premises in accordance with the provisions of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1110.

§307. Litter Receptacles: Where Required and Number Required

Litter receptacles meeting the standards established by these rules shall be placed in the following public places in the state.

No variance from the provisions of these rules and regulations shall be allowed except upon the express permission of the Louisiana Litter Control and Recycling Commission.

Notwithstanding the minimum requirements of these rules and regulations, any public place in which litter receptacles meeting the standards of these rules are required, that is found to have an accumulation of uncontained litter under circumstances that the person responsible for placing receptacles could have reasonably anticipated the amount of litter shall be deemed to have an insufficient number of receptacles and to be in non-compliance with these rules.

A. At public rest areas located along highways outside the limits of incorporated cities and towns—one receptacle for every 20 parking spaces.

B. Each new home, commercial and industrial construction site shall have a minimum of one receptacle per site plus additional receptacles as necessary to contain litter generated by workers. The need for additional receptacles shall be determined by the general contractor.

C. Parks, campgrounds, and trailer facilities for transient habitation (excluding facilities operated by the Office of State Parks)—one receptacle at each public restroom facility, one at each trailhead giving access by foot, motorcycle, bicycle allowing excursion out of the central activity area. One for each facility or area at which food or drink is sold; plus one receptacle as necessary to accommodate the need for a litter depository as determined by the operator of the facility.

D. Drive-in and fast food restaurants, tavern parking areas, and convenience “quick stop” parking areas—one receptacle per establishment and plus additional receptacles as necessary to contain litter generated by the facility. The need shall be determined by the operator of the facility.

E. Shopping centers, theaters, merchandise stores, grocery and drug store parking areas having a minimum of 15 parking spaces shall provide one receptacle, and, thereafter there shall be an additional receptacle for every 150 spaces in excess of 50.

F. Gasoline service stations—one receptacle placed at each gasoline service island, with a minimum of one receptacle for each side of station on which gasoline pumps are located.

G. Marinas, boat launching areas, boat moorage and fueling stations, and public and commercially operated private piers—one receptacle at each such place; or one receptacle for every 15 slips; or one receptacle for every 100 linear feet of dock space.

H. Ferry landings—one receptacle on each side of dock areas, plus one receptacle for every 50 automobile spaces in parking areas adjacent to ferry dock.

I. Beaches and swimming areas—one receptacle at each public restroom facility and one at each access point officially designated as such by the primary jurisdictional authority.

J. Hunting, fishing, and other sports areas having unmarked automobile, boat trailer, or travel trailer spaces for parking shall have a minimum of one receptacle and thereafter there shall be an additional receptacle for 20 parking spaces.

K. Outdoor parking lots, temporary or otherwise, other than those specified above having a capacity of more than 50 automobile or vehicle parking spaces—one receptacle for every 150 parking spaces.

L. Fairground and festival areas, circuses, and other short-term events to which the public is invited—one receptacle for every 200 feet of foot path or sidewalk and one receptacle for every 15 parking spaces, thereafter there shall be an additional receptacle for every 150 automobile parking spaces and one receptacle for every public restroom facility.

M. Racetrack and other sporting event site—one receptacle for every 15 automobile parking spaces and one additional receptacle for every 150 automobile parking spaces; one receptacle for each entrance and exit; one receptacle at each public restroom facility.

N. Business district sidewalks of incorporated cities and towns—one receptacle on each side of the street per block.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1110.

§309. Minimum Standards

Litter receptacles procured and placed in public places as required by these rules and regulations shall meet the following minimum standards:

A. General Specifications

1. The body of each litter receptacle shall be constructed of a minimum of 24-gauge galvanized metal or other material of equivalent strength, that will withstand normal wear and tear, reasonably resist corrosion and acts of vandalism.

2. Receptacles should be constructed, covered, or used in such a manner as to prevent, or preclude, the blowing of litter from the receptacle.

3. Openings in covered litter receptacles shall be readily identifiable and readily accessible for the deposit of litter.

4. Construction and general configuration of litter receptacles shall be in conformance with all pertinent laws, ordinances, resolutions or regulations pertaining to fire, safety, public health or welfare.

B. Color and Marking

1. The entire outer surface of each litter receptacle shall be white, navy blue, dark brown, or tan, if painted, however, if construction consists of aggregate concrete or wood, the natural color is acceptable.

2. Each litter receptacle shall bear the official anti-litter symbol as adopted herein. The symbol shall be colored medium blue, bright gold and white. The symbol shall not be distorted as to proportion and shall not be incorporated into a commercial advertisement on the receptacle. The symbol shall be a uniform size of 10” in width and 12” for side mounting or 4” in width and 5” in height for top side mounting constructed from heat activated materials designed for outside use.

3. Underground receptacles installed with foot pedal lids are exempt from logo requirements.

4. No commercial advertisement shall be placed on any litter receptacle within eight inches of the official logo. However, the person owning any receptacle may place a single line on the

receptacle identifying his ownership, and a single credit line designating any donor of the litter receptacle other than the owner himself. That lettering may not exceed 1/2" in height and may not interfere with or distract from the prominence of the anti-litter symbol.

C. Maintenance

1. Compliance with these minimum standards shall include proper upkeep, maintenance and repair of litter receptacles sufficient to permit such receptacles to serve the functions for which they were designed and to prevent the appearance of such receptacles from becoming unsightly. Inadequately maintained or unsightly litter receptacles shall be in violation of these minimum standards.

2. Whenever litter receptacles are placed in any public place other than where required by these rules and regulations, such receptacles shall conform to the provisions of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1110.

§311. Anti-Litter Symbol

The official state anti-litter symbol shall be the symbol depicted in these rules conforming to that same symbol in present use on Adopt-A-Road highway litter watch signs erected on Louisiana highways. A limited number of these decals will be available from the Louisiana Litter Control and Recycling Commission. After that number is depleted decals may be purchased from any on a list of suppliers available from the office of the commission.

§313. Prohibited Acts

A. No person shall damage, deface, abuse or misuse any litter receptacle not owned by him so as to interfere with its proper function or to deface from its proper appearance.

B. No person shall deposit leaves, clippings, prunings, garden refuse, or any other yard waste in any public litter receptacle.

C. No person shall deposit household garbage in any litter receptacle: provided, that this Subsection shall not be construed to mean that wastes of food consumed on the premises or in an automobile or other vehicle at any public place may not be deposited in litter receptacles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1110.

§315. Penalties

Penalties for violation of this Chapter shall be in accordance with R.S. 25:1111.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1110.

§317. Effective Date and Compliance

A. These rules become effective on final publication in the *Louisiana Register*.

B. All litter receptacles in any public place designated in these rules and regulations which are placed after the effective date hereof shall conform to the provisions of these rules and regulations.

C. Litter receptacles in any public place designated in these rules and regulations which were in place prior to the effective date hereof shall be modified to conform with marking, placement and color requirements of these rules and regulations no later than six months from the effective date specified above.

D. All litter receptacles in any public place designated by

these rules and regulations shall be modified or replaced so as to fully conform with all requirements of these rules and regulations no later than one year from effective date of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1110.

Noelle LeBlanc
Secretary

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 December 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 6.00.15.a

The board adopted a maximum salary of \$100,000 plus fringe benefits for the appointed state superintendent of education.

Dr. James Meza, Jr.
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published December 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 3.01.51.nn

The board adopted an amendment to Bulletin 741, page 7 to add Standard 1.009.02 as follows:

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

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

Dr. James Meza, Jr.
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published December 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 3.01.50.pp

The board adopted the following recommendations of the Parish Superintendents' Advisory Council as amendments to Bulletin 741, pursuant to Act 504 of 1987:

Reword Standard 1.055.00 to read:

"Students who have attained the age of seven years shall attend a public or private day school or participate in an approved home study program until they reach the age of 17 years. However, a student between the ages of 16 and 17 years may withdraw from school prior to graduation with the written consent of his parent, tutor, or legal guardian."

Reword Standard 1.055.03 to read:

"Each school system shall develop and implement a system whereby a student's parent, tutor, or legal guardian is given written notification when that student has been excessively absent from school and at intervals thereafter. This notification shall be provided each semester for those high schools operating on a semester basis."

Add Standard 1.055.04 to read:

"A student is considered to be excessively absent for the purpose of notification when he has missed five days of school for those schools operating on a semester basis or ten days of school for those schools not operating on a semester basis."

Dr. James Meza, Jr.
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published December 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 3.01.51.00

The board approved an amendment to Bulletin 741 to reword Standards 2.113.05 and 2.116.07 and to add a procedural block concerning temporary certificates as follows:

Reword Standard 2.113.05

"Teachers in summer school shall hold a standard "A", "B" or "C" teaching certificate in the subject area or areas teaching."

Reword Standard 2.116.07

"Teachers in summer school shall hold a standard "A", "B" or "C" teaching certificate in the subject area or areas teaching."

Add as a procedural block under each Standard:

"Teachers employed on a "T" certificate for the regular school year may be employed during the summer school year provided the superintendent certifies that no regularly certified teacher was available for the summer session."

Dr. James Meza, Jr.
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published December 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 3.02.03.c

"The board special school superintendent, in exercising overall management of his/her school, shall be required to reside on the grounds of the school in the on-site residence provided."

Dr. James Meza, Jr.
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published December 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 5.00.80

The board adopted the following regulations for the Tuition Exemption Continuing Education Program for teachers:

I. INTRODUCTION

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

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

II. APPLICATION FORMS

A. DISTRIBUTION

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

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

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

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

B. COMPLETION

-Read the directions on the application.

-Complete Section I and sign.

-Have employing authority complete Section II and sign.

-Have university official complete Section III and sign.

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

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

III. DEADLINES

A. APPLICATIONS AND COURSES

1. Regular Semester or Quarter

-Application forms must be submitted to the specific university official no later than the 5th official university class day.

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

2. Summer Session

-Application forms must be submitted to the specific university official no later than the 5th official university class day.

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

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

B. UNSUCCESSFULLY COMPLETED COURSES

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

2. Applicants who drop, withdraw, or resign from courses will be billed the tuition amount as determined by the university by the Louisiana Department of Education.

IV. ELIGIBILITY

A. PARTICIPANTS

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

B. COLLEGES AND UNIVERSITIES

Tuition reimbursement shall be limited to the following

Louisiana colleges and universities:

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

APPLICATION FOR ADMISSION TO COLLEGES AND UNIVERSITIES MUST BE IN COMPLIANCE WITH THE COLLEGES' OR UNIVERSITIES' REGULATIONS, ENTRANCE REQUIREMENTS, DEADLINES, AND ANY OTHER CONDITIONS FOR ADMISSIONS.

C. COURSES

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

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

3. Course load for applicants who are on approved sabbatical leave for educational purposes shall not exceed 3 course offerings for each fall/spring session that the applicant is on such leave.

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

D. TUITION

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

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

3. Public and nonpublic teachers are eligible to receive a waiver for tuition (registration fee and building use fee per semester hour). The amount paid by the state for any tuition imposed by or applicable to the nonpublic college shall be equal to but not greater than the highest tuition charged by a public college or university in this state.

V. INELIGIBILITY

Reimbursement shall not be paid on the following:

1. Courses that are not successfully completed by the end of the semester or quarter.
2. Non-credit courses or audit courses
3. Non-instructional credit courses such as examination courses
4. Courses in theology or divinity
5. Correspondence courses
6. Dropped, incomplete, or failed courses
7. Courses for which application forms were submitted to the university past the deadline date
8. Courses for which application forms were incomplete or inaccurate
9. Courses for applicants who are declared ineligible to participate
10. Courses for which funds are not appropriated
11. Courses for applicants who are receiving retirement funds from a State retirement system
12. Courses that do not meet the time/class meeting requirements set forth by the Board of Trustees for the State's Colleges and Universities
13. Courses taken by independent study
14. Courses for which the participant is not eligible under these guidelines
15. Courses involving infractions of the Tuition Exemption regulations or university policy
16. Courses taken by teachers who are in default to the State of Louisiana for the Professional Improvement Program (PIP) or the Tuition Exemption Program as it existed

prior to July 1, 1985.
VI. APPEALS

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

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

VII. COLLEGE AND UNIVERSITY PROCEDURES

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

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

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

Dr. James Meza, Jr.
Executive Director

RULE

**Office of the Governor
Division of Administration
Office of Risk Management**

**Title 37
INSURANCE**

Part I. Risk Management

Subpart 3. Worker's Compensation Fee Schedule

Chapter 33. Fee Schedule

The director, Office of Risk Management, Division of Administration, pursuant to notice of intent published December 20, 1987, and pursuant to provisions of R.S. 23:1203.1 and R.S. 39:1527 et seq., adopted effective April 1, 1988 a fee schedule for medical, surgical and hospital services due under the Louisiana Worker's Compensation Act, R.S. 23:1021-1361, and which arise in the state self-insured worker's compensation cases. The official Medical Fee Schedule is available for review at the Office of Risk Management, 2716A Wooddale Boulevard,

Baton Rouge, LA 70805, with applicable conversion factors for services to be utilized in accordance with the following:

Conversion Factors for Health Care Providers

Service	\$ per Unit
Medicine	\$ 5.81
Surgery	145.08
Radiology (full service)	11.40
Professional component only	2.18
Pathology	1.75
Anesthesia	29.00

J. Douglas Higley
Director

RULE

**Office of the Governor
Division of Administration
Office of Telecommunications Management**

In accordance with the notice of intent published January 20, 1988 in the *Louisiana Register*, the Office of Telecommunications Management announces the amendment of LAC 4:IX.901 and LAC 4:IX.2103.

**Title 4
ADMINISTRATION**

Part IX. Telecommunications

Chapter 9. Telecommunications Use

§901. General

- A. . . .
- B. . . .

C. Collect calls shall not be accepted on state telephones. To foster this directive, telephone serving facilities have been designed to block the reception of collect calls.

In order to receive any collect calls, a specific modification has to be made to the telephone serving facilities. The procedure for making such modifications and granting an exception to this directive requires a written request be submitted by the agency head to the director of OTM.

D. Third number calls billed to state telephone numbers are prohibited. To foster this directive, telephone serving facilities have been designed to block the reception of third number calls.

In order to receive any third number calls, a specific modification has to be made to the telephone serving facilities. The procedure for making such modification and granting an exception to this directive requires a written request be submitted by the agency to the director of OTM.

§2103. Telephone Repair Procedures

A. Telecommunications users will report problems to the help desk at (504) 925-7777 (LINC 427-7777). The help desk exists to provide all agency telecommunications users with a single point of contact for reporting all problems regarding telecommunications equipment, services, and features. The help desk will also provide assistance in directing all other problems or inquiries concerning billings, new orders, changes, etc. to the appropriate OTM party.

B. The help desk will receive the user's call and record the

necessary information as outlined on the problem reporting form. This information will be recorded on an automated "Problem Management System" for tracking purposes. The help desk will attempt to immediately resolve the user's problem. If an immediate solution is not identifiable, the help desk will then forward the report to the appropriate vendor or support personnel for resolution.

Vendors or support personnel acting on a problem report or inquiry will resolve the user's problem and inform the help desk of the problem resolution.

Help desk personnel will then update the automated problem management system and inform the user of problem disposition. The user will verify problem resolution and the help desk will then close out the problem report.

C. A large number of problems that are reported relate to the telephone or telephone handset. It is suggested that prior to reporting these type problems the user should check the following: Is the handset plugged in? Is the handset cord frayed or damaged? Replace the handset with a known working handset. Does the trouble still exist? (Bad handsets can cause low volume, distorted transmission, etc.) Is the phone plugged into both modular jacks (phone and wall)? Is the phone call forwarded? If the phone has an A/C transformer, is it plugged into an A/C receptacle and does the receptacle work? Plug in a spare phone. Does the trouble still exist? If so, call the help desk at (504) 925-7777 (LINC 427-7777).

C. Wayne Hernandez
Director

RULE

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

In accordance with the notice of intent published in the January, 1988, *Louisiana Register*, the Louisiana Board of Examiners for Nursing Home Administrators announces the adoption of changes of LAC 46:XLIX.1104 effective March 20, 1988.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLIX. Nursing Home Administrators

Chapter 11. Licenses

§1104. Penalties

A. The board shall take action against any person when there is substantial evidence that such person has:

1. attempted by fraud or misrepresentation to obtain a license for himself or another or to furnish aid or abet therein; or
2. practiced as a nursing home administrator under cover of a license or registration illegally or fraudulently obtained or unlawfully issued; or

3. practiced as a nursing home administrator, or uses in connection with his or her name any designation tending to imply that he or she is a nursing home administrator, or allows himself or herself to be represented as a nursing home administrator unless duly licensed and registered under provisions of this Chapter; or

4. practiced as a nursing home administrator during the time his or her license shall be suspended or revoked by the

board; or

5. otherwise violated any other provision of this Chapter.

B. Upon receipt of substantial evidence that any person committed one of these violations the board conducts an investigation. If evidence is substantiated the board shall file with the local district attorney a misdemeanor charge against said person.

1. Each of these violations is a misdemeanor punishable by fine of not more than \$1,000 or by imprisonment for not more than one year or both.

AUTHORITY NOTE: Adopted in accordance with R.S.37:2509.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, LR 14: (March 1988).

Winborn E. Davis
Executive Director

RULE

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

In accordance with the notice of intent published in the January, 1988 *Louisiana Register*, the Louisiana Board of Examiners for Nursing Home Administrators announces the adoption of changes of LAC 46:XLIX. 901 effective March 20, 1988.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLIX. Nursing Home Administrators

Chapter 9. Programs and Courses of Study.

§901. Registration of Institutions and Courses of Study (adopted. . .by the board.)

The board may charge a fee up to \$25 per course of study to defray costs of review and approval of courses of study offered by organizations which charge participants a fee. Government agencies are exempt from the charge.

Winborn E. Davis
Executive Director

RULE

Department of Health and Human Resources Board of Medical Examiners

The Louisiana State Board of Medical Examiners, under authority of the Medical Practice Act of Louisiana, R.S. 37:1261-1292 and in accordance with the applicable provisions of the Administrative Procedure Act, has adopted an amendment of its rule governing the qualifications for the licensure of physicians and surgeons by reciprocity with other states (LAC 46:XLV.353). The amended rule, which appeared as a proposed amendment by notice of intent previously published in the *Louisiana Register*, LR 13:771-72 (Dec. 20, 1987), is set forth hereinafter.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Profession
Subpart I. General
Chapter 3. Licensing and Certification of Physicians
and Surgeons
Subchapter E. Reciprocity
§353. Qualifications for Licensure by Reciprocity

A. An applicant who possesses and meets all of the qualifications and requirements specified by §311 to §313 of this Chapter, save for successfully passing the FLEX, as otherwise required by §311 A.5, shall nonetheless be eligible for licensing if such applicant:

1. possesses, as of the time of the application is filed and at the time the board passes upon such application, a current, unrestricted license issued by another state;

2. was awarded a doctor of medicine degree on or before December 31, 1986; and

3. has, within 10 years prior to the date of application, taken and successfully passed a written medical competence examination acceptable to the board.

B. An applicant who possesses all of the qualifications for licensure by reciprocity specified by the preceding Subsection, save for A.2 (i.e., an applicant who was awarded a doctor of medicine degree on or after January 1, 1987) shall nonetheless be considered eligible for licensure by reciprocity upon taking and successfully passing Day III of the FLEX (or the clinical competence portion of its successor examination) as administered by and under the auspices of the board.

C. An applicant who possesses all of the qualifications for licensure by reciprocity specified by Subsection A of this Section, save for A.3 (i.e., an applicant who has not taken and passed a written medical competence examination within 10 years of the date of application), shall nonetheless be considered eligible for licensure by reciprocity if such applicant takes and successfully passes Day III of the FLEX (or the clinical competence portion of its successor examination) as administered by and under the auspices of the board.

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, has adopted the following rule in the Food Stamp Program.

These revisions are mandated by federal regulations as published in the *Federal Register*, Vol. 52, No. 188, September 29, 1987, pages 36390 - 36400. This was published as an emergency rule in the December 20, 1987 *Louisiana Register*. The Financial Assistance Manual (FAM-4) will be revised to reflect these provisions.

RULE

I. Third Party Payments

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

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

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

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

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

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

II. Loss-of-Benefits Penalty

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

III. Expedited Service

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

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

The rule entitled "Expedited Services" as published in the *Louisiana Register*, February, 1983, is hereby amended.

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

RULE

Department of Health and Human Resources Office of Human Development Children's Trust Fund

The board of the Louisiana Children's Trust Fund intends to prepare and adopt a comprehensive state plan for child abuse prevention pursuant to R.S. 46:2406.

The board will designate a committee of its members to oversee preparation of the plan.

The board will notify persons and firms listed as prequalified offerers with the Office of Contractual Review, Division of Administration, of its intent to select a qualified firm.

The board will select a qualified firm to:

(1) review and report on the current problem of child abuse and neglect in Louisiana;

(2) provide an analysis of service and program needs;

(3) consult with and receive input into the plan from the Department of Health and Human Resources, the Department of Public Safety and Corrections, and the Department of Education:

(4) conduct public meetings prior to completion of the plan to solicit views concerning the need for prevention programs, information concerning the status of community efforts to prevent child abuse and neglect, and information concerning the problem of child abuse in Louisiana (e.g. its scope, factors, demographics). There shall be held a minimum of three meetings at different locations in the state and the Children's Trust Fund Board shall be represented at each public meeting. The meetings will be publicized in advance in the local media;

(5) prepare specific proposals for plan implementation including efficient use of the Children's Trust Fund staff, funds and resources on the state level and improvement in the coordination and integration of state goals, activities and funds for programs for child abuse prevention.

The Children's Trust Fund Board upon receipt of the finished plan shall review the comprehensive state plan for child abuse prevention and submit it to the Committees on Health and Welfare of the Senate and House of Representatives for their approval as provided in R.S. 49:968.

The board shall finally vote on adoption of the state plan for child abuse prevention in December, 1988 and it shall become effective January 1, 1989.

The Children's Trust Fund Board has budgeted \$70,000 for preparation of the comprehensive state plan for child abuse prevention. The process is scheduled to begin March 1, 1988 and conclude no later than December 31, 1988.

Larry J. Hebert, M.D.
Chairman

RULE

Department of Health and Human Resources Office of Human Development Division of Rehabilitation Services

The Department of Health and Human Resources, Office of Human Development is adopting the Personal Care

Assistance (PCA) Policy Manual authorized by Act 781 of 1987 relative to the establishment of a pilot program to provide personal care assistance services for severely disabled persons. Copies of the Final Personal Care Assistance Policy will be available at the Division of Rehabilitation Services District Offices.

Personal Care Assistance Policy Manual

I. Mission

A. General statement - The Legislature of Louisiana recognizes that the disabled population of this state has the right to lead independent and productive lives. With this fact in mind this same Legislature has created the Personal Care Assistance Pilot Program to provide the personal assistance services required to assist in the tasks of daily living. The mission of the P.C.A. Pilot Program is to provide for an orderly sequence of services related to the P.C.A. needs of those severely disabled persons who are determined eligible for the program.

B. Program administration - The Department of Health and Human Resources, through the Office of Human Development, Division of Rehabilitation Services is responsible for the administration of the P.C.A. Pilot Program.

C. The manual's function - This manual sets forth the policies of the division in carrying out this mission.

D. Exceptions - The secretary or secretary's designee shall have the sole responsibility for any exceptions to this policy manual.

II. Enabling Legislation

A. Act 781, Chapter 27-A of Title 46 of the Louisiana Revised Statutes of 1950, comprising R.S. 46:2116 through 2116.5 relative to personal assistance services for severely disabled persons.

III. Definitions - The following terms shall have the meaning ascribed to them in Act 781, unless the context clearly requires otherwise:

A. *Department* means the Department of Health and Human Resources.

B. *Evaluation team* means the individuals who determine the eligibility of disabled persons for personal care assistance services pursuant to Act 781 and shall be composed of the following three persons:

1. a representative from the Division of Rehabilitation Services with experience in providing services to the severely physically disabled;

2. an occupational therapist with experience in providing services to the severely physically disabled;

3. a representative from the Office of Family Security, Long Term Care Program.

C. *Personal care assistance services (P.C.A. services)* means services which are required by a severely disabled person between 18 and 55 years of age to achieve greater physical independence.

Services will be limited to the following specific services which are available to eligible recipients in the multiple settings required by the activities of daily living in the community:

1. assistance with personal hygiene, including dressing, bathing, shaving, and grooming;

2. performance of or assistance with tasks related to maintaining a safe, healthy, and stable living environment:

a. light cleaning tasks in areas of the home used by the client;

- b. grocery and other shopping chores;
- c. assistance with or attendance at all activities of daily living inside and outside the home which require assistance with transfer and/or ambulation;
- 3. assistance with bladder and/or bowel requirements (including use of suppositories as required) or problems, including help with bed pan routines;
- 4. facilitation of the consumption/use of self-administered medications and treatments, not to include invasive techniques such as injections;
- 5. assistance with the purchase and storage of foods and the preparation of meals;
- 6. accompanying to medical appointments, grant maintenance appointments, and personal errands and shopping chores;
- 7. assistance with receiving all service specified on the approved services care plan.

D. *Secretary* means the secretary of the Department of Health and Human Resources.

E. *Severely disabled person* means a person 18 to 55 years of age with loss of sensory or motor functions interfering with activities of daily living to the extent that the person requires assistance with non-medical personal care needs, domestic or cleaning needs, dressing and undressing, moving into and out of bed, ambulation, related services but not limited to meal preparation, laundry, and grocery shopping, and other similar activities of daily living.

IV. General Requirements

A. *Non-discrimination* - All programs administered by and all services provided by the division shall be rendered on a non-discrimination basis without regard to race, creed, color, sex, religion, age, national origin, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations.

Discrimination prohibited -- Title VI of the Civil Rights Act of 1964 states: "No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance."

B. *Compliance with state laws, federal laws and regulations, and departmental policies and procedures* - Staff involved in the P.C.A. Pilot Program shall comply with all state and federal laws, agency and Civil Service rules and regulations as applicable.

C. *Cost-effective service provision* - P.C.A. services shall be provided in a cost effective manner without supplanting existing services.

D. *Case file documentation* - A case file must be maintained for each P.C.A. applicant/client and shall contain documentation to support the decision to provide, deny, or amend services. Documentation of the amounts and dates of each service provided to support all claims for reimbursement must also be included in the case file.

E. *Data collection* - staff involved in the P.C.A. Pilot Program shall insure the provision of client and financial data necessary for the department's report to the Joint Committee on Health and Welfare of the Legislature concerning its implementation not less than 30 days before the 1988 Regular Session convenes and every six months thereafter.

F. *Expeditious service delivery* - All referrals, applications and provision of services will be handled expeditiously and equitably.

G. *Civil rights and equal employment opportunities with regard to employees of affected programs* - Title VI of the Civil Rights Act of 1964 as amended prohibits job discrimination because of age, race, color, sex or national origin, and Title V of the Rehabilitation Act of 1973 prohibits job discrimination because of a handicapping condition. The provisions of these Acts apply to services and programs administered by the Division of Rehabilitation Services.

V. Confidentiality

A. *General statement* - All agency personal information is confidential. All personal information in the possession of the agency shall be used only for purposes directly connected with the administration of the program.

B. *Notification to clients* - Individuals asked to supply the agency with information concerning themselves shall be informed of the agency's need to collect confidential information and the policies governing its use, release, and access including:

- 1. the confidentiality of information provided in the case file must contain documentation that the individual has been advised of the confidentiality of information pertinent to his case;

- 2. the principal purpose for which the agency intends to use or release the requested data;

- 3. whether they may refuse or are legally required to supply the requested data;

- 4. any known consequence arising from not providing requested information;

- 5. the identity of other agencies to which information is routinely released.

C. *Release of confidential information* - The case file must contain documentation concerning any information released with the individual's written consent where needed. Informed written consent is not needed for the release of personal records in the following conditions. The client must be advised of these conditions:

- 1. public assistance agencies or programs from which the client has requested services or to which he is being referred for services under the circumstances for which his consent may be presumed;

- 2. the Louisiana employment service and military services of the United States government;

- 3. doctors, hospitals, clinics, rehabilitation centers, and independent living centers providing services to clients as authorized by the department;

- 4. schools or training centers, when the department has authorized service or is considering authorization of service, and such information is required for success of program, and safety of client;

- 5. confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for the development of new knowledge or techniques which would be useful in the administration of the program) and if the organization or individual furnishes satisfactory assurance that the information will be used only for the purpose for which it is provided; that it will not be released to persons not connected with the study under consideration; and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency. Information for re-

search, audit, or evaluation will be issued only on the approval of the secretary.

D. Client access to data - When requested in writing by the involved individual or his representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which may be harmful to the individual (NOTE: such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist);

3. when personal information has been obtained from another agency or organization, it may be released only by or under the conditions established by the other agency or organization.

E. Informed consent - Informed consent means that the individual has signed an authorization to release information, which:

1. is in language that the individual understands;

2. is dated;

3. is specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. is specific as to the purpose(s) for which the released information may be used;

6. is specific as to the expiration date of the informed consent, which must not exceed one year.

F. Court orders, warrants and subpoenas - Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed informed consent of client or guardian), the court will be given full cooperation;

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, he should:

a. inform the attorney, or other person making the request of the confidentiality of the records;

b. inform the secretary or designee of the request;

3. when an employee is subpoenaed by a court in a civil action to testify or to present case record information concerning a client, the employee is to do the following:

a. honor the subpoena;

b. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

c. if called upon to testify or to present the case record information, inform the court of the following:

(1) that the case record information or testimony is confidential information;

(2) the subpoenaed case record information is in agency possession;

(3) agency personnel will testify and/or release the case record information only if ordered to do so by the court.

VI. Applicant And Client Appeal Rights*

A. Appeal procedure; judicial review - Any person who is aggrieved by a decision of the department with regard to a request for provision of P.C.A. services may appeal said decision within 30 days in accordance with the provisions of R.S. 46:107. Such appeal shall be conducted in accordance with the Administrative Procedure Act and shall be subject to judicial review.

*NOTE: The above actions are stated as policy and will be handled as indicated in accordance with Act 781, Chapter 27-A of Title 46 of the Louisiana Revised Statutes of 1950, comprising R.S. 46:2116 through 2116.5 relative to personal care assistance services for severely disabled persons.

VII. Eligibility and Ineligibility Decisions

A. Non-discrimination and non-exclusion - The evaluation team must apply eligibility requirements without regard to sex, race, creed, color or national origin of the individual applying for service.

B. Eligibility criteria for P.C.A. services - Act 781 sets forth the eligibility criteria as established in R.S. 46:2116.5 and defined below:

1. The applicant must apply for Title 19 eligibility for P.C.A. services.

2. The applicant is a severely disabled person and a needs study establishes the need for P.C.A. services.

3. It must be determined that each individual's home setting would not suffice as a placement unless P.C.A. services were available. The evaluation which is assessed to make this determination is completed by the provider staff under the direct supervision of a professional social worker (MSW) employed by the provider. This evaluation is updated at least every six months by provider staff under the supervision of the professional social worker (MSW). Supervision is documented through co-signature by the professional social worker (MSW) on all evaluations.

4. It must be determined by the evaluation that the client requires a minimum of 14 hours but no more than 35 hours per week of P.C.A. services which are necessary to prevent or remove the adult from inappropriate placement in an institutional setting or enhance the adult's employability. It must also be determined that adequate resources exist in the client's community setting to meet the client's needs and that these resources shall be included as part of the client's care plan and monitored by the provider case manager.

5. Clear documentation must exist to show that each client possesses the self direction, intellectual capacity and emotional maturity to direct the activities of a personal care attendant.

6. Clear documentation must be presented from each client's treating physician that the individual to be receiving P.C.A. services is medically stable and that each individual has the capacity to direct his/her own medical care.

7. The client must have received SNF or ICF services for at least 90 days during the 12 months prior to receiving P.C.A. services. If the client has not received the required SNF or ICF services a significant history of P.C.A. or similar services provided in the home may substitute for the SNF/ICF requirement.

VIII. Care Plan for P.C.A. Services

A. Purpose of the care plan - Following the determination and certification of eligibility for personal care assistance services a care plan shall be initiated and periodically updated. It shall describe the goal and objectives of the personal

care assistance process, the activities necessary to attain the objectives, and the methods of evaluating progress toward attaining the objectives. The case record shall contain this program and any amendments to the program.

B. Client participation - The client shall understand and participate fully in the development of the care plan and in all changes and amendments to it. The client must receive a copy of the original care plan and all subsequent amendments.

C. Minimum content of the care plan - The care plan places primary emphasis on the determination and achievement of a goal and includes, but is not necessarily limited to:

1. identification of the specific services to be delivered;
2. the frequency of service;
3. the cost of the service;
4. the beginning date of the service; and
5. the date each service is due for review.

D. Amendment of the care plan - When the client identifies a need for an amended program, the individual shall redevelop its terms jointly with the qualified provider.

E. Six month review of the care plan - A six-month review of the care plan is mandatory and shall be reflected on the amended care plan; however, if the need requires, this review can be done any time within the six-month time frame. In all cases the client shall be given the opportunity to jointly review the program and, if necessary, jointly renegotiate and agree to its terms.

IX. Financial

A. Vendor authorization - The department shall establish and maintain a registry of persons qualified to provide P.C.A. services from names submitted by the Title VII funded independent living centers. Any vendor/person providing P.C.A. services authorized by the P.C.A. Pilot Program must agree not to make any charge to or accept any payment from the client or his family for the services unless the amount of the charge or payment is previously known and, where applicable, approved by the department and documented in the case record.

B. Prior written authorization and encumbrance - The proper authorizing document must be written either before or at the same time of the initiation or delivery of goods or services. Where oral authorization of approved services is made in an emergency situation, there must be prompt documentation and the authorization must be confirmed in writing and forwarded to the provider of the services.

X. Responsibilities Outlined in Act 781

A. Qualified provider responsibilities

1. Qualified provider must be a Title VII funded independent living center program licensed by the Division of Licensing and Certification as meeting Louisiana licensure standards for personal care attendant services under the client care provider licensing requirements.

2. Must provide the client with documentation of the qualified provider's specific personnel policies as they pertain to the consumer directiveness of the program.

B. Client responsibilities

1. Hiring, firing, and supervising the persons who are selected from a registry of names submitted by the Title VII funded independent living centers to provide P.C.A. services.

2. Assisting in the development of an evaluation of his/her eligibility for P.C.A. services from a qualified agency or organization.

3. Assisting in the re-evaluation of his/her eligibility for

P.C.A. services at least every six months from the evaluation team.

C. Evaluation team responsibilities

1. Determine the eligibility of the severely disabled person for P.C.A. services.

2. Re-evaluate the severely disabled person at least every six months to determine the person's continuing need for services.

D. Responsibilities of the department in the eligibility decision

1. The department shall follow the recommendations of the evaluation team, or

2. Shall give notice to the person within 20 days of receipt of the recommendations of the evaluation team of its reasons for not following the team's recommendations.

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

RULE

Department of Health and Human Resources Office of the Secretary Division of Licensing and Certification

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 Ambulatory Surgical Centers. These rules are to update the rules which implement R.S. 40:2131-2144.

An ambulatory surgical center is an establishment with an organized medical staff of physicians; with permanent facilities that are equipped with and operated primarily for the purpose of performing surgical procedures; with continuous physician services and registered professional nursing services whenever a patient is in the facility; and which does not provide services or other accommodations for patients to stay overnight; and which offers the following services whenever a patient is in the center:

1. drug services as needed for medical operations and procedures performed;
2. provisions for physical and emotional well-being of patients;
3. provisions of emergency services;
4. organized administrative structure; and
5. administrative, statistical, and medical records.

The rules governing the licensing of ambulatory surgical centers are located in the *Louisiana Administrative Code, Title 48, Chapter 45*.

The major parts of the rules to be updated are as follows:

1. the 1973 Life Safety Code (NFPA 101) is changed to 1985 Life Safety Code;
2. the definition of physician is changed to correspond to the Medicare, Medicaid definition which includes podiatry, osteopathy and dental surgery;
3. the license will be changed to identify those centers that are licensed without limitations and those that are licensed with limitation. The difference will be between those centers that perform invasive surgical procedures (licensed

without limitation) and those centers that perform only non-invasive surgical procedures (licensed with limitation).

Title 48

PUBLIC HEALTH – GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

§4501. Definitions

F. *Appeals agency* means the agency authorized to hear appeals as provided in the Administrative Procedure Act.

G. *Physician* means a doctor of medicine, osteopathy, podiatry or dental surgery duly licensed by the state of Louisiana.

§4505. Licensing Procedures

2. The center shall complete the application form and return it to the division at least 90 days prior to the expiration date of the current license, accompanied by a per annum license fee of \$500.

3. If a center is in compliance with the minimum standards, a license shall be issued by the department. The center shall be licensed to provide services without limitation or licensed to provide limited services.

§4507. Approval of Plans

A. All new construction, other than minor alterations, shall be done in accordance with the specific minimum requirements of the Office of State Fire Protection and the Office of Preventive and Public Health Services.

B. The applicant must furnish one complete set of plans and specifications to the following:

1. Division of Licensing and Certification;
2. Office of State Fire Protection;
3. Office of Preventive and Public Health Services.

All three must approve the plans before construction is allowed to begin. When the plans and specifications have been fully reviewed and all inspections and investigations have been made, including those of the Office of State Fire Protection and the Office of Preventive and Public Health Services, the applicant will be duly notified whether or not the plans for the proposed ambulatory surgical center have been approved.

C.-D. Delete

§4509. General

H. Combustible materials and volatile supplies shall be stored and handled in methods consistent with applicable sections of the Life Safety Code of 1985 (NFPA 101). The Life Safety Code of 1985 (NFPA 101) shall be used as the base for all fire and safety regulations. Also NFPA 99 shall be followed.

§4511. Functions of the Office of State Fire Protection

B. Centers shall comply with NFPA 101 (1985 edition) and NFPA 99.

1.-12. Delete

C.4. A sufficient amount of fuel shall be maintained on hand to insure the operation of the power plant for at least four hours.

§4517. Buildings

I. Accessibility. All centers constructed after the promulgation of this rule (March 20, 1988) shall comply with ANSI 117.1 for accessibility for the handicapped.

§4539. Nursing Personnel

G.1. Exception: centers which provide only non-invasive surgical procedures and have a limited license.

§4545. Surgery

C. Each surgical suite shall be designed and equipped so that the type of surgical procedures conducted can be performed in an appropriate and acceptable manner in accordance with accepted clinical practices.

§4547. Anesthesia

B. Inhalation and area block anesthesia should be administered by a board-certified or board-eligible anesthesiologist. When this is not possible, the area block anesthesia must be administered by a doctor of medicine or a certified registered nurse anesthetist. Certified registered nurse anesthetist shall be under the supervision of a doctor of medicine.

F. delete

§4557. Sanitizing, Disinfecting and Sterilizing Procedures and Equipment

A. The center shall make adequate provisions for furnishing properly sanitized, disinfected or sterilized supplies, equipment, utensils and solutions.

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 establish rules for the licensing of trauma centers. These rules are to implement R.S. 40:2116-2118.

Trauma center means a health care facility which is capable of treating one or more types of potentially seriously injured persons. The rules are the current edition of the guidelines established by the Committee on Trauma of the American College of Surgeons entitled the *Hospital and Prehospital Resources for Optimal Care of the Injured Patient*. In addition to complying with these guidelines, the trauma center must have a consultation site visit through the Committee on Trauma of the American College of Surgeons. These rules contain standards which:

- specify the number and types of trauma patients for whom such centers must provide care in order to ensure that such centers will have sufficient experience and expertise to be able to provide quality care for victims of injury;

- specify the resources and equipment needed by such centers; includes procedures for the receipt, recording of, and disposition of complaints;

- specifically, a new section is added to the Louisiana Administrative Code Title 48, Part I, Subpart 3, Chapter 67.

6757. TRAUMA CENTER

6757.1 The trauma center must meet the current guidelines of the Committee on Trauma of the American College of Surgeons which is incorporated by reference.

6757.2 The trauma center must obtain a consultation site visit through the Committee on Trauma of the American College of Surgeons.

6757.3 The trauma center must participate in the central data reporting and analysis system by providing the required information.

For a fee, a copy of these rules may be obtained by writ-

ing to Steve Phillips, Director, Division of Licensing and Certification, Box 3767, Baton Rouge, LA 70821.

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

RULE

Department of Insurance Commissioner of Insurance

REGULATION NO. 37 REGULATION OF HMO AGENTS

WHEREAS, the HMO Act of 1986 was introduced as House Bill No. 1681, by Representative Alphonse Jackson, and became Act. No. 1065 of 1986; and

WHEREAS, the Act amended Title 22 of the Louisiana Revised Statutes of 1950, to add Sections 2001 through 2025; and

WHEREAS, Section 2011 of the Act (R.S. 22:2011) provides relative to the regulation of agents; and

WHEREAS, the commissioner has studied and observed the HMO Act of 1986 in actual operation, especially the licensing requirements for agents appointed or employed by HMO's to engage in solicitation of membership in such organizations; and

WHEREAS, the commissioner has found that products of HMO's and presentation to employer groups and enrollees thereof requires:

1. substantial training, experience and professional reputation in insurance and health care matters;
2. that solicitation for such plants to employer and enrollees requires a high degree of professional competence and responsibility;
3. requires a high degree of trust, professional ethics and personal integrity; and
4. that licensed insurance agents represent the best available outside outlet and contact for such health care products to be offered to the public;

NOW, therefore, the following regulation is proposed for rulemaking under the Administrative Procedure Act, to wit:

§1. Regulation of agents

A health maintenance organization agent means a person licensed as a health insurance agent in the state of Louisiana, as provided in R. S. 22:1114, who is appointed or employed by a health maintenance organization to engage in solicitation of membership in such organization. It shall not include a person enrolling members on behalf of an employer, union, or other organization to whom a master group contract has been issued.

§2. Effective date

This regulation shall become effective upon final promulgation in the *Louisiana Register*.

Sherman A. Bernard
Commissioner

RULE

Department of Labor Office of Labor

Under the authority of Act 732 of 1981, Regular Legislative Session (R.S. 23:101-115), and pursuant to the provisions of R.S. 49:950 et seq., the assistant secretary of the Louisiana Office of Labor has promulgated such rules and procedures as are deemed necessary to carry out the requirements of said statute.

Preceding final adoption by the assistant secretary, a public hearing was conducted for review and consideration of the subject rules. Copies of these rules were forwarded to the House Labor and Industrial Relations Committee. No opposition was indicated by either committee. These rules are established by the assistant secretary of the Office of Labor and are subject to change by the assistant secretary, in accordance with provisions of the Administrative Procedure Act.

Title 40 LABOR AND EMPLOYMENT

Part XV. Private Employment Services

Chapter 1. General Provisions

§101. Definitions

A. *Applicant* - a person engaging or using the services of an employment service for the purpose of securing employment for compensation or a person placed by an employment service with an employer for compensation.

B. *Assistant Secretary* - the assistant secretary of the Office of Labor.

C. *Consultant* - an individual employed by a licensed private employment service that regularly interviews and refers applicants to prospective employers, or that solicits or receives job orders from employers, or otherwise advises or counsels in the field of employment.

D. *Employer* - any person employing or seeking to employ a person for compensation.

E. *Employment Service* - any person who for a fee:

1. offers or attempts to procure, directly or indirectly, permanent employment for an applicant;

2. procures or attempts to procure a permanent employee for an employer;

3. holds himself or itself out to prospective job applicants as able to provide information, consultation, intelligence, or assistance purporting that it will or may lead to employment or to enhanced job opportunity for any person including but not limited to, the providing of names or addresses of employers or possible employers.

F. *Employment Service Manager* - an individual designated by the employment service to conduct the general management, administration and operation of a designated employment service office.

G. *Fee* - anything of value, including money or other valuable consideration, received or to be received directly or indirectly by an employment service in payment for its service.

H. *Job Order* - a verbal or written notification from an employer to an employment service of a job opening or a potential job opening.

I. *Licensee* - an individual, company, corporation, or partnership, licensed according to the provisions of this Part: or any individual, partner, officer, director, or stockholder owning 10 percent or more of the stock of a corporation, operating an

employment service in accordance with this Part.

J. *Person* - an individual, company, corporation, partnership, or agent thereof.

§103. Operational Mandates (Licensees)

A. Must conduct employment service activity in a commercial office (not a residence) suitable for operation of an employment service and said facility must be approved by the Office of Labor.

B. Must file with the assistant secretary a bond written by a surety company authorized to do business in this state for each licensed office in the sum of \$5,000. The beneficiary of said bond shall be the assistant secretary. An approved bond form (OOL-2) must be executed by the surety company and the dates of the bond must coincide with the inclusive dates of the license. Only original bonds will be accepted.

C. Applicants for a license must pay a \$250 investigation fee and an examination fee of \$100 for each person examined.

D. Each principal and manager of an employment service, shall be required to take a written examination. If an employment service is a corporation or a partnership, each active officer and/or partner who acts as a consultant shall be required to take a written examination. Each person taking the examination must satisfy the assistant secretary that he/she has sufficient knowledge of the state private employment service law, rules and regulations by achieving a score of at least 80 percent on said written examination.

E. Must maintain a published telephone listing in the name appearing on its license.

F. Shall at all times conspicuously post, in the main receiving area of its office, the current *original* private employment service license to operate.

G. Shall at all times conspicuously post, in the main receiving area of its office, a current copy of its approved applicant schedule of fees printed in not less than 30-point bold face type.

H. Shall at all times conspicuously post, in the main receiving area of its office, a *notice* stating that copies of the rules and regulations governing private employment services and any supplement thereto are available for inspection upon request.

I. Each licensed service must have an individual designated as on-site manager for that location, or an on-site consultant who has been tested. No individual may be designated as a private employment service manager at more than one location. Each manager shall have successfully passed the private employment service examination.

J. Agree to make all records and data pertinent to placement, available to any Office of Labor compliance officers or officials upon request.

K. Prior to sending an applicant on a job interview, the employment service must have a job order from the employer granting permission to the service to submit applicants for a fee, if hired.

Each job order must contain the following:

1. date;
2. employer name and address;
3. position description;
4. approximate salary.

L. Individual documentation must be executed on each interview referral.

M. All refunds due shall be made promptly by the employment service upon proper verification of earnings with the employer, and in no case shall the delay exceed 14 days from applicant's request.

N. Any amended fee schedule must be filed with and

approved by the assistant secretary. No amended fee schedule shall be effective until at least 10 days after the approval of the assistant secretary and until the amended schedule has been posted in the employment services' office for at least seven days.

§105. Limitation on Licensees

A. No employment service shall charge, receive, or attempt to collect any applicant fee not in accordance with the posted fee schedule.

B. No employment service shall charge or collect any fee from an applicant except for:

1. Employment procured through the efforts of the employment service.

2. The preparation of job resumé for which they may charge a maximum fee of \$10.

C. No employment service shall charge any fee for the registration of applicants for employment, or for assistance or job referrals, or require applicants to subscribe to any publication or to any photographic, postal card, or letter service, or to contribute to the cost of advertising.

D. No employment service shall charge or accept a fee from an applicant unless in accordance with the terms of a written contract with the applicant in a form approved by the assistant secretary.

§107. Prohibited Conduct

No employment service, employment service manager, and/or consultant shall engage in the following conduct:

A. Solicit, persuade, or induce any employee to leave any employment (in which said service has placed the employee).

B. Solicit, persuade, or induce any employer to discharge an employee.

C. Divide, offer to divide, or share directly or indirectly any fee received or to be received from any applicant or employer with any applicant, any employer, or other person in any way connected with the employer's business.

D. Publish or cause to be published any representation, promise, notice, or advertisement which the employment service, manager, or consultant knows or reasonably should have known is false, fraudulent, or misleading.

E. Advertise or use letterheads, receipts, or other written or printed matter unless such materials contain the name of the employment service, as registered with and licensed by the assistant secretary.

F. Direct, refer, or send an applicant to any employer for the purpose of employment without having first obtained a job order from the employer. (As provided for in §103. K.)

G. Send or cause to be sent any applicant to any employer where the employment service, manager, or consultant knows, or reasonably should have known, that the prospective employment is or would be in violation of state or federal laws or that a labor dispute is in progress, without notifying the applicant of such fact and delivering to him a clearly written statement that a labor dispute exists at the place of such employment.

H. Send or cause to be sent any person to any place which the employment service, manager, or consultant knows or reasonably should have known is maintained for immoral or illicit purposes.

I. Charge an applicant a fee when the employment service, manager, or consultant represents to the public that it is exclusively an employer fee paid operation.

J. Require an applicant placed in an employer fee paid position to pay a fee of any kind.

K. Permit an applicant to sign a power of attorney, prom-

issory note, negotiable instrument, or assignment of wages in an amount exceeding the approved and posted fee.

L. No employment service licensee, manager or consultant shall use an alias or any other name in the course and scope of their employment other than their legal name, unless registered with the Office of Labor within 30 days from the effective date of these rules. No such request for registration received after 30 days from the effective date of these rules will be considered.

M. Charge or receive a fee from an applicant prior to the actual commencement of work on a job procured by the employment service, manager, or consultant, except that where an employed applicant accepts new employment after having signed a contract but fails to report to work on the new job and instead remains with his present employer, a fee not to exceed 20 percent of the fee for permanent employment on the new job may be charged.

N. Other than as described in §105. B. 2. and §107. M. hereinabove, an employment service shall not receive a fee from an applicant who does not commence work on a job procured by the employment service.

§109. Application for License

A. Initial License

1. Forms required to be completed and submitted:

a. OOL-1 Application - The facts specified in the application must be sworn and attested before a notary. All applications must be signed by the licensee or their duly authorized representative.

b. OOL-2 Bond Form - In the amount of \$5000 executed by a surety company licensed and authorized to do business in Louisiana. Each bond must bear a surety seal.

c. Corporations shall submit a certified copy of the articles of incorporation.

d. Partnerships shall submit a certified copy of the articles of partnership.

2. Additional requirements

a. Three *notarized* statements from character references.

b. The proposed applicant's contract must be submitted and approved by the assistant secretary.

c. Licensees and managers must pass a written examination, administered by the Office of Labor, with a score of at least 80 percent.

d. Each proposed licensee must submit a resumé detailing his business involvement during the preceding 10 years.

e. Each proposed licensee must affirmatively state whether or not he/she has ever been convicted of a felony or misdemeanor. If he/she has been convicted, full particulars must be given including the offense, the date, the sentence and the court in which the proceeding occurred.

f. A license shall be required for each employment service operated or advertised.

g. Each licensee shall pay a \$250 investigation fee.

h. Services that are "exclusively employer fee paid" shall submit a notarized statement attesting to same.

i. License fee shall be determined in accordance with number of employment consultants operating in each office:

i. 1 employment consultant, excluding licensee - \$100

ii. 2-4 employment consultants, excluding licensee- 200

iii. more than 4 employment consultants, excluding licensee - 300

(If the only consultant is the licensee the fee shall be \$100.)

j. License fees for a foreign employment service which merely advertises in the state shall be \$100.

k. Every license issued shall remain in force until December 31 of year of issuance, unless such license has been revoked pursuant to the provisions of this law or the licensee submits a notarized request to cancel the license.

1. Each corporation must designate at least one stockholder to be tested and to be the licensee. If the designated person leaves the corporation, it must designate a new person to be relicensed.

m. Each partnership must designate at least one partner to be tested and to be the licensee. If the partnership dissolves then any new association of the surviving members must be relicensed.

B. Renewal Licenses

1. Forms required to be completed and submitted:

a. OOL-1 renewal application.

b. OOL-2 bond form (original only) executed by surety company or continuation certificate (original only) from surety company, the period of coverage must correspond with the license year.

2. Additional requirements

a. Licensees must submit their applicant contract.

b. Services that are "exclusively employer fee paid" shall submit a statement affirming same.

c. Application for renewal must be filed no later than November 30 of each year.

d. The license of any licensee who fails to timely renew a license shall expire on December 31. Upon reapplication said licensee will be required to pay all fees and meet all requirements as a new licensee.

e. Renewal fee shall be determined in accordance with number of employment consultants operating in each office:

i. 1 employment consultant, excluding licensee - \$100

ii. 2-4 employment consultants, excluding licensee - 200

iii. more than 4 employment consultants, excluding licensee - 300

(If the only consultant is the licensee the fee shall be \$100.)

§111. Reporting Requirements

A. Address change

1. Any change in a licensed employment service's physical location must be reported in writing to the Office of Labor by the licensee(s) at least two weeks prior to such change.

2. A rider (original only) from the surety company affecting the new address must be submitted to the Office of Labor prior to such change.

B. Closure of employment service

1. Licensee(s) shall notify Office of Labor, in writing immediately upon closing an employment service location.

2. Licensee(s) shall return to the Office of Labor the current original license for proper cancellation.

C. Change of ownership

1. Licensee(s) shall notify the Office of Labor of any change in ownership of employment service immediately. Such notification must be received 14 days prior to the actual sale.

2. Licensee(s) shall return current original license to the Office of Labor for proper cancellation.

3. Licensee(s) shall inform the Office of Labor of proposed new owner's/owners' name(s) and address(es).

D. Private employment service license is *not transferrable* and will not authorize any other than the person to whom it is issued, nor any place or business transacted under any name other than that designated in the license.

E. Change of licensed business name

1. Licensee(s) must notify Office of Labor, in writing, when changing licensed business name, prior to name change.

2. Licensee(s) must furnish the Office of Labor a rider (original) from the surety company covering the new name.

F. The Office of Labor will not license services with deceptively similar names.

§113. Examinations

A. Each individual named as a private employment service licensee, and each individual named as a private employment service manager, shall demonstrate sufficient knowledge of the private employment service law, rules and regulations by scoring at least 80 percent on a written examination.

B. The private employment service examination will be developed, administered and scored by the assistant secretary, Office of Labor, or his designee.

C. Each individual to whom the private employment service examination is administered shall pay to the assistant secretary a fee of \$100, which shall not be refundable under any circumstance.

D. Examinations will be given within 10 days from the date of request and may be administered at the Office of Labor's Administrative Office, Baton Rouge, LA, or at any Office of Labor field office at the convenience of the party being tested.

E. Test results will be provided on the same day that the completed examination is received by the private employment service program manager for scoring.

§115. Fees for Placement

A. Applicant fee paid services

1. Applicant contracts must be approved by the assistant secretary and shall provide:

a. Currently approved applicant fee schedule.

b. Where the procured employment is one for which the applicant is to be paid a salary, the fee charged the applicant will be based on the employment service's schedule of fees as applied to the projected first year's gross earnings of the applicant.

c. Where procured employment is one for which the applicant will be paid on a straight commission basis, or on the basis of a salary plus other remuneration, or a drawing account or guarantee against commission, the fee charged the applicant shall be based on the employment service's schedule of applicant fees applied to the first year's gross earning of the applicant as estimated by the employer. At the conclusion of the first year of employment and upon proper proof of actual gross earnings of the applicant, said fee shall be adjusted upward or downward as is appropriate. Any request for adjustment in fees must be made in writing by the employment service or employee within 60 days after the anniversary of employment or termination, whichever is sooner.

d. When procured employment is terminated for any reason whatsoever within 90 calendar days following the date employment begins, the fee charged the applicant shall not exceed 20 percent of the gross earnings of the applicant.

e. All refunds due shall be made promptly by the employment service upon proper verification of earnings with the employer, and in no case shall the delay exceed 14 days from applicant's request.

f. Where an employed applicant accepts employment but fails to report to work on the new job, the fee charged to such applicant shall not exceed 20 percent of the fee for permanent employment on the new job, provided the applicant remains with his present employer.

g. Overtime pay shall not be included in determining total remuneration.

h. Employment services shall not charge more than 12 percent annual interest on accounts paid in installments.

2. Each applicant shall be given a copy of every contract he/she signs with an employment service.

B. Employer fee paid services

1. An employment service representing itself as being an exclusively employer fee paid operation shall not charge an applicant a fee under any circumstances.

2. Nothing contained herein shall authorize or allow the regulation of charges by employment services to employers.

C. Resumé preparation

1. An employment service may prepare an applicant's job resumé upon applicant's request. A fee not to exceed \$10 dollars may be charged. Employment service shall furnish applicant with a copy of the prepared resumé at no additional cost.

2. An employment service shall not require that an applicant pay the service to prepare a resumé as a condition to placement.

§117. Investigations, Hearings, Penalties

A. The assistant secretary, upon receipt of a complaint or upon his own motion may initiate an investigation into any alleged violations of the employment service law or of these rules and regulations promulgated thereunder.

B. If the assistant secretary determines that a violation may have occurred he may conduct a hearing regarding same. The hearing shall be conducted in accordance with the Administrative Procedure Act.

C. Any person or employment service which violates the provisions of the employment service law, or the rules and regulations promulgated by the assistant secretary shall be subject to suspension or revocation of their license in addition to any other penalties provided.

§119. Revocation and Suspension

A. Upon the revocation of any license, the assistant secretary shall take possession of the same and cancel it.

B. Suspension shall be for a period of no more than one year.

C. No new license shall be issued to any person, partnership or corporation whose prior license has been suspended until the time the suspension has expired.

D. No new license shall be issued to any person, partnership or corporation whose prior license has been revoked until the expiration of at least two years, and then only upon a proper showing that the reasons for the revocation have been corrected, that all other requirements for a license have been met, that the necessary examinations have been taken and passed, and that all fees have been paid. The burden of proof shall be on the applicant.

§121. Enforcement Procedures

A. All complaints shall be written.

1. Whenever a written complaint is filed alleging a violation of the employment service law or the regulations promulgated thereunder, the assistant secretary shall send by certified mail a copy of said complaint to the accused employment service.

2. The employment service shall be given 10 days to answer said allegations.

3. After receipt of employment service's response the assistant secretary may schedule a hearing regarding same if the matter requires further inquiry or if a violation is believed to have occurred.

4. The hearing shall be initiated with an ORDER TO SHOW CAUSE served upon the employment service by certified

mail at its registered address.

5. The hearing shall be conducted in accordance with the Administrative Procedure Act.

6. The employment service shall be entitled to be present at the hearing and be represented by an attorney.

7. For an act or omission in violation of any provision of the employment service law or any rule or regulation promulgated thereunder, the assistant secretary (or hearing officer) may levy a fine not to exceed \$500, suspend the license for a period of not more than one year, or revoke any license.

8. Any person aggrieved by an order entered pursuant to the above described procedure may appeal therefrom to the Nineteenth Judicial District Court within 30 days after notification of such order as provided by R.S. 49:964.

B. Deficiency findings by labor compliance officers

1. Labor compliance officers shall be empowered to conduct periodic inspections to determine if deficiencies in the employment service operation exist. A non-exclusive listing of possible violations is:

- a. current license not properly posted;
- b. notice regarding availability of rules and regulations not properly posted;
- c. applicant schedule of fees not posted;
- d. employment consultants exceeding number reported;
- e. employment of a manager, who has not successfully passed examination;
- f. address change without notifying Office of Labor;
- g. failure to maintain appropriate telephone listing;
- h. using other than the licensed business name;
- i. consultants using aliases;
- j. any act or omission in violation of the law or any rule or regulation promulgated thereunder.

2. If a deficiency is found to exist such employment service shall be sent by certified mail a notice proposing the assessment of appropriate penalties.

a. The certified notice shall state the agency's preliminary findings and include a copy of inspection report.

b. The employment service may voluntarily pay proposed penalty and adhere to corrective actions.

c. Any employment service desiring to contest the stated charge may ask for an informal meeting to discuss the matter.

d. Failure of the employment service to respond in one of the above stated manners will result in an administrative hearing being scheduled and the issuance of an ORDER TO SHOW CAUSE.

e. The hearing shall be conducted in accordance with the Administrative Procedure Act.

f. The employment service shall be entitled to be present at the hearing and be represented by an attorney.

g. For any act or omission in violation of any provision of the employment service law or any rule or regulation promulgated thereunder, the assistant secretary (or hearing officer) may levy a fine not to exceed \$500, suspend the license for a period of not more than one year, or revoke any license.

3. Any person aggrieved by an order entered pursuant to the above described procedure may appeal therefrom to the Nineteenth Judicial District Court within 30 days after notice of such order as provided by R.S. 49:964.

§123. Private Employment Services Contract

A. Guideline Applicant Contract

1. This contract is entered into by and between _____, hereinafter referred to as the applicant and _____, hereinafter re-

ferred to as the employment service.

2. Should applicant accept employment with an employer or subsidiary to which the employment service has referred within 12 months from date of referral, applicant agrees to pay for professional services in accordance with the schedule contained in Paragraph 5. This contract is valid for a period of one year from the above date or can be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. Acceptance means agreement by applicant with an employer to begin work.

4. Schedule of fees (rate of professional service charges based on projected annual compensation at time of acceptance). The method of computing applicant's projected annual compensation, or as outlined in Paragraph 7 of this contract. These estimates are for the purpose of computing service charges and in no way guarantee the procured employment for a year.

5. Schedule of Fees

ESTIMATED GROSS ANNUAL COMPENSATION FEE		ESTIMATED GROSS ANNUAL COMPENSATION FEE	
Less than \$ 4,000	4%	\$15,000 but less than \$16,000	16%
\$ 4,000 but less than \$ 5,000	5%	\$16,000 but less than \$17,000	17%
\$ 5,000 but less than \$ 6,000	6%	\$17,000 but less than \$18,000	18%
\$ 6,000 but less than \$ 7,000	7%	\$18,000 but less than \$19,000	19%
\$ 7,000 but less than \$ 8,000	8%	\$19,000 but less than \$20,000	20%
\$ 8,000 but less than \$ 9,000	9%	\$20,000 but less than \$21,000	21%
\$ 9,000 but less than \$10,000	10%	\$21,000 but less than \$22,000	22%
\$10,000 but less than \$11,000	11%	\$22,000 but less than \$23,000	23%
\$11,000 but less than \$12,000	12%	\$23,000 but less than \$24,000	24%
\$12,000 but less than \$13,000	13%	\$24,000 but less than \$25,000	25%
\$13,000 but less than \$14,000	14%	\$25,000 and up shall never exceed	25%
\$14,000 but less than \$15,000	15%		

Fees are rounded down to the nearest dollar.

6. It is agreed that applicant shall at all times have the right to refuse any employment tendered. The fee of the employment service is earned when applicant accepts employment, payable as follows except that in no case shall the full amount of the fee be mandatorily payable sooner than 30 days from the date employment begins _____.

GUARANTEE

If the position the employment service has obtained for applicant ends within 90 days from date of employment, REGARDLESS OF REASON, the service charge will be reduced to 20 percent of the gross earnings of the applicant. All refunds due shall be made promptly by the employment service upon proper verification of earnings with the employer, and in no case shall the delay exceed 14 days from applicant's request. If applicant accepts a position and then remains with his present employer, he agrees to pay 20 percent of the applicable fee for the position accepted.

7. If applicant accepts a job where he is compensated on a straight commission, drawing account, salary plus bonus or any combination of these, he agrees that the employment service fee shall be based on his first full year's gross compensation as estimated by the employer. The fee shall be adjusted downward or upward accordingly at the end of the first full year of employment based upon proof of actual compensation. Requests for adjustment must be made by either party in writing within 60 days following the first full year of employment or termination, whichever is sooner. Under no circumstances will overtime pay be included in gross earnings.

8. Applicant's acceptance of an introduction by the employment service shall take precedence over any previous appli-

cation he may have filed with said employer.

9. Applicant hereby stipulates and agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due the employment service should it become necessary for the service to obtain counsel, a collection service, or resort to court action to collect same.

10. Applicant hereby stipulates that any agreement regarding the reimbursement of the service charge to applicant by the employer, is a separate agreement between said employer and applicant. Applicant further stipulates that regardless of any such agreement, applicant is responsible for the service charge under the conditions and terms of the contract.

11. It is understood that if any Section of this contract is in conflict with the Louisiana private employment service law or the rules and regulations established thereunder, then the provisions of law, rule and regulations shall govern. The declaration that any Section of this contract conflicts with the provisions of law shall not render the remainder of this contract null, and to that end the Sections of this contract are declared severable.

12. The employment service agrees that it will not under any interpretation of this contract make more than one full service charge for any one placement.

13. The parties hereto acknowledge receipt of a copy of this contract; that they have read and understand all provisions thereof and agree to abide by its terms and conditions.

APPLICANT: _____

DATE: _____

BY: _____

EMPLOYMENT SERVICE

§125. Repeal of Prior Rules

All rules and regulations heretofore adopted by the Louisiana Department of Labor, Office of Labor, for the administration of laws pertaining to Private Employment Services, including but not limited to those rules adopted December 20, 1981, are hereby repealed in their entirety.

§127. Severability Clause

These rules and each of their provisions are hereby declared to be severable, one from another. If any provision or item of a rule, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items or applications of the rule which can be given effect without the invalid provision, item or application.

Gayle F. Truly
Secretary

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revise Standard 2.037.06 of Bulletin 741

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved a revision to Standard 2.037.06 in Bulletin 741 to allow more than two grades in a combined group for elementary band, art, and music as follows:

2.037.06

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

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., May 9, 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: Standard 2.037.06

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that approximately \$50 would be needed to reprint the page in Bulletin 741 and to disseminate this information to the local school systems. School systems affected by the revision may not have to hire additional personnel, thereby resulting in a savings for the local school board.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect on revenue collection at the state or local level.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There may be fewer jobs for teachers available.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is a possibility of less employment opportunities for teachers.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT
Board of Elementary and Secondary Education

Amendment to Bulletin 1213

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 Bulletin 1213, *Minimum Standards for School Buses in Louisiana*:

Page 10, Section 3 - Heater

Delete No. 4 . . . "A booster pump for heater water circulation must be installed on all diesel operated vehicles."

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., May 9, 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: Bulletin 1213 Amendment
Minimum Standards for School Buses

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

Local school boards can realize a savings of \$260.00 on the purchase of diesel powered school buses by specifying that the booster pump not be installed.

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

There is no effect on revenue collections of state or local governmental units.

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

Contract school bus drivers can realize the same \$260.00 savings as local school boards on the purchase of diesel powered school buses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Migrant Education State Plan - 1989

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 Migrant Education State Plan for 1989.

Interested persons may comment on the proposed policy

change and/or additions in writing, until 4:30 p.m., May 9, 1988 at the following address: State Board of Elementary and Secondary, 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: FY-89 Migrant State Plan

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

Participating Local Education Agencies (LEAs) and Community Action Agencies (CAAs) will expend approximately \$3,958,123 and the Louisiana Department of Education (LDE) will expend approximately \$291,877 to implement the provisions of the FY-89 Louisiana State Plan for Migrant Education.

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

Participating LEAs and CAAs will collect approximately \$3,958,123 and the LDE will collect approximately \$291,877 in Federal funds appropriated by the 100th Congress in 1987.

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

Approximately 6,500 children living in Louisiana for at least a portion of the school year will receive instructional or supportive services through the Migrant Education Program. A decrease is expected with an anticipated FY-89 allocation of \$4.25 million. The FY-88 allocation was \$4,546,755.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Migrant Education program creates full-time instructional positions for more than 270 persons, most of whom are paraprofessional teaching aides. Approximately 60 additional full-time positions are funded for recruitment personnel, records personnel, and state office staff. A number of part-time or shared-timed positions are also funded with these monies. The program has little if any effect on competition.

Joseph F. Kyle
Deputy Superintendent

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Office of the Governor
Division of Administration

The Division of Administration, under the authority granted by R.S. 39:231, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., gives notice that it intends to amend 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

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: General Travel Regulations
PPM No. 49

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

The proposal to eliminate reimbursement for the noon meal for state employees on in-state travel that does not extend overnight was promulgated by emergency rule on February 20, 1988. Publication of the final rule is expected on April 20, 1988. Total estimated savings are \$33,500 for 1987-88 and \$100,000 annually each year thereafter.
- 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)

State employees will no longer be reimbursed for the noon meal when in-state travel does not extend over at least one night.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Kevin P. Torres
General Counsel & Asst. Comm.

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Risk Management

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, R.S. 39:7 and R.S. 39:1527, et seq., notice of intent is hereby given to amend Policy and Procedure Memorandum 10 to read as follows:

Title 4
ADMINISTRATION
Part V. Policy and Procedure Memoranda
Chapter 5. Property Insurance Claims Recover Funds -
PPM 10

§501. Purpose

It is the purpose and intent of this memorandum to establish procedures in handling reimbursement for losses, including automobile physical damages losses, incurred under property insurance policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:7 and R.S. 39:1527, et seq.

§503. Funds for property claims

A. Funds for all property claims payable to state agencies under property policies, commercially insured or self-insured by the Office of Risk Management, shall be held in the Self-Insurance Fund by the Office of Risk Management, Division of Administration, until the damaged property or equipment has been repaired, reconstructed or replaced.

B. Agency and state purchasing procedures and policies shall be followed and invoices submitted to the Office of Risk Management for payment to vendors. In the event an agency has paid for a covered loss, the Office of Risk Management shall reimburse the agency for its payments where paid invoices can be produced, and any agency receiving payments from the Office of Risk Management shall receive such as reimbursement of expenses or available income. Payment by Risk Management to agencies for purposes other than reimbursement of expenses or available income may be made upon an approved BA-7. Should the estimate of repairs or replacement represented on an executed Proof of Loss exceed the actual costs incurred, the excess shall remain with the Self-Insurance Fund within the Department of Treasury and shall not be reflected in the actual loss experience of the affected agency.

C. Commercial and self-insurance fund loss recoveries from policies purchased by the state shall be payable to the state treasury if payment is not otherwise made pursuant to other provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:7 and R.S. 39:1527, et seq.

§505. Repair or replacement of property

A. Except for state-owned vehicles provided for in Paragraph B, *infra*, if repair or replacement of damaged, destroyed or stolen state-owned property, to include buildings and improvements, boiler and machinery equipment, contents, inventories (including mobile equipment and excluding licensed vehicles) and marine hulls 26 feet and under, is not commenced within 36 months of the loss date, or if a proof of loss is not submitted within 36 months of the date of loss, the claim file will be closed. No liability will remain to the insurance fund and the loss will not be charged to the loss experience of the affected agency.

B. If repair or replacement of damaged, destroyed or stolen state-owned vehicles is not completed within 18 months of the loss date, or if a proof of loss is not submitted within 18 months of the date of loss, the claim file will be closed. No liability will remain to the insurance fund and the loss will not be charged to the loss experience of the affected agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:7 and R.S. 39:1527, et seq.

Brian E. Kendrick
Commissioner of Administration

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Property Insurance Claims**

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

The proposed rules amend Policy and Procedure Memorandum No. 10 of 1966. R.S. 39:1527 created the Office of Risk Management in 1980. Since that time the Office of Risk Management has implemented numerous policy changes in response to statutory mandates, but it has not promulgated these changes as administrative rules. Although a number of these changes may have had a significant fiscal impact at the time of implementation, it is no longer possible to estimate what the costs or savings might have been. These rules will have no fiscal impact on local governmental units.

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

There will be no estimated effect on revenue collections of state or local governmental units because these proposed rules do not require the payment of any type of fees.

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

These rules will have no effect on persons or nongovernmental groups because these rules only apply to state government agencies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules, as proposed, will have no effect on competition and employment.

J. Douglas Higley
State Risk Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs intends to amend the FY 1988 - FY 1991 Louisiana State Plan on Aging. The purpose of the amendment is to comply with Regional Identical Memorandum No. 88-16, dated February 17, 1988, which specifies the administration on aging's requirements for the receipt of each state's allotment of funds under the new program, Part D, In-Home

Services for Frail Older Individuals, under Title III of the Older Americans Act of 1965, as amended. An emergency rule, effective March 1, 1988, appears in this edition of the *Louisiana Register*.

A new section of the FY 1988 - FY 1991 State Plan on Aging will be added to read as follows:

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

Chapter 13. State Plan on Aging

§1323. In-Home Services For Frail Older Individuals

A. The Governor's Office of Elderly Affairs assures that Title III, Part D funds will be utilized in accordance with criteria set forth in the Older Americans Act.

B. The Governor's Office of Elderly Affairs assures consultation and coordination in the planning and provision of in-home services under Section 341 of the Older Americans Act with state and local agencies and private nonprofit organizations relating to health, social services, rehabilitation, and mental health.

C. The Governor's Office of Elderly Affairs will develop state eligibility criteria for providing in-home services to frail older individuals which shall take into account -

1. age;
2. greatest economic need;
3. noneconomic factors contributing to the frail condition;

and

4. noneconomic and nonhealth factors contributing to the need for such services.

D. The Governor's Office of Elderly Affairs assures that funds made available under Part D of the Older Americans Act shall be in addition to, and not used to supplant any funds that are or would otherwise be expended under any federal, state, or local law by a state or unit of general purpose local government (including area agencies which have in their planning and service areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of such victims).

Section 1307 - Projected Expenditures for FY 1988, the Table of Contents, and the cover will also be revised accordingly.

The declaration of emergency adopting this State Plan on Aging amendment as an emergency rule effective March 1, 1988 appears in this issue of the *Louisiana Register*.

Written comments concerning the proposed State Plan amendment should be forwarded to Betty Johnson, Elderly Affairs Planning Specialist, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374.

Sandra C. Adams
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: FY 1988 - FY 1991
State Plan on Aging Amendment**

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

There will be no implementation costs to state or local governmental units. Existing staff will be required to absorb

the extra work involved in administering the new Older Americans Act Title III-D Program. The program is designed to provide in-home services to frail older individuals. The term "in-home services" includes homemaker and home health aides; visiting and telephone reassurance; chore maintenance; in-home respite care for families, including adult day care as a respite service for families; and minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home, and that is not available under other programs, except that not more than \$150 per client may be expended under Title III, Part D for such modification. The term "frail" means having a physical or mental disability including Alzheimer's disease or a related disorder with neurological or organic dysfunction, that restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

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

The state will not receive any Title III-D Funds during State FY 1987 - FY 1988, therefore no matching funds will be required. We will receive approximately \$125,844 in federal funds during state FY 1988 - FY 1989. The match requirement will be \$22,208. To provide for the statewide implementation of the Title III-D Program, all of the funds will be awarded to the area agencies who have contracts with this agency to administer approved area plans on aging in their respective planning and service areas.

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

1. There are approximately 175,000 individuals in Louisiana who will be eligible to receive in-home services under Title III-D. The unit costs associated with providing the allowable services vary considerably (e.g. telephone reassurance vs. respite care). Each area agency will determine which services will be provided in their respective planning and service areas.

2. The 35 Area Agencies on Aging who serve all 64 parishes will have increased costs. They will receive the Title III-D federal funds and match based on the same intrastate funding formula which is used for Title III-B and Title III-C programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Sandra C. Adams
Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

The Louisiana State Board of Examiners for Nursing Home Administrators intends to adopt changes in LAC 46:XLIX.1303 as follows to amend an existing requirement:

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Nursing Home Administrators
Chapter 13. Complaints and Hearing Procedures
§1303. Hearing Procedures**

A. The board, or any person or persons appointed by it for the said purpose, may hold a preliminary hearing within 90 days of receipt of the written signed complaint or shall hold a formal hearing. The board shall receive the preliminary and/or formal hearing report at the following regularly scheduled or special meeting.

C. If the board decides that the charges shall be heard, the board or any committee or member thereof or any hearing officer designated by the board shall determine the charges and set a time and place for a formal hearing to take place within 60 days.

Interested persons may submit written comments on the proposed regulation until 3:30 p.m., May 4, 1988, at the following address, Winborn E. Davis, Executive Director, Louisiana State Board of Examiners for Nursing Home Administrators, Suite 205, 4550 North Boulevard, Baton Rouge, LA 70806.

Winborn E. Davis
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 46:1303
Complaints and Hearing Procedures**

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

There will be no added costs or savings 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 and local government units.

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

There will be no added costs to directly affected persons or non-governmental groups. Benefit will be a speeded up, more convenient process of conducting hearings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Winborn E. Davis
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

The Louisiana State Board of Examiners for Nursing Home Administrators intends to adopt changes in LAC

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Nursing Home Administrators

Chapter 5. Examinations

§505. Application for Examination

A. . . .

1. . . .

2. . . .

3. An applicant who withdraws his application for licensing after it is processed and ready for submission to the board for consideration shall be entitled to a refund of one-half of the original application fee.

Interested persons may submit written comments on the proposed regulation until 3:30 p.m., May 4, 1988, at the following address, Winborn E. Davis, Executive Director, Louisiana State Board of Examiners for Nursing Home Administrators, Suite 205, 4550 North Boulevard, Baton Rouge, LA 70806.

Winborn E. Davis
Executive Director

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

Rule Title: Application for Examination

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

There will be no added costs to state and local governments.

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

This proposed rule will increase revenue collections of the board by an estimated \$100 in 1987-88 and \$200 each year thereafter based on two applicants withdrawing.

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

It will cost an applicant who withdraws his application after it is fully processed one-half his application fee (currently \$100).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment caused by this proposed rule.

Winborn E. Davis
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

The Louisiana State Board of Examiners for Nursing Home Administrators intends to adopt LAC 46:XLIX. 1102 as

follows to coordinate more adequate monitoring of Acting Administrators.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Nursing Home Administrators

Chapter 11. Licenses

§1102. Emergency License

A. The board may issue a provisional license on an emergency basis when the state agency responsible for licensing nursing homes certifies to the need. Applicants for a provisional license need not be fully qualified for a regular license but they must be knowledgeable of the operations of a nursing home as determined by an oral review conducted by a board member or the executive director of the board.

1. Applicants shall complete application forms provided by the board and shall pay a fee of \$100.

B. The emergency license shall not exceed a period of three months. At the end of each month the state agency licensing nursing homes shall certify to the board the need to continue the license at the end of the first month and of the second month when indicated.

C. An applicant issued a provisional license under provisions of this Chapter shall represent himself as an "emergency administrator" in all actions and on all documents he is required to sign in his role as head of the nursing home.

Interested persons may submit written comments on the proposed regulation until 3:30 p.m., May 4, 1988, at the following address, Winborn E. Davis, Executive Director, Louisiana State Board of Examiners for Nursing Home Administrators, Suite 205, 4550 North Boulevard, Baton Rouge, LA 70806.

Winborn E. Davis
Executive Director

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

Rule Title: Emergency License

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

Estimate added cost to the board of \$400 per year. There will be no costs to any other state or local government units.

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

This proposed rule will increase revenue collections of the board by an estimated \$1,000 in 1987-88 and \$2,500 each year thereafter based on 25 people needing an emergency license.

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

It will cost any person serving on an emergency basis \$100, no renewals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment caused by this proposed rule.

Winborn E. Davis
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

The Louisiana State Board of Examiners for Nursing Home Administrators intends to adopt changes in LAC 46:XLIX.1103 as follows to amend an existing requirement.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Nursing Home Administrators

Chapter 11. Licenses

§1103. Registration of License

A. 1. . . .

2. No license, re-registration certificate or licensee card may be copied for any purpose. An administrator in charge of two nursing homes must purchase Copy Number Two of his certificate from the board.

a. Charges for replacement and/or second copies shall be:

- i. permanent license \$25.
- ii. re-registration certificate \$5.
- iii. licensee card \$3.

B. 1. . . .

2. A licensed nursing home administrator who is 65 years of age or older, is truly retired or no longer practicing may place his license in an inactive status. He shall continue to re-register his license biennially but is exempt from continuing education requirements. Should he wish to reactivate his license he must take 30 hours of continuing education designated by the board.

Interested persons may submit written comments on the proposed changes until 3:30 p.m., May 4, 1988, at the following address, Winborn E. Davis, Executive Director, Louisiana State Board of Examiners for Nursing Home Administrators, Suite 205, 4550 North Boulevard, Baton Rouge, LA 70806.

Winborn E. Davis
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Registration of License

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

There will be no added costs to state or local governments.

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

This proposed rule will increase revenue collections of the board by an estimated \$40 in 1987-88 and \$131 cash each year thereafter based on an estimate of 15 administrators who will need a second copy of their certificate, two per year needing replacement of original license and license card.

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

It will cost any licensee needing an original license replacement \$25, one needing a second registration certificate \$5 and \$3 for a replacement card. No others are affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment caused by this proposed rule.

Winborn E. Davis
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Health and Human Resources Board of Medical Examiners

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270B(6) and R.S. 37:3001-14, intends to amend its rules governing the degree and level of supervision required for an occupational therapist holding a temporary permit pending examination or reexamination. The proposed amendments are set forth hereinafter. Inquiries concerning the proposed rules amendment may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA, 70112-1499. Written comments must be submitted and received by April 20, 1988. A request pursuant to R.S. 49:953A(2) for oral presentation, argument or public hearing must be made in writing on or before April 6, 1988.

1. Paragraph B of §1939 of Part XLV of Title 46 of the Louisiana Administrative Code shall be amended so that, as amended, said Paragraph shall provide as follows:

§1939. License Pending Examination

B. An occupational therapist or occupational therapy assistant holding a temporary license issued under this Section may practice occupational therapy only under the direction of an occupational therapist licensed by the board, who shall provide such on premises, close supervision of and instruction to the temporary license holder as is adequate to ensure the safety and welfare of patients. The direction and supervision required with respect to an occupational therapist (but not an occupational therapy assistant) holding a temporary license under this Section shall be deemed to be satisfied by on-premises direction and supervision by a licensed occupational therapist for not less than two hours each week.

2. Paragraph B. of §1941 of Part XLV of Title 46 of the Louisiana Administrative Code shall be amended so that, as amended, said Paragraph shall provide as follows:

§1941. License Pending Reexamination

B. An occupational therapist or occupational therapy assistant holding a temporary license issued under this Section may practice occupational therapy only under the direction of an occupational therapist licensed by the board, who shall provide

such on premises, close supervision of an instruction to the temporary license holder as is adequate to ensure the safety and welfare of patients. The direction and supervision required with respect to an occupational therapist (but not an occupational therapy assistant) holding a temporary license under this Section shall be deemed to be satisfied by on-premises direction and immediate supervision by a licensed occupational therapist for not less than two hours each week.

Delmar Rorison
Executive Director

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

**Rule Title: License Pending Examination/
Reexamination (Occupational Therapists)**

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

It is not anticipated implementation of the proposed rule amendment will result in any additional costs to the Board of Medical Examiners. The rule change may reduce the cost of providing occupational therapy for local-government operated hospitals, by eliminating the necessity of employing a full-time occupational therapist for the purpose of supervision. Significant data does not exist, however, to permit a meaningful estimate of this potential economic impact.

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

It is not anticipated that the proposed rule amendment will have any material impact on the revenue collections of any state or local governmental unit.

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

Temporarily-licensed occupational therapists, licensed occupational therapists and health care institutions employing occupational therapists will be directly affected by the proposed rules amendments. Some cost savings to employing institutions will be realized, enabling them to employ temporarily-licensed occupational therapists more economically. The board has no basis of determining, however, the number of institutions that this will in fact affect, nor the amount of savings represented by the rule amendment to health care institutions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendment will have any material impact on competition or employment in either the public or private sector. Both competition and employment in occupational therapy, to an extent impossible to measure or estimate, will presumably be enhanced by the proposed amendments.

Delmar Rorison
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

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

The Louisiana Maximum Allowable Cost (LMAC) reimbursement regulations currently cover 724 multiple source drugs. As a result of the agency's review of drugs covered under the Pharmacy Program, four drugs have been identified as readily available from multiple sources. Therefore, the Medical Assistance Program is proposing to include these drugs under LMAC regulations. This addition of four drugs to LMAC regulations was adopted effective February 22, 1988 by an emergency rule published in the *Louisiana Register*, Vol. 14, No. 3, Dated March 20, 1988.

RULE

Louisiana Maximum Allowable Cost Regulations (LMAC) for reimbursement under Title XIX are amended to include the following multiple source drugs:

1. Cephalexin 250 mg.	Capsules
2. Cephalexin 500 mg.	Capsules
3. Cephalexin 125 mg/5ml	Solution
4. Cephalexin 250 mg/5ml	Solution

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 April 6, 1988 in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

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

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

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

**Rule Title: Pharmacy Program
LMAC Limits Extended**

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

Adoption of this proposed rule will result in a savings of: \$18,535 in FY 87/88; \$69,235 in FY 88/89; and \$70,620 in FY 89/90. There are no savings in the current fiscal year as this rule will affect claims submitted beginning in July, 1988.

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

Implementation of this proposed rule will reduce federal matching funds by: \$39,862 in FY 87/88; \$164,353 in FY 88/89; and \$167,640 in FY 89/90.

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

Implementation of this proposed rule will result in reduced provider reimbursement of: \$58,397 in FY 87/88; \$233,588 in FY 88/89; and \$238,260 in FY 89/90.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment resulting from this proposed rule.

Marjorie T. Stewart
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Labor Office of Employment Security

The Department of Labor, Office of Employment Security, intends to adopt proposed rule changes to the rules for appealed claims of Louisiana Board of Review concerning the notice of hearing (Rule 6), Continuances, reopenings (Rule 7), conduct of hearing before appeals referee (Rule 8), decision of referee (Rule 12), issuance of subpoenas (Rule 16), and disqualification of representative (Rule 18) as follows:

Proposed Rules

RULE NO. 6. NOTICE OF HEARING

Notice of Hearing Before Appeal Referee, Form LBR-2, shall be mailed to all parties to the appeal at least 10 days prior to the date of the hearing, specifying the place and time of the hearing.

RULE NO. 7. POSTPONEMENTS, CONTINUANCES, REOPENINGS AND REHEARINGS

A hearing may be postponed or continued by the administrative law judge for good cause, either upon his own motion or upon the request of a party. A party's request for postponement or continuance shall be made in writing to the administrative law judge whose name and address appears on the notice of hearing.

If a claimant or employer fails to appear at a scheduled hearing (of which he received timely notice), the administrative law judge, at his discretion, may, and for good cause shown shall continue the hearing at a later date, or reopen it. A request for such continuance or reopening shall be made in writing and mailed or delivered to the office where the appeal was filed or to the administrative law judge whose name and address appears on the notice of hearing, as soon as reasonably possible, but in no event later than seven days after the decision of the administrative law judge was mailed to such party.

Where a party shows to the satisfaction of the administrative law judge that he did not receive timely notice of the hearing, the administrative law judge shall grant a rehearing.

Notice of the time and place of a postponed, continued

or reopened hearing, or of a rehearing, shall be given to the parties or their representatives.

Any request by a party for continuance, reopening, or rehearing received after the decision of the administrative law judge was mailed to such party, shall not be treated as an appeal of the decision of the Board of Review. The administrative law judge shall respond to all such requests including postponements and inform the appellant of further appeal rights to the board. A copy of that request and the administrative law judge's response shall be incorporated in the file. If the case is appealed to the Board of Review, they shall render a decision on the merits of the case or remand it to the administrative law judge for a full hearing and decision or additional information.

If the appellant fails to appear for the scheduled hearing, or fails to respond to a scheduled telephone hearing, or within 15 minutes thereafter, the administrative law judge shall proceed with the hearing and render a decision on the basis of the record.

The term *party* or *parties* as used in these rules shall mean the claimant or the employer only.

RULE NO. 8. CONDUCT OF HEARING BEFORE ADMINISTRATIVE LAW JUDGE

The administrative law judge shall preside over the hearing. All testimony shall be given under oath or affirmation. The administrative law judge shall have the right to question and cross-examine all witnesses. Each party to the appeal, or their representatives, shall have the right to question their own witnesses and to cross-examine the opposing parties and witnesses.

Only testimony pertinent to the issue involved in the appeal shall be admitted by the administrative law judge.

Technical rules of evidence need not be complied with so long as all parties are given an opportunity to fully present their case.

Hearsay testimony is admissible, but may only be considered by the administrative law judge in making his decision to substantiate or corroborate other direct evidence.

RULE NO. 12. DECISION OF ADMINISTRATIVE LAW JUDGE

The administrative law judge shall render a decision as soon as reasonably possible on all issues involved. This decision will be in writing and will contain a statement of the facts found, the reasons therefor, and the conclusion reached. Copies of the administrative law judge's decision will be mailed to the parties to the proceeding, as defined in Rule 7.

RULE NO. 15. DECISION OF THE BOARD

The board shall, as soon as possible, announce its decision, including its findings of fact and conclusions in support thereof, or it may adopt the decision of the administrative law judge as its own.

The decision shall be in writing and shall be signed by the members of the board who considered the appeal. If the decision is not unanimous, the decision of the majority shall control. Dissenting opinions may be filed setting forth the reason for dissent. Copies of the board's decision will be mailed to the claimant and the employer.

RULE NO. 16. ISSUANCE OF SUBPOENAS

Requests for subpoenas must be submitted in writing. They shall contain the name and address of the witness and a statement of what is intended to be proven by his or her testimony. Such request must be received by the administrative law judge or board at least 72 hours prior to the time for which the hearing is scheduled. If a request is timely made, but service is not perfected or cannot be perfected in time for the appearance of the witness, this shall be grounds for a postponement.

RULE NO. 18. DISQUALIFICATION OF REPRESENTATIVE

The administrative law judge or the board may refuse to allow any person to represent others in any proceeding before them whom they find guilty of contumacy or unethical conduct or who intentionally and repeatedly fails to observe the pertinent provisions of the Louisiana Employment Security Law, LSA-R.S. 23:1471 et seq.

Interested persons may submit written comments on these proposed rules through April 3, 1988, to George Whitfield, Administrator, Office of Employment Security, Department of Labor, Box 94094, Baton Rouge, LA 70804.

Gayle F. Truly
Secretary

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

Rule Title: Rules for Appealed Claims

Re: Rules 6, 7, 8, 12, 16, and 18

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

The only implementation costs involved are for copying and dissemination of the rules, which costs can be absorbed into the existing budget of the Department.

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

The department does not anticipate any effect on revenue collections of state or local governmental units due to these rule changes.

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

The department does not estimate any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

George Whitfield
Administrator

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Labor
Plumbing Board**

At its February 10, 1988, meeting, the Louisiana State Plumbing Board decided to modify Section IV of its revised rules and regulations. Section IV currently establishes the requirements to take the examination for a journeyman plumber's license. There are now seven requirements and preconditions which must be met by any applicant for a journeyman plumber's license. The second requirement is that the applicant "shall have sufficient education to read and write the answers to the exami-

nation questions and shall understand the plumbing terms used in the Louisiana State Board of Health rules and regulations in regards to the installation and repair of plumbing." On November 21, 1987 based on applications from various citizens of the state of Louisiana who have engaged in the work of art of plumbing under the supervision of a licensed journeyman plumber, but who can neither read nor write, the board considered a waiver of the educational requirements of Section IV to be allowed on a case-by-case basis. Appropriate amendments to Section IV were subsequently adopted. Further discussions with applicants interested in the newly adopted procedure led the board to consider certain liberalizations of the amended Section IV.

The rule change proposed is as follows:

Section IV of the revised rules and regulations of the State Plumbing Board of Louisiana is amended and supplemented as follows:

Following the last paragraph of Section IV, which ends with the word "expenses" there shall be added the following paragraph:

An applicant for journeyman plumber's examination, who does not have sufficient education to read and write the answers to the examination questions, as required in Section IV(C)(2) of these revised rules and regulations, can apply to the board for a waiver of that particular requirement upon producing satisfactory proof to the board that the applicant has ten years experience in manual labor of plumbing under the direct on-the-job supervision of a licensed plumber and has no more than a fourth grade education.

The president of the board shall appoint special examiners to assist these applicants in the completion of the written portion of their examinations. These special examiners will not provide any information or data to the applicants, but will only complete the written portion of any examination given to such applicants by writing the answers for the applicants as provided to the special examiner. These examiners will assist these applicants in such a manner as to prevent disclosure of answers to examination questions to any other applicant participating in the examination.

These applicants will be granted provisional licenses. This provisional license shall permit any such applicant to engage in the work of a journeyman plumber, upon passing the special examination described herein within the geographic areas to which the Louisiana State Plumbing Law has been made applicable. However, the license issued by the board shall state that the license was issued pursuant to these provisions.

Applicants under these special provisions will not be relieved of any other requirements or conditions associated with the issuance of a journeyman plumber's license by this Board as established under the board's revised rules and regulations and the Louisiana State Plumbing Laws, R.S. 37:1365 through 1378.

A copy of this proposed rule and its fiscal and economic impact statement is available for review in the New Orleans Office of the Louisiana State Plumbing Board located at 512 Colonial Bank Bldg., 2714 Canal Street, New Orleans, LA 70119.

Interested persons may submit written comments to the following person and address: Janice M. Albro, Administrator, Louisiana State Plumbing Board, 512 Colonial Bank Building, New Orleans, LA 70119. She is the person responsible for responding to inquiries regarding this proposed rule.

Janice M. Albro
Administrator

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Rule IV - Examinations
Requirements**

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

It is estimated that less than \$500 will be expended by the State Plumbing Board after January 1, 1988 to cover the costs of special examiners. Most, if not all, expected applicants were tested in 1987 pursuant to an earlier adopted rule amendment.

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

The board will collect regular examination fees from eligible individuals applying for the special oral examination. Affected applicants will be required to pay the standard examination fee of \$75. It is anticipated that less than \$500 will be the total collection as a result of this rule in 1988.

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

Persons successfully completing the examination will be permitted to practice plumbing throughout the geographical jurisdiction(s) of the board.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition because individuals affected by this proposed rule are presently engaged in the plumbing trade. However, in light of the expansion of the permitted areas of practice, there would be a slight increase of the number of plumbers capable of working throughout the state.

Janice M. Albro
Administrator

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Division of Charitable Gaming Control**

In accordance with LRS 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Public Safety and Corrections, Office of State Police, Division of Charitable Gaming Control intends to promulgate and adopt permanent rules relative to the Charitable Raffles, Bingo and Keno Law, LRS 33:4861.1 et seq. and LRS 40:1485.1 et seq. and more specifically LRS 33:4861.21. These rules affect the operation of Cable Television Bingo as a charitable fundraiser in the Parish of Orleans.

Copies of the rules may be viewed at the Division of Charitable Gaming Control, 9624 Brookline Avenue, Baton Rouge, LA 70809, between 8:30 a.m. and 4:30 p.m. daily.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 20. Cable Television Bingo

Subchapter A. New Orleans Organizations

§2001. General Provisions

A. Organizations shall be licensed by the division prior to being eligible for a local license.

B. License to conduct New Orleans Cable Television Bingo shall only be issued to:

1. an organization meeting qualifications as required by Louisiana's Raffles, Bingo, Keno Licensing Law, R.S. 33:4861.1 et seq. and R.S. 40:1485.1 et seq., Administrative Rules, and,

2. an organization/member organizations actively domiciled in the state of Louisiana for minimum of two consecutive years immediately preceding their application; and,

3. the organization, in addition, making application must prove to the division by a preponderance of the evidence to be a charitable, religious, non-profit educational, public service, or civic organization. An organization's own determination that it is such an organization is not a controlling factor. In the division's determination, the division shall consider factors such as the group's stated purpose; the group's actual activities; the amount and proportion of its activities and monies that are devoted to its charitable, religious, non-profit educational, public service, or civic activities; the amount and proportion of its revenue devoted to salaries, overhead, or other items, and whether it has qualified for non-profit status with the Internal Revenue Service. Because of the exceptions to the state's constitutional prohibitions of gambling, the division shall carefully scrutinize all these factors and considerations. With respect to non-profit status with the Internal Revenue Service, in particular, having such status with the Internal Revenue Service is a factor but will not be determinative alone.

§2003. Applicant Suitability and Business Relationships

A. The division may deny an application or revoke, suspend, restrict, or limit an organization's license when it finds that the applicant, or a business relationship between an applicant and another person or business entity, is unsuitable or endangers the health, safety, or welfare of the citizens of this state. In determining the suitability of an applicant, or other persons or business entities in a business relationship, the division may consider the person or business entity's:

1. general character, including honesty and integrity;

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

3. record, if any, of violations which may affect the legal and proper operation of charitable gaming including a violation affecting another licensee or applicant; or any violation of the laws of this state, other states, federal government, and countries without limitations as to the nature of the violation;

4. refusal to provide records, information, equipment, or access to premises to any member of the division or any peace officer when such access is reasonably necessary in the performance of duty or to ensure or protect public health, safety, or welfare;

5. association or relationship to a licensed manufacturer, distributor, charitable organization, commercial lessor, non-commercial lessor, or private contractor; and,

6. compliance with Louisiana's Code for Governmental Ethics.

§2005. Organization Application for a License to Conduct New Orleans Cable Television Bingo

A. An application to conduct cable television bingo must be submitted to the division upon forms prescribed and provided by the division.

B. The application shall include names, dates of birth, current office holders, current home addresses of original incorporators, members participating in gaming activity, federal tax

identification number, federal tax exemption certificate, latest federal income tax return. Each applicant must also produce a description of accounting policies and procedures, and internal accounting controls.

C. The application is not complete unless dated and signed by the president of the organization in the presence of a notary public attesting to truthfulness of the information contained therein.

D. A fee in the amount of \$50 must accompany each application. Fee is not refundable should the application be denied.

§2007. Expiration of License/Renewal

A. All licenses issued pursuant to these rules expire at midnight, June 30 of each year.

§2009. Volunteer Worker I.D. - Application/Requirements

A. No person shall sell, attempt to sell or otherwise furnish to any consumer, any cable TV bingo cards, or supplies unless that person has a valid identification card issued by the division and displayed conspicuously on his person.

B. An application shall be submitted to the division upon forms prescribed and provided by the division, before an ID card is issued.

C. The application is not complete unless it is signed and dated by the applicant in the presence of a notary public attesting to its truthfulness.

D. A fee in the amount of \$15 made payable to the Louisiana State Police shall accompany each application to defray the cost of processing.

E. An application for a license must be submitted to the division on forms prescribed by the division, the fee paid and the I.D. issued before the applicant can assist in the sale of cable bingo supplies.

F. No person under the age of 18 shall be issued an I.D. to sell cable television bingo supplies.

§2011. Volunteer/Worker License I.D. Not Transferable

A. A worker/volunteer I.D. is valid only for the applicant and applicant organization.

B. The I.D. is further restricted for use only regarding cable television bingo and shall not be used by the holder of such as an I.D. for any other purpose than in matters associated with cable television bingo.

C. Any I.D. issued pursuant to this Act and administrative rules is a privilege and not personal property and must be surrendered to the division upon request.

§2013. Transfer of Surplus Supplies

A. A licensee of cable television bingo shall not transfer any surplus supplies except upon written application to and written approval of the division.

B. Licensees may only sell or distribute cable television bingo cards in the Parish of Orleans.

§2015. Minimum Internal Accounting Controls

A. All licensees must establish and maintain an internal accounting control system which meets minimum standards established or approved by the Division of Charitable Gaming Control. The system must provide reasonable assurance that all transactions associated with cable television bingo are properly and accurately recorded, that gaming proceeds are disbursed in accordance with established policy of the licensee and that assets are protected against loss or theft.

§2023. Reporting Requirements for License Holders

A. Each licensee shall file with the division a quarterly report signed by the member-in-charge or head of the organiza-

tion as described in 1715 on forms prescribed and supplied by the division. The report shall also be signed by the person preparing the report. The report must be postmarked, or if hand-delivered, received in the division's office, no later than the last business day of the first month following the end of the quarter. Business days are defined as Monday through Friday, not including state holidays. Quarters are on a calendar year basis and begin and end as follows: The first quarter begins January 1 and ends March 31; the second quarter begins April 1 and ends June 30; the third quarter begins July 1, and ends September 30; the fourth quarter begins October 1 and ends December 31.

B. Reports must be completed in full compliance with instructions supplied by the division. Incorrect, incomplete or unsigned reports will not be accepted and shall not be considered as a timely filed report. Reports must contain original signature(s) and be signed by the preparer. Any organization, whose license is suspended is still required to file a report for the reporting period during which the license was suspended.

C. Licensees are required to file quarterly reports for all quarters for which gaming was scheduled, whether or not the licensee actually conducted any transactions.

D. In addition to any other civil or criminal penalties, licensees which are late in filing these reports may be assessed a \$100 late penalty for each quarterly report or reports not submitted timely after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act. Repeated violations shall be cause for restriction, suspension, or revocation of said license.

E. Licensees are responsible for securing the necessary report forms from the division. Failure to procure report forms shall not be cause for failing to report.

§2025. Record Retention Requirements

A. A licensee must maintain and make available for inspection by the division all necessary books of accounts, records, documents and such other information as the division may require to insure that licensees are in compliance with the law and administrative rules.

B. These records include but are not limited to bank statements, cancelled checks, deposit slips, sales invoices and receipts, purchase invoices and receipts, shipping documents, lease agreements, inventory records, and records of gaming activity as may be prescribed by the division.

C. Records must be retained for three years.

§2027. Investigation of License Holders

A. The division may, upon its own initiative, investigate the actions of any licensee. The investigation shall be undertaken for the purpose of gathering evidence and determining whether a violation of the Act, rules or other statutes of the state of Louisiana has occurred. All licensees, including licensed manufacturers, distributors and private contractors shall fully cooperate with the division in any such investigation. Cooperation shall include but not be limited to making available for inspection all premises, inventory, equipment, books of accounts, records, documents, and such information the division may require to insure compliance.

B. All departments, commissions, boards, agencies, officers, and institutions of this state and all subdivisions thereof, shall, upon the institution of any proceeding or investigation of any licensee of the division involving violations of this Act or these administrative rules, timely notify the division of the facts and circumstance of the investigation or proceeding.

§2029. Audits

A. Each organization licensed in this state is subject to

audit by this division. The audit may include but is not limited to financial transactions as well as compliance with state laws and administrative rules.

B. Each auditee is expected to fully cooperate with the division auditors, providing them with adequate space to work and making available all inventories, bank records, gaming records, books of account, source documents, and such other documents and information as may be needed to complete the audit.

Subchapter B. Private Contractor

§2051. General Provisions

A. Any person or business entity desiring to be a private contractor for cable television bingo operations must:

1. be issued and maintain all required federal, state, parish and municipal licenses;
2. apply to the division on forms prescribed by the division for licensing;
3. meet the suitability and business relationship criteria of these rules; and,
4. prove to the division by a preponderance of evidence, demonstrated skills in the conduct and management of charitable games of chance.

B. No person shall be licensed as a private contractor who holds a permit to sell liquor of either high or low content in this state; is directly or indirectly involved with the leasing or renting of any premises for charitable gaming; or owns, rents or otherwise provides locations in which cable television bingo paraphernalia will be sold by volunteers. Nothing in this Section shall be construed as to prevent the sale of cable television bingo cards at the private contractor's facility by volunteers of licensed organizations in accordance with guidelines established by the division.

C. A license may be suspended or revoked by the division upon the division's determination, after notice and opportunity for hearing that the licensee has not complied with the conditions of the license.

§2053. Applicant Suitability and Business Relationships

A. The division may deny an application or revoke, suspend, restrict, or limit a private contractor's license when it finds that the applicant, or a business relationship between an applicant and another person or business entity is unsuitable or endangers the health, safety, or welfare of the citizens of this state. In determining the suitability of an applicant, or other persons or business entities in a business relationship, the division may consider the person or business entity's:

1. general character, including honesty and integrity;
2. financial security and stability, competency, and business experience in the capacity of the relationship;
3. record, if any, of violations which may affect the legal and proper operation of charitable gaming including a violation affecting another licensee or applicant; or any violation of the laws of this state, other states, federal government and countries without limitations as to the nature of the violation;
4. refusal to provide records, information, equipment, or access to premises to any member of the division or any peace officer when such access is reasonably necessary in the performance of duty or to ensure or protect public health, safety or welfare;
5. association or relationship to a licensed manufacturer, distributor, charitable organization, commercial lessor, non-commercial lessor; and,
6. compliance with Louisiana's Code for Governmental Ethics.

§2055. Application

A. An application for a license as a private contractor for cable television bingo must be submitted to the Division of Charitable Gaming Control upon forms prescribed and provided by the division.

B. The application shall be signed by the applicant in the presence of a notary attesting to its truthfulness.

C. The applicant must come to the division with the application in person to be fingerprinted.

D. A fee of \$1,000 shall accompany each application. This fee is non-refundable should the application be denied for any reason.

E. The application shall include name, date of birth, current home addresses of original incorporators, current board of directors and federal tax identification number. In addition, each application shall include a budget forecast for three years of operation, a detailed description of accounting procedures and internal controls and such additional information as may be deemed necessary by the division. A personal history disclosure Form 1 shall be submitted on all key employees. Key employees are defined as owners, board members, managers, and salaried employees recompensed \$25,000 or greater annually.

F. Detailed specifications of the operation of cable television bingo are required by the division. Such specifications are required to ensure the legal operation and integrity of cable television bingo and provide the division with methods in which to monitor the activity. All contracts or components of cable television bingo must be submitted to the division for approval prior to being implemented by the private contractor.

G. Any modification(s) to any contract or component in the operation of cable television bingo shall be submitted to the division for approval prior to implementation.

H. The division may conditionally approve the method of operation based upon preliminary findings. Final approval of the director, however, is required even if the operation has been conditionally approved.

I. In addition to any application of a private contractor, each non-key employee(s) or agent(s) of the private contractor must submit an application on forms prescribed and provided by the department. A fee in the amount of \$10 made payable to the Louisiana State Police must accompany the application. The applicant shall personally appear with the application to be fingerprinted.

§2057. Private Contractor Background Investigation

A. Private contractor(s) shall reimburse the division for all reasonable costs incurred for background investigations. Reasonable costs shall include but are not limited to travel cost at the state per diem rate.

§2059. Expiration/License Renewal

A. A private contractor's license shall expire on midnight, June 30 of each year.

B. The division may consider the same criteria for renewal of a license as considered for the original license.

C. Failure to satisfy any licensing criteria, or reporting requirements, or violations of the Act or these rules shall be cause for denial of a license.

§2061. Acquisition of Supplies

A. No person shall ship into or sell cable television bingo supplies in this state until his license is granted by the division.

B. No person shall ship into or sell cable television bingo supplies in this state unless such supplies have been approved by the division.

C. No person shall ship into or sell cable television bingo

supplies in this state unless those supplies or equipment were purchased from a licensed private contractor, distributor or manufacturer.

D. No private contractor, distributor or manufacturer of cable television bingo supplies shall directly or indirectly give gifts, trips, prizes, premiums or other such gratuities to any organization, person, volunteer, owner, employee or retail outlet location approved for the selling of cable television bingo supplies.

§2063. Payment of Supplies

A. No private contractor of cable television bingo shall sell, offer to sell, or deliver any cable television bingo supplies to any licensed organization except on terms of immediate payment or on terms requiring payment not later than the fifteenth day of the following month of which actual delivery is made.

§2065. Minimum Internal Accounting Controls

A. A private contractor must establish and maintain an internal accounting control system which meets standards acceptable to the Division of Charitable Gaming Control.

§2067. Reporting Requirements

A. Each private contractor shall file with the division such monthly reports as may be required by the division, signed by a company official and the preparer. The report must be received by the division no later than the fifteenth day of each following month.

B. Reports must be completed in full compliance with instructions supplied by the division. Incorrect, incomplete or unsigned reports will not be accepted and shall not be considered as a timely filed report.

C. Private contractors are responsible for securing the necessary report forms from the division.

D. A penalty of \$100 may be assessed for reports not timely submitted.

§2069. Collection of Use Fee

A. Private contractors shall collect and remit with monthly reports to the division the following use fee:

1. Five percent of the gross proceeds collected from the sale of chances during the reporting period. This percentage is to be computed from gross proceeds before the deduction of an other fees, prizes, expenses, or charges of any nature whatsoever.

B. Interest shall be imposed on the late payment of use fees at the rate of 10 percent per annum. The daily rate is calculated at .00027 times the amount of unpaid fees for each day the payment is late. This interest is in addition to any penalties that may be imposed.

C. In addition to any other civil or criminal penalties, private contractors who are late in submitting these fees shall be assessed late penalties of \$250 or 10 percent of amount due, whichever is greater, for fees not submitted after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act.

§2071. Record Retention Requirements

A. Private contractors must maintain and make available for inspection by the division all necessary books of accounts, inventories, records, documents and such other information as the division may require to insure that licensees are in compliance with the law and administrative rules. These records must be retained for a period of three years.

B. These records include but are not limited to bank statements; cancelled checks; deposit slips; sales invoices and receipts; purchase invoices and receipts; shipping documents; lease agreements; inventory records; as may be prescribed by the division.

C. Private contractors shall record and be able to track each series of cable television bingo supplies.

§2073. Investigation of License Holders

A. The division may, upon its own initiative, investigate the actions of any licensed private contractor. The investigation shall be undertaken for the purpose of gathering evidence and determining whether a violation of the Act, rules or other statutes of the state of Louisiana has occurred. All licensed private contractors shall fully cooperate with the division in any such investigation. Cooperation shall include but not be limited to making available for inspection all premises, equipment, books of accounts, records, documents and such information the division may require to insure compliance.

B. All departments, commissions, boards, agencies, officers, and institutions of this state and all subdivisions thereof shall upon the institution of any proceeding or investigation of any licensee of the division involving violations of this Act or these administrative rules, timely notify the division of facts and circumstances of the investigation.

§2075. Audits

A. Each private contractor licensed in this state is subject to audit by this division. Audits shall include but are not limited to financial transactions as well as compliance with state laws and administrative rules.

B. Each auditee is expected to fully cooperate with the division auditors, providing them with adequate work space and making available all inventories, bank records, gaming records, books of account, source documents, and such other documents and information as may be needed to complete the audit.

§2101. Retail Sales Premises - General

A. No organization or private contractor may sell cable television bingo supplies or cards at a location other than licensed premises.

B. The private contractor or organization shall submit on forms prescribed and provided by the division an application for retail sales outlets of cable television bingo supplies.

C. The division shall not license premises for the sale of cable television bingo supplies which possess a license for on-premise consumption of either high or low alcohol content liquor.

D. The division shall not license a location which is a public thoroughway, street or highway.

E. No volunteer of an organization may sell cable television bingo supplies or cards at a location other than at a retail sale outlet licensed for that organization or deliver or furnish card to a location unsolicited.

F. No private residence shall be licensed by the division as a retail sales outlet.

G. A fee in the amount of \$200 shall accompany each application for a retail outlet.

H. Licensees may sell cable television bingo supplies on the organizations own premises wherein recognized meetings are attended by members to carry out the organization's purposes without first obtaining a license from the division. In no case shall sales on premises take place more than one time monthly.

§2103. Retail Premises Suitability

A. The division may deny an application for a location when it finds the applicant or a business relationship between an applicant organization, volunteer or a business entity is unsuitable or endangers the health, safety, or welfare of the citizens of this state. In determining the suitability of a location the division may consider the location's:

1. general reputation or instances of problems at the location;

2. the owner's or occupant's of the premises, general character, financial security and stability;
3. record, if any, of violations which may affect the legal and proper operation; and,
4. association or relationship to a licensed manufacturer, distributor, private contractor, organization, commercial lessor, or non-commercial lessor.

Chapter 30. Civil Sanctions

§3001. Suspension and Revocation of License Holders

A. The division may suspend any license held by an alleged violator after opportunity for hearing when the division:

1. Receives,
 - a. a certified copy (or other credible evidence) of any judgment or conviction of any licensee or his agent, servant or employee for any violation of any criminal law or ordinance of the United States, the state of Louisiana or any Louisiana parish, city or town relating to charitable gaming or gambling; or,
 - b. a certified copy of the record (or other credible evidence) of the forfeiture by any permittee or his agent or employee of bond to appear to answer charges of violating any law or ordinance relating to charitable gaming or gambling; or
2. after investigation, has reasonable cause to believe that any license holder, his agent or employee has violated the provisions of the Act or these rules; or,
3. determines that chronic violations of reporting requirements under Section 1749, 1837, 1875 or 2067 has occurred. Continued disregard or nonresponsiveness will be grounds for revocation of a license.

B. The division may suspend a license prior to the opportunity for a hearing, when the division, after investigation, has reasonable cause to believe continued operation of the licensee endangers the public's health, safety or welfare. During the period of suspension, the licensee shall not conduct charitable gaming.

C. A license may be revoked, subsequent to opportunity for a hearing, as penalty for violation of the Act or these rules.

§3003. Right to Fair Hearing - Judicial Review

A. When the division revokes, suspends, restricts or denies an application for license or renewal, the applicant may request a hearing. The request for a hearing shall be made in writing to the division within 45 days of the revocation, suspension, restriction or denial by the division. Upon the division's receipt of written request, a hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

B. Hearings conducted by the division are subject to judicial review according to the provisions of the Administrative Procedure Act.

§3005. General Penalty Provision

A. Any violation of any provision of this Act or any rule of the department for which a penalty is not specified may be cause for denial, suspension, or revocation of a license and/or a fine of not more than \$5,000.

B. These rules are enacted pursuant to Act 752 of the 1986 Legislative Session, Acts 85, 389 and 526 of the 1987 Legislative Session.

All interested persons are afforded an opportunity to submit, in writing, any data or arguments to the Louisiana State Police, Division of Charitable Gaming Control, Box 66614, Baton Rouge, LA 70896-6614.

J.C. Willie, Colonel
Superintendent

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Charitable Raffles, Bingo & Keno**

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

There will be some minor costs associated with the rules regarding implementation specifically in the printing. Current 1987-88 appropriations can absorb changes.

There is no appreciable costs associated with these rules to the local government of New Orleans. Savings to the city of New Orleans should occur as the Division of Charitable Gaming Control is required to issue a state license prior to the issuance of a license by the city of New Orleans. Utilizing the state to do backgrounds will relieve the city of New Orleans of duplicate responsibility.

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

Anticipated revenue projections have been previously submitted by organizations associated with cable television bingo utilizing anticipated sales of \$5,000,000. The division should receive annually \$261,000 of dedicated use fees for the regulation and monitoring of cable television bingo. The city of New Orleans should receive \$1,000,000 annually in use fee collections. These revenue projections fluctuate based upon sales.

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

Licensed organizations participating in the conducting of cable television bingo based upon gross sales figures of \$ 5,000,000 should realize \$ 2,000,000 in net revenue.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated based upon assumed sales volume of \$5,000,000 an increase of ten persons may be employed as related to the cable television bingo industry.

James L. Thibodeaux
Deputy Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Hazardous Substance Control Section**

The Department of Public Safety and Corrections announces its intent to adopt rules relating to alcohol and controlled dangerous substance use by persons operating transport vehicles, engines, or trains in accordance with R.S. 32:1504 and R.S. 30:1140.

**Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Materials and Hazardous Waste
Subpart 2. Department of Public Safety
and Corrections - Hazardous Materials**

Chapter 107. Alcohol and Controlled Dangerous Substances

§10701. Purpose and Scope

A. The purpose of this Chapter is to establish rules which govern the use of alcohol and controlled dangerous substances by persons operating or taking part in the operation of transport vehicles, engines, or trains.

B. This Chapter prescribes minimum safety standards for alcohol and controlled dangerous substance use.

C. Only the Office of State Police may enforce the regulations adopted or enacted under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10703. Definitions

A. For the purposes of this Chapter, the following definitions will apply:

1. *Controlled Dangerous Substance* - any substance that is defined by the Uniform Controlled Dangerous Substances Law, R.S. 40:963.

2. *Hazardous Material* - any material that is defined as a hazardous material by R.S. 32:1502.

3. *Operator* - any person that can affect the speed, direction, or condition of a transport vehicle, engine, or train.

4. *Engine* - a locomotive propelled by any form of energy.

5. *Transport Vehicle* - as defined in R.S. 32:1502.

6. *Train* - an engine or an engine coupled with one or more rail freight cars.

7. *Hazardous Waste* - as defined in R.S. 30:1133.

8. *Freight* - as defined in R.S. 32:1502.

9. *Passenger* - a person who travels in a transport vehicle, engine or train, and who does not take part in its operation.

10. *Department* - Department of Public Safety and Corrections, Office of State Police.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10705. Application

A. The provisions in this Chapter shall apply to the transportation of hazardous materials, hazardous waste, freight, or passengers as provided in R.S. 32:1501-1520, or R.S. 30:1140 when carried by:

1. transport vehicle;
2. engine; or
3. train.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10707. Prohibitions

A. No operator or person who takes part in the operation of a transport vehicle, engine, or train transporting hazardous materials, hazardous waste, freight, or passengers shall be impaired in any of the following ways:

1. by being under the influence of any controlled dangerous substance as defined by R.S. 40:963;

2. by having a blood alcohol concentration (BAC) of .04g percent or higher.

3. by being under the influence of any substance that tends to reduce alertness.

B. No operator or person who takes part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers may be in possession of beverages of any alcoholic content or of any controlled dangerous substance as defined by R.S. 40:963. This prohibition shall not apply to materials that are manifested and transported as part of a shipment.

C. The regulations of this Chapter shall not relieve any carrier from any other federal or state law or regulation.

D. The provisions of this Chapter do not apply to the possession or use of a substance administered to a person by a physician when the physician has advised this person that the substance will not affect his ability to operate or take part in the operation of a transport vehicle, engine, or train.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10709. Testing of Suspected Violators

A. Any operator or person who takes part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers within the state will be deemed to have given his consent to submit to a chemical test or tests for the presence of alcohol and controlled dangerous substances in the individual's bloodstream.

B. With reasonable suspicion, any officer of the Department, may direct an operator or a person who takes part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers to take a chemical test or tests for the presence of alcohol or controlled dangerous substances in the individual's bloodstream.

C. All chemical tests for the presence of alcohol must be performed in accordance with R.S. 32:661-669. This shall not prevent officers of the department from using preliminary breath testing devices approved by the department as part of a field sobriety test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10711. Penalties

A. Refusal to submit to a chemical test as required by this Chapter may result in the removal of the individual's privilege to operate or take part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers within the state for one year. The fact that an operator's license is not required will not alter this restriction.

B. When a person submits to a chemical test or tests for the presence of alcohol or controlled dangerous substances, and a blood alcohol content of .04g percent or higher is present or any controlled dangerous substance is indicated, the individual's privilege to operate or take part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers within the state may be removed for one year.

C. When an individual's privilege to operate or take part

in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers is removed, the carrier that employs the individual will be informed of the restriction. The carrier will be responsible for the enforcement of the restriction. Failure to comply with the restriction may subject the carrier to a civil penalty as provided in R.S. 32:1512.

D. It will be the responsibility of any carrier to allow only qualified individuals to operate or take part in the operation of transport vehicles, engines, or trains that transport hazardous materials, hazardous waste, freight, or passengers. The department will maintain a list of individuals who are restricted from operating or taking part in the operation of transport vehicles, engines, or trains that are transporting hazardous materials, hazardous waste, freight, or passengers within the state.

E. The penalty provision found in R.S. 32:1512 shall apply to any violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

Interested persons may submit written comments on the proposed rules to Lieutenant Shelton O. Coleman, Hazardous Substance Control Section, Office of State Police, Box 66614, Baton Rouge, LA 70896.

Written comments will be accepted until 4:30 pm on Wednesday, April 20, 1988.

J. C. Willie, Colonel
Deputy Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Alcohol and Controlled
Dangerous Substances**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no additional cost to the affected groups; these are updates of currently existing rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition and employment.

James L. Thibodeaux
Deputy Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Hazardous Substance Control Section**

The Department of Public Safety and Corrections announces its intent to adopt rules relating to hazardous materials when carried by rail, air, or vessel in accordance with R.S. 32:1504 and R.S. 30:1140.

**Title 33
ENVIRONMENTAL QUALITY**

**Part V. Hazardous Materials and Hazardous Waste
Subpart 2. Department of Public Safety and Corrections
- Hazardous Materials**

Chapter 109. Hazardous Materials Regulations for Carriage by Rail, Air, and Vessel

§10901. General Provisions

A. Only the Office of State Police may enforce the regulations adopted or enacted under this Chapter.

B. Any term used in these rules is used in its commonly accepted meaning except where the term has been specifically defined herein or in R.S. 32:1502 or 49 CFR.

C. When used in this Chapter, a train is defined as an engine or an engine coupled with one or more rail freight cars.

D. All hazardous waste rules adopted pursuant to R.S. 30:1140 that relate to highway, rail, air, or vessel transportation regulations and promulgated prior to the effective date of these rules are hereby repealed.

E. All authorizations for alternate means of compliance with prior hazardous waste regulations as provided in R.S. 32:1506, and all special permits and exemptions as provided in R.S. 32:1507 which relate to highway, rail, air, or vessel transportation and granted prior to the effective date of these rules, are hereby revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10903. Adopted Regulations

The following federal hazardous materials regulations promulgated by the United States Department of Transportation, revised as of October 1, 1987, and contained in the following parts of 49 CFR, as now in effect or as hereafter amended, are made a part of this Chapter.

- HAZARDOUS MATERIALS REGULATIONS
- Part 171 - General information, regulations, and definitions
 - Part 172 - Hazardous materials tables and hazardous materials communications regulations
 - Part 173 - Shippers - General requirements
 - Part 174 - Carriage by rail
 - Part 175 - Carriage by air
 - Part 176 - Carriage by vessel
 - Part 177 - Carriage by public highway
 - Part 178 - Shipping container specifications
 - Part 179 - Specifications for tank cars

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10905. Applicability of Regulations

A. For the purposes of this Chapter, the federal regulations, as adopted or amended herein, shall govern all shippers, carriers, drivers, operators, transport vehicles, engines, and trains -

1. to which the federal regulations apply;
2. engaged in the transportation of hazardous materials or hazardous waste within this state.

B. The adopted federal regulations applicable to shippers, carriers, drivers, operators, transport vehicles, engines, or trains set forth in Subsection A, shall be amended as follows:

1. When applicable, the words Louisiana Department of Public Safety and Corrections, Office of State Police, shall be added where department, director, U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, Office of Motor Carrier Safety, FAA Civil Aviation Security Office, U.S. Coast Guard, Department of Transportation, or Captain of the Port appear.

2. Where special forms or procedures are required by 49 CFR, substitute the compatible Louisiana Department of Public Safety and Corrections, Office of State Police forms or procedures, if such are required by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

Interested persons may submit written comments on the proposed rules to Lieutenant Shelton O. Coleman, Hazardous Substance Control Section, Office of State Police, Box 66614, Baton Rouge, LA 70896.

Written comments will be accepted until 4:30 p.m. on Wednesday, April 20, 1988.

J. C. Willie, Colonel
Deputy Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Hazardous Materials Regulations for Carriage by Rail, Air and Vessel

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

There will be no implementation cost (savings) to state and local governmental units.

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

There will be no effect on revenue collections of state or local governmental units.

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

There will be no additional cost to the affected groups; these are updates of currently existing rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

James L. Thibodeaux
Deputy Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police Hazardous Substance Control Section

The Department of Public Safety and Corrections announces its intent to adopt rules relating to hazardous waste for carriage by highway, rail, air, and vessel in accordance with R.S. 32:1504 and R.S. 30:1140.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Materials and Hazardous Waste Subpart 2. Department of Public Safety and Corrections - Hazardous Materials

Chapter 105. Hazardous Waste Regulations for Carriage by Highway, Rail, Air, and Vessel

§10501. General Provisions

A. Only the Office of State Police may enforce the regulations adopted or enacted under this Chapter.

B. Any term used in these rules is used in its commonly accepted meaning except where the term has been specifically defined herein or in R.S. 32:1502 or 49 CFR.

C. When used in this Chapter, a train is defined as an engine or an engine coupled with one or more rail freight cars.

D. All hazardous waste rules adopted pursuant to R.S. 30:1140 that relate to highway, rail, air, or vessel transportation regulations and promulgated prior to the effective date of these rules are hereby repealed.

E. All authorizations for alternate means of compliance with prior hazardous waste regulations as provided in R.S. 32:1506, and all special permits and exemptions as provided in R.S. 32:1507 which relate to highway, rail, air, or vessel transportation and granted prior to the effective date of these rules, are hereby revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10503. Adopted Regulations

The following federal hazardous materials regulations promulgated by the United States Department of Transportation, revised as of October 1, 1987, and contained in the following parts of 49 CFR, as now in effect or as hereafter amended, are made a part of this Chapter.

HAZARDOUS MATERIALS REGULATIONS

Part 171 - General information, regulations, and definitions

Part 172 - Hazardous materials tables and hazardous ma-

terials communications regulations

Part 173 - Shippers - General requirements

Part 174 - Carriage by rail

Part 175 - Carriage by air

Part 176 - Carriage by vessel

Part 177 - Carriage by public highway

Part 178 - Shipping container specifications

Part 179 - Specifications for tank cars

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10505. Applicability of Regulations

A. For the purposes of this Chapter, the federal regulations, as adopted or amended herein, shall govern all shippers, carriers, drivers, operators, transport vehicles, engines, and trains -

1. to which the federal regulations apply;

2. engaged in the transportation of hazardous materials or hazardous waste within this state.

B. The adopted federal regulations applicable to shippers, carriers, drivers, operators, transport vehicles, engines, or trains set forth in Subsection A, shall be amended as follows:

1. When applicable, the words Louisiana Department of Public Safety and Corrections, Office of State Police, shall be added where Department, Director, U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, Office of Motor Carrier Safety, FAA Civil Aviation Security Office, U.S. Coast Guard, Department of Transportation, or Captain of the Port appear.

2. Where special forms or procedures are required by 49 CFR, substitute the compatible Louisiana Department of Public Safety and Corrections, Office of State Police forms or procedures, if such are required by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

Interested persons may submit written comments on the proposed rules to Lieutenant Shelton O. Coleman, Hazardous Substance Control Section, Office of State Police, Box 66614, Baton Rouge, LA 70896.

Written comments will be accepted until 4:30 p.m. on Wednesday, April 20, 1988.

J. C. Willie, Colonel
Deputy Secretary

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

The Department of Public Safety gives notice in accordance with R.S. 49:950 et seq. and R.S. 32:1501 et seq. that it intends to amend regulations in LAC 33:V. 10305. A, B and C. The revisions will not have an economic impact or benefit and refer to the rules published in Volume 14, No. 1 of the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Materials and Hazardous Waste Subpart 2. Department of Public Safety and Corrections - Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials Regulations for Carriage by Public Highway

§10305. Applicability of Regulations

A. For the purpose of this Chapter, the federal regulations, as adopted or amended herein, shall govern all carriers, drivers, persons, or vehicles -

B. For the purpose of this Chapter, the federal motor carrier safety regulations, as adopted or amended herein, shall also govern all carriers, drivers, persons, or vehicles not subject to the federal regulations if the operated vehicle has a single or combined gross vehicle weight rating greater than 20,000 pounds and is used in commerce or industry.

C. The adopted federal regulations applicable to all carriers, drivers, persons, or vehicles set forth in Subsections A and B shall be amended as follows:

Interested persons may comment on the proposed additions in writing through April 15, 1988, to the attention of Lt. Richard Hart of the Motor Carrier Safety Unit, Office of State Police, Box 66614, Baton Rouge, LA 70896.

J. C. Willie, Colonel
Deputy Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Title 33 Environmental Quality

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of the proposed amendment would result in no costs or savings to the state or local government units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There would be no estimated effects on revenue collections of state or local governmental units by implementing the rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There would be no estimated costs or economic benefits to affected persons and non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There would be no estimated effect on competition and employment.

James L. Thibodeaux
Deputy Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Revenue and Taxation Severance Tax Section

The Louisiana Department of Revenue and Taxation advertises its intent to amend LAC 61:I.2903, relative to taxes on oil, condensate, and natural gas. The amendments reflect changes in statutes, terminology, and deletion of regulations that no longer apply.

§2903. Severance Taxes on Oil; Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas.

A. Definitions

1. *Oil* - Liquid hydrocarbons recovered by ordinary production methods from a well classified as an oil well by the Office of Conservation.

2. *Incapable Oil* - Oil produced from a well classified by the Office of Conservation as an oil well, and determined by the secretary that such well is incapable of producing an average of more than 25 barrels of oil per producing day during the entire taxable month, and which also produces at least 50 percent salt water per day.

3. *Stripper Oil* - Oil produced from a well classified by the Office of Conservation as an oil well, and determined by the secretary that such well is incapable of producing an average of more than 10 barrels of oil per producing day during the entire taxable month.

4. *Condensate* - Liquid hydrocarbons, other than natural or casinghead gasoline, referred to as condensate, distillate or other natural resources, which will remain in a liquid state, under atmospheric conditions of pressure and temperature, recovered by ordinary production methods from a gas well as classified by the Office of Conservation or from any previously separated gas. This also includes liquid hydrocarbons recovered at drip points, including but not limited to liquid hydrocarbons recovered from separators or scrubbers situated at inlets to plants, compressors, dehydrators and metering stations.

5. *Gas* - Gaseous phase hydrocarbons recovered by separation from either an oil well or gas well.

6. *Natural or Casinghead Gasoline* - Liquid hydrocarbons recovered from gas (subsequent to ultimate separation and/or scrubbing of the gas stream) by specifically applied mechanical processes of absorption, adsorption, compression cooling, cryogenics or refrigeration to the entire volume of gas from which these liquid hydrocarbons are recovered. This includes liquid hydrocarbons recovered from HYDREX and HRU units.

7. *Natural Gas Liquids* - Natural gas liquids, butane, propane, ethane and methane extracted as the result of additional processes employed in the mechanical processes as outlined in Subsection A.6 above.

8. *Low Pressure Oil Well* - A well classified by the Office of Conservation as an oil well which has been determined by the secretary to have a wellhead pressure of 50 pounds per square inch gauge or less, (under operating conditions whether it be tubing flow or casing flow), throughout the entire taxable month. An oil well being produced by the method known as gas lift shall be presumed, in the absence of a determination to the contrary by the secretary, to have a wellhead pressure of 50 pounds per square inch gauge or less

under operating conditions.

9. *Incapable Gas Well* - A well classified by the Office of Conservation as a gas well which has been determined by the secretary to be incapable of producing an average of 250,000 cubic feet of gas per day, under operating conditions, throughout the entire taxable month.

10. *Value* - With respect to oil and/or condensate, the value shall be the higher of (1) the gross receipts received from the first purchaser, less charges for trucking, barging, or pipeline fees, or (2) the posted field price. Charges for trucking, barging, and pipeline fees are the amounts actually charged the severer and withheld by the purchaser. In the event the severer transports the oil and/or condensate by his own facilities, \$.25 per barrel shall be deemed to be a reasonable charge for transportation and may be deducted from gross value received or the posted field price; provided, however, that should it become apparent that the \$.25 per barrel charge is inequitable or unreasonable, the secretary may prospectively redetermine the transportation charge to be allowed when the severer transports the oil and/or condensate in his own facilities. In the absence of both an arm's length transaction and a posted field price, the value shall be the severer's gross income from the property as determined by R.S. 47:158(c). Gross receipts shall include bonus or premium payments when made by the purchaser to the owner, all advanced payments, and all those things of value received by the owner. Advanced payments, however, are not taxable until the oil and/or condensate for which such payments are made are actually severed and delivered to the purchaser.

11. *Allocation of Value* - Inasmuch as oil and/or condensate is accounted for on a lease basis, rather than on an individual well basis, the gross value received for runs from a lease with more than one tax rate shall be allocated to the wells within the lease on the basis of the pro-rata barrels run from each well; it being the intent of this Section to apportion value received to all wells in a lease without regard to the tax rate applicable but on the basis of the pro-rata barrels run.

B. Tax Rates

1. RATE on oil and/or condensate 12-1/2% of Value
2. RATE on oil from a incapable well as defined in Subsection A.2 above 6-1/4% of Value
3. RATE on oil from a stripper well as defined in Subsection A.3 above 3-1/8% of Value
4. On the vapor equivalent of natural or casinghead gasoline, and other natural gas liquids, including but not limited to ethane, methane, butane, or propane when sold or disposed of as such or by analysis in "raw-make" and reported at a base pressure of 15.025 pounds per square inch absolute and 60 degrees Fahrenheit \$.07 per MCF
5. On GAS as defined in Subsection A.5 above measured at a base pressure of 15.025 pounds per square inch absolute and 60 degrees Fahrenheit \$.07 per MCF
6. On GAS produced from a low pressure oil well as defined in Subsection A.8 and measured as in Subsection B.5 above \$.03 per MCF
7. On GAS produced from an incapable gas well as defined in Subsection A.9 and measured as in Subsection B.5 above \$.013 per MCF
8. On GAS sold at a rate less than that authorized as the area ceiling rate by order of the Federal Power Commission (FPC) under a written agreement in existence before May 1, 1972 which requires the seller to pay and bear all of the severance tax on gas without reimbursement of any portion

thereof \$.03 per MCF

9. On GAS sold at a rate less than that authorized by the FPC in Opinion Nos. 598 and 607, under a written agreement in existence prior to November 25, 1973, which requires the seller to pay and bear more than 50 percent of any increase in severance tax levied in R.S. 47:633(9) after date of such written agreement \$.04 per MCF (Gas sold under contracts which provide for a price increase, either directly or indirectly, as a result of severance tax increases since the date of contract execution, equal to 50 percent or more of such increased taxes shall not be subject to the reduced tax rate but shall be subject to tax rates levied in R.S. 47:633(9)).

C. Certification for Special Rates

A taxpayer may qualify for the lesser tax rates levied in R.S. 47:633(7)(b) and (c), and R.S. 47:633(9) by certifying and reporting production, test data, etc., on forms and instructions prescribed by the secretary. Applications for reduced tax rates must be submitted to the secretary on or before the 15th day of the second month following the month in which production occurs. The certification of a well may not be transferred. A change in ownership of a well requires a new application for certification.

D. Determination of Taxable Volume - Liquids

It is the duty of the severer to measure the volume of oil, condensate or similar natural resources immediately upon severance or as soon thereafter as these hydrocarbons come into being in the form on which the tax is imposed.

1. In any arm's length transaction involving oil, condensate or similar natural resources individually or in a commingled combination, the method of measurement utilized by the first purchaser and the seller for determining the total volume involved and the volumes applicable to the properties involved is acceptable and may be used for the determination of the volumes to which the appropriate tax rates apply.

2. In the absence of an arm's length transaction or for any other reason where the secretary deems that the method of measurement is prejudicial to the state's best interests, he shall prescribe an acceptable method of measurement.

3. When liquid hydrocarbons bearing various tax rates are commingled without proper prior measurement as described below, the entire commingled volume shall be taxed at the highest tax rate applicable to any oil or condensate present in the commingled volume.

4. Proper measurement prior to commingling oil and condensate shall be as outlined below.

a. Stock Tank Barrel Measurement - When oil, condensate or similar natural resources are produced into stock tanks the tanks shall be strapped on a 100 percent basis. All measurements, gravity determination, temperature corrections to 60 degrees Fahrenheit, and determinations of basic sediment and water (BS and W) shall be made in accordance with procedures outlined in the latest American Petroleum Institute (API) code covering measuring, sampling, testing of crude oil, and the American Society for Testing Materials - Institute of Petroleum (ASTM-IP) petroleum measurement tables.

b. Liquid Metering Devices - When oil and condensate are not stock tank measured but must be measured at pressures above atmospheric pressure, such liquids shall be measured by means of a liquid metering device. The meter shall be calibrated at least once every 90 days and records of calibration and all other pertinent test results shall be kept on file

for the same period of time as the prescriptive period relative to taxes and must be available for examination by representatives of the Department of Revenue and Taxation. The taxpayer may pay tax on the metered volume or allocated meter volume at the meter measurement pressure corrected to 60 degrees Fahrenheit. A flash factor is required to convert the volume at the meter measurement pressure to the volume at atmospheric pressure in order to arrive at a stock tank barrel measurement which may be obtained by either utilizing the equilibrium-vaporization flash calculation method or by differentially liberating a measured volume of the liquid hydrocarbon at the measurement pressure to atmospheric pressure and dividing the measured remaining volume at atmospheric pressure by the original measured volume at measurement pressure.

c. Well Tests - When oil and/or condensate are not stock tank measured or measured by liquid measuring devices, the use of well tests, split stream tests, full stream tests or other acceptable and recognized methods of determining the liquid volume of full well stream shall be employed for allocation purposes.

5. Measurement of Natural or Casinghead Gasoline and Other Liquids

a. Natural or casinghead gasoline, natural gas liquids, methane, ethane, propane and butane shall be measured by means of liquid metering devices as outlined in Subsection D.4.b above. THE TAXABLE VOLUME SHALL BE THE METERED VOLUME CONVERTED TO A VAPOR EQUIVALENT.

b. Proper prior measurement of gasoline and/or other natural gas liquids, including ethane, methane, propane, and butane, when commingled with oil and/or condensate, shall be as outlined in Subsection D.4.a and 4.b above and volumes must be calculated to stock tank barrel units at atmospheric pressure and temperature corrected to 60 degrees Fahrenheit.

6. When oil and/or condensate are commingled with a liquid hydrocarbon bearing a lesser tax rate, the oil and/or condensate shall be taxed on the basis of value received for the entire commingled product. When oil and/or condensate bearing various tax rates are commingled prior to separate measurement, the commingled volume shall be taxed at the highest tax rate applicable to any oil or condensate present in the commingled volume. The separate measurement requirement is met if all but one of the products is properly measured prior to commingling.

7. A plant not equipped with an inlet scrubber will be required to determine the volume of condensate contained in the plant product.

8. When natural gasoline and/or natural gas liquids recovered at a plant of extraction are sent to another plant that is processing raw gas, the volume of such liquids shall be backed out by component by volume from the total volumes recovered at the second plant to determine the volumes of gasoline and natural gas liquids locally extracted at the second plant.

E. Determination of Taxable Volume - Gas

It is the duty of the severer to measure the volume of gas immediately upon severance or as soon thereafter as the substance comes into being in the form on which the tax is imposed.

1. Gas produced from an individual gas well, regardless of whether the well is capable or incapable, shall be mea-

sured by means of a meter or well tests acceptable to the secretary. Metering may be accomplished by the backout method, whereby the volume produced by one of two or more wells may be ascertained by subtracting from the combined metered volume the measured volumes from the rest of the wells. All measurements shall be made at a pressure base of 15.025 pounds per square inch absolute and at a temperature of 60 degrees Fahrenheit with corrections made for deviations from Boyle's law when measurement pressures exceed 200 pounds per square inch gauge.

2. Gas produced from individual oil wells may be determined by an allocation of the total metered volume based on gas/oil ratios or solution oil ratios acceptable to the secretary. Records pertaining to volume determinations shall be kept on file for examination and verification by representatives of the secretary.

3. When gas volumes bearing various tax rates are commingled, the volumes bearing each different tax rate must be determined prior to commingling as outlined in Subsection E.1 or Subsection E.2 above. When such commingling occurs, and it is determined by the secretary or his representative that the prescribed measurement requirements have not been met, the entire commingled volume shall be taxed at the highest rate applicable to any gas present in the commingled volume.

F. Application of the Tax on Gas

All gas other than gas expressly exempted from the tax under the provisions of R.S. 47:633(9) is subject to the tax. The determination of whether gas lift gas is taxable or exempt shall be made in the same manner as formation gas.

1. Gross gas production shall be an accumulation of the total dispositions of formation gas from a well and/or lease. Gas exhausted from a gas lift installation, commonly called "re-cycled gas," and commingled with formation gas shall not be included in the volume of gas produced from the underground formation. Dispositions shall include, by way of illustration but not by way of limitation, gas used for field operations, within or without the field, gas vented to atmosphere, gas used elsewhere for gas lift, gasoline and natural gas liquids extracted (which must be converted to gas), gas delivered to a processing plant, and sales or deliveries.

2. Gas which has not previously borne tax or been subject to tax shall not be allowed as an exclusion or tax credit upon injection, but will be allowed as an exclusion when ultimately reproduced. Thus, gas produced in another state or in zones 2, 3, or 4 of the offshore area would not qualify for an exclusion or tax credit upon injection into the formation in the state of Louisiana.

3. Gas which has previously been allowed as an exclusion or tax credit at the time of injection shall be taxed at the time of reproduction, notwithstanding the fact that it may have been originally produced outside the state.

4. Gas produced without the state of Louisiana which has been injected into the earth in the state of Louisiana will be allowed as an exclusion when reproduced to the extent that the exclusion will not exceed the production from the same formation. Adequate records must be maintained by the taxpayer so as to identify the non-tax paid injected gas at the time of reproduction to qualify for the exclusion.

5. A credit claimed by a taxpayer on gas injected into a formation in the state of Louisiana will be limited to any gas severance tax liability imposed against him during the same period for gas produced by him. Credit shall not be allowed

against taxes owed in taxable periods subsequent to that in which the credit occurred. A taxpayer claiming this credit will be required to submit a worksheet detailing the source of gas by company, parish, field and lease comprising the volume on which the credit is claimed.

6. When capable and incapable gas volumes from a property(s) (or lease(s)) are commingled and gas is subsequently withdrawn from the commingled mass and used for a purpose which makes the gas exempt from the severance tax, it will be presumed that the ratio of the volumes of capable and incapable gas remaining in the commingled mass will be in the same ratio as before withdrawal.

7. Carbon Black

a. Carbon black exclusions may be allocated to leases on a contractual basis; provided, however, that such gas is physically capable of being consumed as carbon black. In the absence of contractual limitations, the allocation of plant fuel and carbon black shall be on an equitable and reasonable basis.

b. Whenever sales and/or deliveries are made for plant fuel and/or carbon black usage the consumer of such plant fuel and the transporter or seller of the gas used for carbon black shall be required to submit a report monthly to the Department of Revenue and Taxation showing 100 percent entries into its gas streams involved and an allocation of the plant fuel and/or carbon black usage withdrawn from the stream back to the sources entering the commingled mass.

8. Drip Points

a. The severance tax paid on scrubber liquids, as defined in Subsection A.4, recovered from a volume of gas on which the gas severance tax has previously been paid, is due a credit for the gas shrinkage volume resulting from the recovery of these scrubber liquids. A gas severance tax credit shall be made on an actual vapor equivalent or at 1260 cubic feet of gas per barrel of liquid recovered.

9. Gas used or consumed as fuel in the operation of a recycling or gasoline plant for purposes other than the production of natural resources in the State of Louisiana shall not be exempt from the tax. The extraction and/or fractionation of liquefied petroleum gases (LPG) and/or natural/casing-head gasoline does not constitute production of natural resources.

G. Exclusions from the Gas Severance Tax:

1. gas injected into the formation in the state of Louisiana;

2. gas produced without the state of Louisiana which has been injected into the earth in the state of Louisiana;

3. gas vented or flared from oil and gas wells, provided such gas is not otherwise sold. There shall be no exclusion allowed for gas flared at gasoline or recycling plants if such gas is attributable to raw gas volumes which are sold by the producer prior to plant processing;

4. gas used for fuel in connection with the operation and development for or production of oil and gas in the field where produced, provided such gas is not otherwise sold; and gas used for drilling fuel in the field where produced even though sold for that purpose;

5. (Statute Repealed - Acts 1977, No. 548)

6. (Statute Amended - Acts 1983, 1st Ex. Sess., No.

58)

7. gas used as fuel in the manufacture of carbon black;

8. gas attributable to United States government royalty;

9. gas to be accounted for by working interest owner or purchaser;

10. gas accounted for as measurement differences;

11. gas used for the production of natural resources in the state of Louisiana.

H. Reports and Returns

1. Severance taxes on oil, condensate, gas, natural gas liquids, LPG, casinghead gasoline, and natural gasoline are due and payable on or before the last day of the month following the month in which production occurred.

2. All returns and reports shall be made on forms prescribed by the secretary and furnished by the Department of Revenue and Taxation, or on forms substantially similar which have been approved for use by the secretary. Returns and reports shall be completed and filed in accordance with instructions issued by the secretary.

3. The secretary is empowered to require any person engaged in severing natural resources, or any other person held liable for severance taxes, to furnish necessary information pertaining thereto for the proper enforcement, and verification of taxes levied in R.S. 47:633.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633.

Interested persons may submit written comments on the proposed changes in the regulations to the following address: Carl L. Reilly, Assistant Director, Severance Tax Division, Box 201, Baton Rouge, LA, 70821. A public hearing for the purpose of hearing objections to and comments on these proposed changes will be held on April 5, 1988 at 9 a.m. to 11 a.m., in the second floor conference room of the Department of Revenue and Taxation, which is located at 330 North Ardenwood Drive, Baton Rouge, LA.

Shirley McNamara
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: §2903: Severance Taxes

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

The proposed rules amend rules which were adopted in 1974 and promulgated in December 1977. Since that time the Department of Revenue and Taxation has implemented numerous policy changes in response to statutory mandates, but it has not promulgated these changes in its administrative rules. Although a number of these changes may have had a significant fiscal impact at the time of implementation, it is no longer possible to estimate what the costs or savings might have been.

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

There should be a small increase in revenue collections. This is due to a change in the way condensate is taxed at certain drip points. The old regulations gave a tax break on condensate that was recovered after gas severance tax was paid, at certain drip points. The proposed rule changes this to the statute, 12.5 percent of value, and allows a credit for gas severance tax paid. Collections should be about \$475,000 per year.

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

Gas pipeline companies would pay additional taxes of approximately \$475,000 per year as a result of the changed condensate credit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on either competition or employment.

Carl L. Reilly
Assistant Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of New Orleans - Baton Rouge Steamship Pilot Commissioners for the Mississippi River

As per state law, in order to further enhance the safety and well being of the citizens of Louisiana, as well as prevent any possible imminent peril to the public health, safety, and welfare, the Board of New Orleans-Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports intends the following actions pertaining to its rules and regulations:

1. Abolish the existing rules in order to clarify the purpose, authority and procedures of the commission. This is accomplished via constructing new rules in lieu of the amendment process.

2. The new rules are formulated using existing Louisiana statutes, the intent and procedural precedents of the prior rules as a foundation for effecting a clearer and more efficient system for oversight of the pilotage under the commission's jurisdiction.

In substance, the new rules differ from the old in that they clarify the method and guidelines for making recommendations to the governor, selecting new commissioners, as well as defining the commission's authority and funding. The new document updates the criteria for rule making and application, record keeping, notices and meetings. Further, the new regulations provide for higher standards and qualifications for applicants and associations, and clearly defines the commission's legal authority and duty in the investigative and disciplinary process.

All interested parties may submit written data, documents, or comments on the proposed rules and regulations to Robert A. Barnett, Assistant Attorney General, Suite 700, 234 Loyola Avenue, New Orleans, LA, 70112, by 5 p.m., April 11, 1988. These rules have been published in their entirety in the emergency rule section of this issue of the *Louisiana Register*.

M. W. Gould
President

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Rules of Board of
New Orleans - Baton Rouge Steamship
Pilot Commissioners for the
Mississippi River**

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

The proposed rule changes will require the printing of new rule books estimated at a one-time cost of \$50. The cost to the commission of providing proposed due process protection to any pilot accused of violation of laws or commission rules cannot be determined and would depend upon the number of such actions taken by the commission.

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

The proposed rule changes will have no effect on revenue collection of state or local government units.

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

This proposed rule changes clarify and strengthen the commission rules regarding pilot misuse of drugs, stimulants and depressants. Accordingly, to the extent that pilots now use such substances, such use should decrease, and resultant pilot safety performance should increase. The costs or benefits to pilots and the general public of this action cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule change will have no effect on competition and employment.

Martin W. Gould
President

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Transportation and Development
Board of Registration for Professional Engineers
and Land Surveyors**

In accordance with R.S. 49:950, et seq., notice is hereby given that the Louisiana State Board of Registration for Professional Engineers and Land Surveyors intends to revise Louisiana Administrative Code 46:LXI as follows:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Professional Engineers and Land Surveyors**

Chapter 1. General Provisions (Amend)

§105. Definitions

B. 1. *Practice of engineering* is defined in R.S. 37:682. The board recognizes that in certain fields of practice there is a broad overlap between the work of architects and engineers. This is particularly true in the design of buildings and similar structures. It is recognized that an architect who has complied with all of the current laws of Louisiana relating to the practice of architecture has a right to engage in activities properly classi-

fiable as professional engineering insofar as it is necessarily incidental to his/her work as an architect. Likewise, it is recognized that the professional engineer who has complied with all of the current laws of Louisiana and is properly registered in that branch of engineering for which he/she may be qualified has the right to engage in activities properly classifiable as architecture insofar as it is necessarily incidental to his/her work as an engineer. Furthermore, the architect or the professional engineer, as the case may be, shall assume all responsibility for compliance with all the laws or ordinances relating to the designs or projects with which he may be engaged.

2. (Adopt) Teaching of engineering design and the responsible charge of the teaching of engineering design shall be considered as the practice of professional engineering. Associate professors and those of higher rank teaching engineering design courses who become employed by a college or university in the state of Louisiana on January 1, 1991, and thereafter, shall be registered professional engineers of the Louisiana board. Such professors who become employed on or after January 1, 1991, shall have a period of two years in which to become registered. The associate professors and those of higher rank teaching engineering design courses in the employ of a college or university in the state of Louisiana prior to January 1, 1991, are exempt from professional engineering registration as long as they remain in continuous employment by a college or university in the state of Louisiana. Those persons who are exempt from professional engineering registration are exempt only for the purpose of the teaching of engineering design and they may not present themselves to the public as engineers or professional engineers or provide or offer to provide engineering services as defined by R.S. 37:682 (8).

Chapter 15. Examinations (add)

§1503. Approval to Take the Fundamentals of Engineering Examination

F. (Adopt) Until January 1, 1991, the board may allow the substitution of the qualifying examination for the fundamentals of engineering examination for any applicant who has an earned doctorate from a college or university having an undergraduate curriculum accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology.

Interested persons may submit written comments or offer amendments to the proposed rules to the board office at 1055 St. Charles Avenue, Suite 415, New Orleans, LA 70130, at any time prior to May 15, 1988. The board proposes to consider and take action on the adoption of these rules at a meeting in its office at 11 a.m. on June 7, 1988.

By order of the Louisiana State Board of Registration for Professional Engineers and Land Surveyors.

Paul L. Landry, P. E.
Executive Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Title 46: LXI, Chapters 1 and 15**

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

The proposed rule change will have no estimated implementation costs or savings to the board.

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

The proposed rule change will have no impact on revenue collections of state or local government units.

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

Associate professors or those of higher rank who become employed on or after January 1, 1991 to teach engineering design will have to register with the Louisiana Board of Professional Engineers and Land Surveyors and shall have a two-year period following the date of employment in which to become registered. From now until January 1, 1991 any applicant for professional engineering registration with an earned doctorate in engineering will be able to substitute his/her qualifying examination for an earned doctorate for the required fundamentals of engineering examination. The fiscal impact of these proposed changes on these educators and applicants for registration after 1990 cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The applicable rule changes do not affect anyone until January 1, 1991. All design engineering professors and associate professors employed prior to January 1, 1991 will be allowed to continue teaching without becoming registered as long as they remain employed by the institution. Under this rule, it is estimated that most professors and associate professors now employed in Louisiana institutions of higher education who teach engineering design and are now unregistered will become registered before 1991.

Paul L. Landry, P.E.
Executive Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Transportation and Development
Board of Registration for
Professional Engineers and Land Surveyors**

In accordance with R.S. 49:950, et seq., notice is hereby given that the Louisiana State Board of Registration for Professional Engineers and Land Surveyors intends to revise Louisiana Administrative Code 46:LXI to adopt the following:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Professional Engineers and Land Surveyors**

Chapter 25. Minimum Standards of Practice for Land Surveying

§2501. General

A. The following minimum standards of practice for land surveying in the state of Louisiana have been adopted to help ensure that surveys are performed in accordance with these standards. These standards are binding upon all surveyors registered by the board. Included in the development phase of these standards was an in-depth review of the land surveying standards of other states, the American Congress on Surveying and

Mapping Model Standards, the National Geodetic Surveying Committee Specifications and Standards, and the minimum standards as adopted by the Louisiana Society of Professional Surveyors.

B. These standards are set forth to provide a means by which surveyor and client can effectively assess professional performance and to enable the surveying profession as a whole to better protect the safety, health, and welfare of the public. These standards address the major types of surveys performed as it is anticipated that these encompass the vast majority of surveying as currently practiced in the state of Louisiana.

C. It is intended that these be recognized as minimum standards of practice and that they not be relied upon by the professional surveyor as a substitute for the exercise of proper individual skill, professional direction, and good judgment in fulfilling the legal or contractual requirements of any survey.

§2503. Classification of Surveys

Presented below are categories which define the degree of precision which should be attained for surveys performed in Louisiana. These classifications are based upon both the purposes for which the property is being used at the time the survey is performed and any proposed developments which are disclosed by the client.

A. Class A Surveys

Surveys of extensively developed and valuable properties which require maximum surveying accuracy. This includes, but is not limited to, surveys of urban business district properties and highly developed commercial properties.

B. Class B Surveys

Surveys of properties which are subject to costly improvements and justify a high degree of surveying accuracy. This includes, but is not limited to, surveys of commercial properties and higher priced residential properties located outside urban business districts and highly developed commercial areas.

C. Class C Surveys

Surveys of residential and surrounding areas which are apt to increase rapidly in value. This includes, but is not necessarily limited to, surveys of residential areas which cannot be classified as Class A or Class B surveys.

D. Class D Surveys

Surveys of all remaining properties which cannot be classified as Class A, B or C surveys. This includes, but is not limited to, surveys of farm lands and rural areas.

§2505. Boundary Survey

A. Definition

A property survey which, after careful study, investigation, and evaluation of major factors influencing the location of boundaries, results in the deliberate location or relocation on the ground of the perimeter or division line boundaries, as well as the determination of the area, of the lot, parcel, or tract of real estate being surveyed.

A boundary survey shall only be performed by persons qualified to practice land surveying and registered in accordance with the provisions of L.R.S. 37:681, et seq.

B. Purpose

The purpose of a boundary survey is to establish or reestablish the physical location and extent of the boundaries or real property, including any evidence of prescriptive rights or adverse possession relating thereto. A boundary survey may also include the establishment or reestablishment of the physical location and extent of political boundaries which define the perimeters of public or private ownership.

In addition, the boundary survey is a means of marking

boundaries for sufficient definition and identification to uniquely locate each lot, parcel, or tract in relation to other well recognized and established points of reference, adjoining properties and rights-of-way.

C. Product

A boundary survey will result in the establishment of monumented corners; points of curvature and tangency; and reference points. (See Paragraph E, "Monuments," this Section). In the event that no plat of survey is required, the professional land surveyor must maintain adequate records to substantiate his professional opinion in establishing boundary lines and corners on a survey.

If requested by the client, a boundary survey may also include the following:

1. a signed and sealed written description depicting the surveyed boundary; (See Paragraph H, "Descriptions," this Section.)

2. a certified map or plat depicting the survey as made on the ground;

3. a signed and sealed written report of the surveyor's findings and determinations.

D. Information Required

A surveyor shall consider and evaluate the necessity to obtain the following data based on the specific purpose of the survey:

1. the most recent legal descriptions and plats describing the property to be surveyed;

2. the most recent legal descriptions and plats of tracts adjoining or in proximity to the property to be surveyed;

3. the legal descriptions of adjoining or severing servitudes or rights-of-way, including, but not necessarily limited to, highways, roadways, pipelines, utility corridors, and waterways used for drainage or flood control;

4. relevant data regarding special circumstances such as unrecorded servitudes, affidavits of ownership, judgments or court decrees that may influence the location of the boundary lines;

5. any grant, patent, subdivision plat, historical data, covenants, or other recorded data that will reference or influence the position of boundary lines;

6. claims against the property that may influence the location of the boundary lines, such as prescriptive rights, encroachments, or adverse possession by third parties;

7. surface leases and mineral leases.

E. Monuments

Monuments set or called for, whether artificial or natural, represent the footsteps of the surveyor and his professional opinion as to the proper location of the points or corners. A boundary survey shall observe the guidelines for monumentation which are stated as follows:

1. Natural monuments are objects which are the works of nature; such as streams, rivers, ponds, lakes, bays, trees, rock outcrops, and other definitive topographic features.

2. Artificial monuments are "marks" or "markers" placed for the purpose of establishing boundary lines. Artificial monuments must retain a stable and distinctive location and be of sufficient size and composition to withstand the deteriorating forces of nature.

In addition, artificial monuments shall be considered as permanent monuments, if composed of such materials and placed in such a manner that left undisturbed will remain in place for a period of at least 25 years.

3. The following guidelines apply to artificial monuments:

- a. Monuments of a ferrous material must have at least a 1/2 inch outside diameter, and must be at least 18 inches in length (longer in soft or unstable soil).

- b. Concrete monuments shall be at least four inches in diameter by 24 inches in length, reinforced with an iron rod at least 1/4 inch in diameter, and shall contain a precise mark on top indicating the exact location of the corner.

- c. Marks on existing concrete, stone, or steel surfaces will consist of drill holes, chisel marks or punch marks and must be of sufficient size, diameter or depth to be definitive, stable and readily identifiable as a survey monument.

- d. Wooden stakes are unacceptable as boundary monuments.

- e. Monuments must be set vertically whenever possible and the top should be reasonably flush with the ground. Monuments subject to damage from earth-work, construction or traffic should be buried at a sufficient depth to offer protection.

- f. All monuments must be made easily locatable and identifiable by guard stakes flagged with surveyor's ribbon or by other suitable means such as die stamps, paint or marked adhesive tape. It is recommended that all monuments be identified by appropriate caps bearing the surveyor's name and/or registration number.

- g. It is recommended that monuments be referenced to nearby prominent objects (bearing and distance to the center of the object) and these references included on the plat of the survey.

- h. When physically impossible to set a monument at the corner, witness monuments shall be set, preferably on each converging line at measured distances from the corner and identified as such in the description and on the plat of the property.

F. Field Procedures

All field work shall be performed in accordance with accepted modern surveying theory, practice and procedures. Any person in charge of a field party shall be well trained in the technical aspects of surveying. Every registered professional land surveyor under whose supervision a survey is conducted is also required to adhere to the following:

1. All surveying instruments and equipment shall be calibrated according to manufacturer's specifications.

2. All field measurements of angles and distances shall satisfy the closures and tolerances expressed in §2507.

3. In performing resurveys, the surveyor shall, as nearly as possible, reestablish the original lines of any prior survey made under United States or state authority. In all townships or portions of townships where no survey has been made, the surveyor, in surveying or platting the township or portion thereof, shall make it conform as nearly as practicable to the lots and sections indicated upon the plats according to which the lands were granted by the state or by the United States. (L.R.S. 50:125).

4. Where applicable, surveys necessitating the division of a section shall be performed in accordance with the instructions for the subdivisions of sections as published by the United States Department of the Interior, Bureau of Land Management, in its book entitled *Manual of Instruction for Survey of the Public Lands of the United States*, and all applicable federal laws.

5. The surveyor shall endeavor to ascertain the intent of the parties. Accordingly, special consideration shall be afforded the rules of evidence and "hierarchy of calls" before any decision is made as to locating on the ground the boundary line for any lot, parcel, or tract of real estate. The "hierarchy of calls" is defined as follows:

- a. Natural Monuments
- b. Artificial Monuments
- c. Distances
- d. Courses
- e. Area

6. All corner monuments called for in relevant deeds to the land to be surveyed or those of adjoining properties, affecting the location of the boundaries of the land to be surveyed, shall be physically searched for in a methodical and meticulous fashion. Any evidence discovered shall be evaluated for its agreement by description and location with the call in the relevant deeds.

7. All significant boundary discrepancies, visible encroachments, and visible indications of rights acquired through prescription or adverse possession must be physically located. All evidence of servitudes that is visible without meticulous searching is to be physically located during the survey. Furthermore, non-visible servitudes need to be located only upon the client's specific request.

8. All field data shall be gathered, permanently maintained and shall satisfy the requirements of the following section on plats, maps and drawings.

G. Plats and Maps

Every original plat or map of a boundary survey should be a reproducible drawing at a suitable scale which clearly shows the results of the field work, computations, research and record information as compiled and checked. The plat, map or drawing should be prepared in conformity with the following guidelines:

1. Any reasonably stable and durable drawing paper, linen, or film of reproducible quality will be considered suitable material for boundary survey plats and maps.

2. No plats or maps shall have dimensions less than 8 by 10 1/2 inches.

3. All dimensions, bearing or angles, including curve lengths, radii, and delta angles shall be neatly and legibly shown with respect to each property or boundary line. When possible, all bearings shall read in a clockwise direction around the property.

4. Monuments shall be labeled as "found" or "set," with a brief definitive description of the monument and relevant reference markers along with their positions in relation to the monument. This description should include the physical characteristics of the monument and its relevance to the survey.

5. All pertinent natural or man-made features (water-courses, streets, visible utilities, etc.) shall be labeled, dimensioned and referenced to the nearest property line or represented by a symbol on the map in its proper location. Each symbol must clearly indicate what is represented or shall be labeled for identification either individually or in a separate key to symbols (legend).

6. All maps or plats must show a north arrow and it is recommended that the drawing be oriented so that north is toward the top of the sheet.

7. A statement indicating the origin and method of observation of the bearings shall be made on each plat, map or drawing. The origin of the bearings should include one or more of the following:

- a. reference to the geodetic meridian as observed within one mile of the surveyed site;
- b. reference to the Louisiana coordinate system with the proper zone and controlling station(s) noted;
- c. reference to the record bearing of a well-established line found monumented on the ground as called for in a relevant

deed;

d. when none of the above alternatives are practical, a magnetic bearing (corrected for declination) may be used.

8. If a coordinate system is used on a map, its origin must be identified. If that system is the Louisiana Coordinate System, the appropriate zone must be shown on the map.

9. Where the new survey results differ significantly from the prior deed information in regard to course, distance or quantity, the client or employer should be notified of such. The calls for bearings and distances contained in the deed must be shown in parentheses beside or on the opposite side of the boundary or property line and designated as "call." The acreage or area called for by the deed must be shown beneath the new acreage or area in parentheses and designated "call."

In each case the deed calls must be plainly referenced by a prominent note which contains the conveyance book and page or file number as well as the date on which the deed was recorded. Unrecorded deeds should be identified as to the grantor, grantee and date of execution.

As an alternative to this procedure, or where complications occur, the discrepancies, problems, conflicts, differences in called distances and bearings should be explained by notations on the plat and/or in a written surveyor's report issued to the client.

10. Where separate intricate details, blowups or inserts are required for clarity, they shall be properly referenced to the portion of the map where they apply. This applies particularly to areas where lines of occupation do not conform to deed lines and to areas where a comparison of adjoining deeds indicates the existence of a gap or an overlap.

11. Cemeteries and burial grounds known by the surveyor to be located within the premises being surveyed should be indicated on the plat.

12. When applicable, properties, water courses and rights-of-way surrounding, adjoining, or severing the surveyed site should be identified. All private lands or servitudes should be labeled with the name of the owner or with a reference to the deed under which ownership is held, provided that such information is furnished by the client.

13. Original section, grant, subdivision or survey lines should be shown in proper location with pertinent labeling. A measurement of course and distance must be shown to the nearest parent tract corner, block corner, section corner, subdivision or grant corner.

14. Line weights or widths of drawn lines should be chosen to distinguish the surveyed property from other surrounding properties.

15. Each plat, map or drawing shall show the following:

- a. Legal description
- b. Boundary survey (caption or title);
- c. Client and/or purpose;
- d. General location of the property (or vicinity map);
- e. The date of the survey;
- f. The scale of the drawing shown graphically;
- g. The name, address, registration number and the official seal of the surveyor.

16. Each copy of a plat, map, or drawing issued to the client must contain a certificate signed and sealed by the registered professional land surveyor certifying its authenticity (that it represents his survey) and stating that the survey was conducted on the ground and the plat prepared in accordance with the applicable standards of practice as stipulated in this publication based on the current "classification" of the land (see §2503).

H. Descriptions

A written legal description of the surveyed tract of land must provide the information to properly locate the property on the ground and distinctly set it apart from all other lands. The following guidelines apply:

1. When the surveyed property's dimension, boundaries and area are in strict agreement with the existing recorded deed or platted calls, the existing recorded description may be used if it approximates the standards contained herein.

2. When the property is an aliquot part of a rectangular section or a lot in a platted subdivision, the aliquot method or the lot, block and subdivision method of describing the property can be used. Metes and bounds descriptions of this type of property are optional.

3. Every aliquot description must contain the following basic information: aliquot part of section, township, range, parish and state.

4. Every subdivision lot description must also contain the following basic information: lot, block, unit (if applicable), name of subdivision, general location of the subdivision, section or grant, township and range, city (if applicable), parish and state. Additionally, any reference to subdivision conveyance book and page or file numbers must be included when applicable.

5. Every metes and bounds description should be written in two parts. The first part, called the "General Description," should indicate the general location of the property by naming the particular lot or block etc., within which it is located if in a subdivision or by naming the grant or aliquot part of a rectangular section within which it is located, along with the township, range, meridian (if applicable), city (if applicable) parish and state.

The second part called the "Particular Description," shall logically compile and incorporate calls for the following:

- a. monuments, including descriptions of type, size, material, references, and whether found, set or replaced;
 - b. adjoining property, rights-of-way, or servitudes;
 - c. courses and distances of the new survey; preferably in a clockwise direction;
 - d. parenthetical deed calls where the deed calls differ significantly from the new survey;
 - e. the area stated in square feet or acres within the tolerances specified in §2507.
6. The "Point of Beginning" should be the property corner that is most accessible and most easily identifiable by interested parties. This point shall be carefully chosen and described in a manner which will distinguish it indisputably from any other point. The "Commencing Point" shall be any point used to locate the "Point of Beginning."

7. When the "Point of Beginning" in a new description differs from the "Point of Beginning" called for by the current and valid deed, the previous "Point of Beginning" should be identified and acknowledged and referenced to the new survey.

8. The point of beginning must be located by course and distance or other retraceable methods in relation to a monumented, established and recognized point of commencement.

9. It is recommended, for uniformity, that the metes and bounds description be written so that progression of courses is in a clockwise direction.

10. The courses in the written description shall be as brief and yet as explanatory as the author can construct. Brevity should not cause important locative information to be omitted, and explanatory phrases should not enlarge the description to the extent of confusion.

11. Curved boundaries shall be identified as tangent or non-tangent curves and sufficient data to locate the curve shall be presented. In all cases the radius and length of curve must be given as well as the general direction the curve takes. Additional data to assist in locating the curve such as bearing and length of the long chord, central (delta) angle, degree of curve by arc or chord definition, tangent length, etc. should be included, especially where the curve center is inaccessible or obscured.

12. Each metes and bounds description must return to the point of beginning and close mathematically within the tolerances stated in §2507.

13. A statement at the end of the description should connect the description to the specific survey on which it is based and to the map or plat which depicts the survey. Such a statement may be phrased, "This description is based on the boundary survey and plat made by _____, Registered Professional Land Surveyor, dated _____."

14. A separate comparison of all mathematical computations, map or plat, and the written description shall be made as a check on all work for correctness and continuity.

15. The metes and bounds description shall then be signed and sealed by the surveyor.

§2507. Survey Closure and Tolerances Chart

CONDITION	D	C	B	A	Remarks and Formula
	Rural	Suburban	Urban	Urban Business District	
Unadjusted Closure (Minimum)	1:5,000	1:7,500	1:10,000	1:15,000	Loop or between Control Monuments
Angular Closure (Minimum)	$30'' \sqrt{N}$	$25'' \sqrt{N}$	$15'' \sqrt{N}$	$10'' \sqrt{N}$	N = Number of Angles in Traverse
Accuracy of Bearing in Relation to Source (Minimum)	± 40 Sec.	± 30 Sec.	± 20 Sec.	± 15 Sec.	$\frac{1}{\text{Sin Ang.}} = \text{Denominator in Error of Closure (Approximate)}$
Linear Distances Accurate to: (Minimum)	± 0.2 ft. per 1000 ft.	± 0.15 ft. per 1000 ft.	± 0.1 ft. per 1000 ft.	± 0.05 ft. per 1000 ft.	Sin Ang. × 1000 (approx.) where ± = Accuracy of Bearing

CONDITION	D	C	B	A	Remarks and Formula
	Rural	Suburban	Urban	Urban Business District	
Positional Error of Any Monument (Maximum)	$\frac{AC}{5,000}$	$\frac{AC}{7,500}$	$\frac{AC}{10,000}$	$\frac{AC}{15,000}$	AC = Length of Any Course *
Calculation of Area — Accurate and Carried to:	0.001 .01 .1 .3	0.001 .01 .1 .2	0.0001 .001 .01 .1	0.0001 .001 .01 .1	To 1 ac. (Decimal Place) To 10 acs. To 100 acs. To 1000 acs.
Elevations for Boundaries Controlled by Tides, Contours, Rivers, etc. Accurate to:	± 0.2	± 0.1	± .05	± .03	Based on Accepted Local Datum
Location of Improvements Structures, Paving, etc. (Tie Measurements)	± 1 ft.	± 0.5 ft.	± 0.2 ft.	± 0.1 ft.	
Scale of Maps Sufficient to Show Detail but no less than	1" = 2,000'	1" = 1,000'	1" = 400'	1" = 200'	
Positional Error in Map Plotting not to Exceed: (Applies to Original Map only)	50 ft. 1" = 2,000'	25 ft. 1" = 1,000'	10 ft. 1" = 400'	5 ft. 1" = 200'	Generally one fortieth of an inch (National Map accuracy calls for 1/50th inch)
Adjusted Mathematical Closure of Survey (Minimum)	1:50,000	1:50,000	1:50,000	1:50,000	

*Short courses in Categories "A" and "B" may generate Positional Errors of less than .01 feet. A minimum course distance of 200' should be used in calculating Positional Error.

Two public hearings will be held so that all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearings. These hearings will be held as follows:

April 4, 1988 - 2 p.m., Department of Transportation and Development Auditorium, Baton Rouge, LA.

March 28, 1988 - 2 p.m., Chateau Suite Hotel, 201 Lake Street, Shreveport, LA.

Furthermore, interested persons may submit written comments or offer amendments to the proposed rules to the board office at 1055 St. Charles Avenue, Suite 415, New Orleans, LA 70130, at any time prior to May 15, 1988. The board proposes to consider and take action on the adoption of these rules at a meeting in its office at 11 a.m. on June 7, 1988.

By order of the Louisiana State Board of Registration for Professional Engineers and Land Surveyors.

Paul L. Landry, P. E.
Executive Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Title 46:LXI, Chapter 25

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

One-time printing and distribution costs are estimated at \$500. The costs associated with publication and distribution of the new rule can be absorbed within the operating budget of the State Board of Registration for Professional Engineers and Land Surveyors.

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

The proposed rule will have no effect on revenue collections of state or local government units.

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

Land surveying standards will increase the efficiency, accuracy, and consistency of the work of Louisiana's professional land surveyors thereby having a direct benefit to the general public. The fiscal impact of such economic benefits cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All professional land surveyors will have to adhere to the minimum standards of practice subject to enforcement by the board. Those who fail to comply with the standards may face loss of registration by the board and hence loss of ability to compete for work.

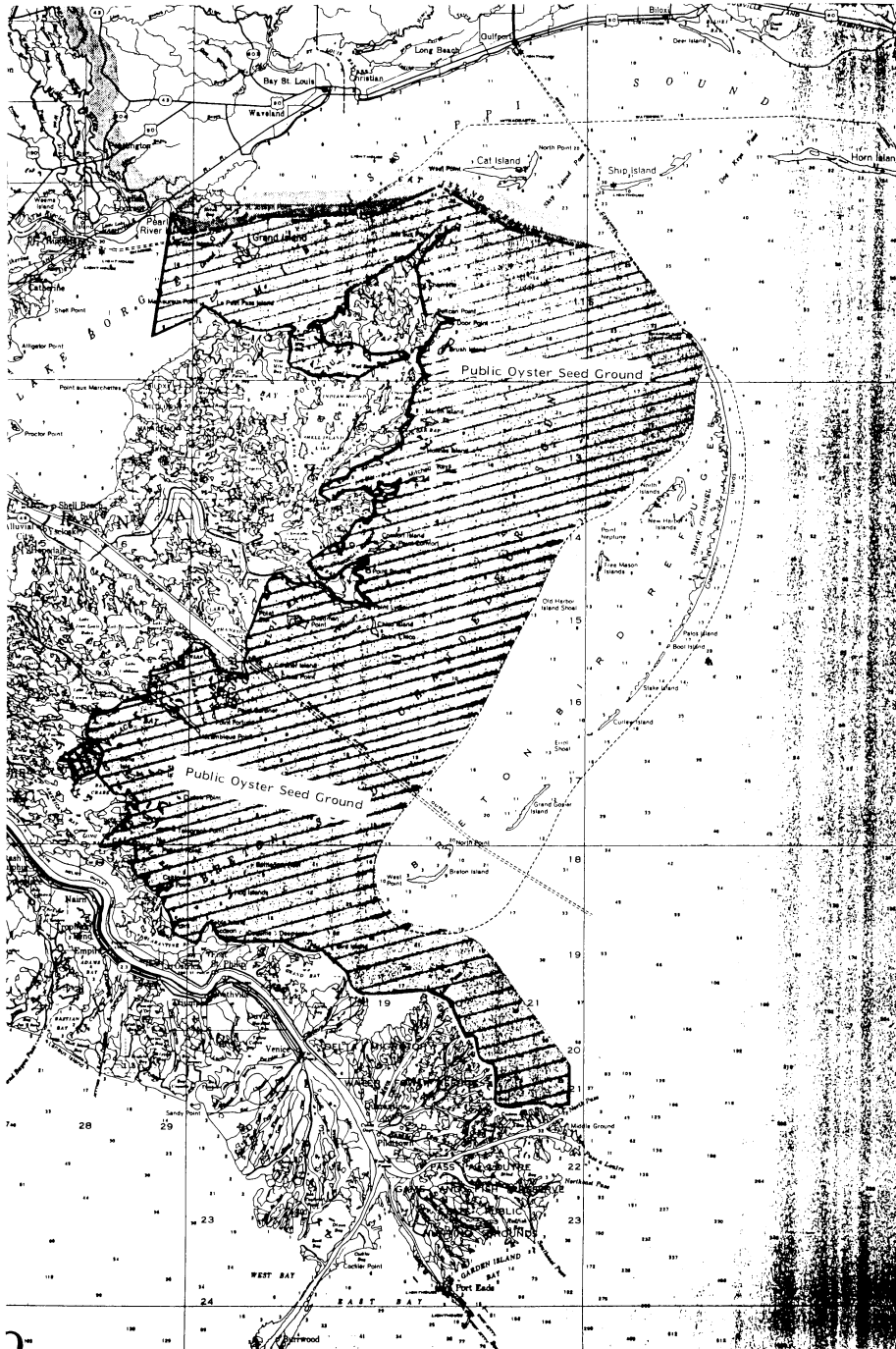
Paul L. Landry, P.E.
Executive Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission
Office of Coastal and Marine Resources**

The Wildlife and Fisheries Commission does hereby give notice, in accordance with the Administrative Procedure Act, that the commission intends to describe the public oyster seed grounds east of the Mississippi River as shown on the attached map. This action is in accordance with R.S. 56:434A, which gives the commission the authority to designate and set aside oyster seed grounds.



Interested parties may submit written comments or comment on this proposed change until 4:30 p.m. April 4, 1988, in person or in writing to: J. Burton Angelle, Secretary, Louisiana Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895.

J. Burton Angelle
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Public Oyster Seed Grounds**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Since this area has historically been managed by the state as a public oyster seed ground, the act of describing the boundaries would not have any effect on government cost.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Since this area has historically been managed by the state as a public oyster seed ground, the act of describing the boundaries would not have any effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Since this area has historically been managed by the state as a public oyster seed ground, the act of describing the boundaries would not have any effect on cost or benefits to non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Since this area has historically been managed by the state as a public oyster seed ground, the act of describing the boundaries would not have any effect on competition and/or employment.

Mary Mitchell
Chief Fiscal Officer

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

Pursuant to the authority granted under Louisiana Revised Statute, Title 56, Section 325.2, the Louisiana Wildlife and Fisheries Commission and the Louisiana Department of Wildlife and Fisheries hereby advertise their intent to establish a 14 inch minimum size and a 10 fish daily creel limit for black bass in Chicot Lake, Evangeline Parish, LA; concurrent with a research project whose goal is to determine the effect of these restrictions on the bass population. The minimum size limit, reduced creel limit and research project will commence on June 1, 1988 and be effective through December 31, 1989. It is also the intent of the Department of Wildlife and Fisheries to review the results of this research project and recommend the continuation or modification of these regulations on an annual basis.

The research project will follow the development of the black bass population in Chicot Lake and include measurements

of recruitment, growth, mortality, food habits, fishermen creel, genetic make-up and habitat quality.

Interested persons may submit written comments on the proposed rule to the following address: J. Burton Angelle, Secretary, Louisiana Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895.

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Chicot Lake-Black Bass
Harvest Restrictions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The department will expend \$110,819.00 in 1987-88, \$86,594.00 in 1988-89, and \$81,077.00 in 1989-90 to employ and equip three field biologists to conduct fisheries research at Chicot Lake.
Seventy-five percent of these expenditures will be federal Dingell-Johnson (Wallop-Breaux) funds. The cost of enforcement of the proposed regulations can be absorbed by present WLF enforcement staff.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no impact on revenue collections of state and local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule could result in a 10 percent to 20 percent increase in fishermen visits to Chicot Lake in Evangeline Parish. This could result in an additional expenditure of from \$175,000 to \$350,000 annually in this region of the state.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will result in the employment of three new field personnel to carry out the fisheries research on Chicot Lake.

Bennie J. Fontenot, Jr.
Chief, Inland Fish Division

David W. Hood
Legislative Fiscal Analyst

Errata

ERRATA

**Department of Agriculture and Forestry
Seed Commission**

The following paragraph in the *Louisiana Administrative Code* was inadvertently misprinted in Volume 2, Supplement 2. It should read as follows:
LAC 7:XIII.8727.D

It is the grower's responsibility to notify the Department

of Agriculture and Forestry when the crop or variety to be certified is ready for field inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 8:565 (November 1982), repealed and readopted LR 12:825 (December 1986).

Mai Abington
Director
Office of the State Register

Potpourri

POTPOURRI

Department of Natural Resources Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1 through 56:700.5, and regulations adopted for the fund published in the *Louisiana Register* on August 20, 1980, notice is given that 28 claims amounting to \$51,702.54 were received during the month of February 1988. During the same month, no claims were paid. The following claims are the subjects of public hearings to be held at the locations indicated:

Thursday, March 31, 1988 at 2:30 p.m., in the Police Jury Office, 8201 West Judge Perez Drive, in Chalmette, LA.:
CLAIM NO. 87-88-45

Clifford Vicknair, of 260 Clara Drive, Slidell, LA 70460, while trawling on the vessel, "LA 4911 AT," in Lake Pontchartrain, St. Tammany Parish, encountered an unidentified submerged obstruction on October 12, 1987, causing damage and/or loss. Amount of Claim: \$1,025.25
CLAIM NO. 87-88-180

Lloyd A. Melerine, of Route 1, Box 834, St. Bernard, LA 70085, while trawling on the vessel, "LA 8902 BC," in Lake Calabasié, St. Bernard Parish, encountered an unidentified submerged obstruction on September 11, 1987, causing damage and/or loss. Amount of Claim: \$1,421.90
CLAIM NO. 87-88-189

W. M. Webb, Inc., of Box 1202, Mandeville, LA 70448, while trawling on the vessel, "SEA FALCON," in the Gulf of Mexico one mile West of Chaland Pass, 1/2 mile offshore, Plaquemines Parish, encountered an unidentified submerged obstruction on September 10, 1987, causing damage and/or loss. Amount of Claim: \$1,535.14
CLAIM NO. 87-88-194

Kevin C. Lipse, of 2305 Gallant Dr., Chalmette, LA 70043, while trawling on the vessel, "BAYOU BANDIT," in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on September 14, 1987, causing damage and/or loss. Amount of Claim: \$1,178.25

CLAIM NO. 87-88-197

Anthony J. Cuccia, of 2017 Brigade Drive, Chalmette, LA 70043, while trawling on the vessel, "LA 8690 BD," in the Intercoastal Canal, Orleans Parish, encountered an unidentified submerged obstruction on September 20, 1987, causing damage and/or loss. Amount of Claim: \$929.20

CLAIM NO. 87-88-203

Wesley Perez, of Route 2, Box 643, St. Bernard, LA 70085, while trawling on the vessel, "LA 7045 BR," in Lake Borgne, St. Bernard Parish, encountered an unidentified submerged obstruction on September 18, 1987, causing damage and/or loss. Amount of Claim: \$418.49

CLAIM NO. 87-88-210

Richard H. Clark, of 2512 Edgar Drive, Violet, LA 70085, while trawling on the vessel, "LA 9901 BP," in the Mississippi River Gulf Outlet, St. Bernard Parish, encountered an unidentified submerged obstruction on September 14, 1987, causing damage and/or loss. Amount of Claim: \$487.94

CLAIM NO. 87-88-225

Acy J. Cooper, Jr., of Box 767, Venice, LA 70091, while trawling on the vessel, "LACY KAY," in My-na-knee between Tauphine and Tiger Pass, Plaquemines Parish, encountered a submerged piling on September 26, 1987, causing damage and/or loss. Amount of Claim: \$642.31

CLAIM NO. 87-88-252

Opeo H. Frey, of 4410 San Marco Road, New Orleans, LA 70129, while trawling on the vessel, "SOUTH WIND," in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on October 4, 1987, causing damage and/or loss. Amount of Claim: \$850

CLAIM NO. 87-88-255

Lawrence L. Stipelcovich, of Box 272, Empire, LA 70050, while trawling on the vessel, "LADY NORA," in Bayou Terrebonne Beacon, Terrebonne Parish, encountered submerged rocks on October 9, 1987, causing damage and/or loss. Amount of Claim: \$2,936.81

CLAIM NO. 87-88-273

Dennis Menesses, of Route 1 Box 841-D St., Bernard, LA 70085, while trawling on the vessel, LA 2341 AJ, in Black Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on October 14, 1987, causing damage and/or loss. Amount of Claim: \$1,647.12

CLAIM NO. 87-88-274

Kevin Evans, of Box 188, St. Bernard, LA 70085, while trawling on the vessel, "LA 4805 BR," in Black Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on October 16, 1987, causing damage and/or loss. Amount of Claim: \$794.64

CLAIM NO. 87-88-288

Ricky Robin, of Route 1, Box 502, St. Bernard, LA 70085, while trawling on the vessel, "LIL RICK," in Breton Sound, at approximate LORAN-C readings of 29,056.2 and 46,947.7, St. Bernard Parish, encountered an unidentified submerged obstruction on October 25, 1987, causing damage and/or loss. Amount of Claim: \$4,096.64

CLAIM NO. 87-88-297

Earl Vanacor, of Route 1, Box 17-D, Des Allemands, LA 70030, while trawling on the vessel, "LA 1724 BM," in an unnamed pond in the center of the wagon wheel dume oil field, Plaquemines Parish, encountered an unidentified submerged obstruction on September 28, 1987, causing damage and/or loss.

Amount of Claim: \$2,616.04

CLAIM NO. 87-88-305

John Martinez, Jr., of Route 1, Box 637-A, St. Bernard, LA 70085, while trawling on the vessel, "SAN PEDRO," in the Mississippi River Gulf Outlet, at approximate LORAN-C readings of 28,876.8 and 46,991.0, St. Bernard Parish, encountered an unidentified submerged obstruction on October 28, 1987, causing damage and/or loss. Amount of Claim: \$1,143.64
CLAIM NO. 87-88-327

Gary J. Treuil, of 215 Papworth Avenue, Metairie, LA 70005, while trawling on the vessel, "PHILIP F.," in Lake Borgne, St. Tammany Parish, encountered a submerged piling on October 21, 1987, causing damage and/or loss. Amount of Claim: \$2,793.10
CLAIM NO. 87-88-329

Lloyd Serigne, of 2026 Todd Street, St. Bernard, LA 70085, while trawling on the vessel, "EL ULTIMO," 1/8 mile East of Cat Pass in Calliga Bay, St. Bernard Parish, encountered an unidentified submerged obstruction on August 25, 1987, causing damage and/or loss. Amount of Claim: \$1,059.21
CLAIM NO. 87-88-334

Lloyd Serigne, of 2026 Todd Street, St. Bernard, LA 70085, while trawling on the vessel, "EL ULTIMO," in Bayou Lery, Plaquemines Parish, encountered an unidentified submerged obstruction on October 11, 1987, causing damage and/or loss. Amount of Claim: \$787.67
CLAIM NO. 87-88-332

Lester Evans of Box 306, St. Bernard, LA 70085, while trawling on the vessel, "CAPT. SWAMPY," in Breton Sound, Plaquemines Parish, encountered an unidentified submerged obstruction on October 5, 1987, causing damage and/or loss. Amount of Claim: \$3,068.29
CLAIM NO. 87-88-333

Jessie Bourg, of 2400 Lena Drive, Chalmette, LA 70043, while trawling on the vessel, "WHOPPIE," 1/2 mile from Bayou Lamar, St. Bernard Parish, encountered an unidentified submerged obstruction on October 28, 1987, causing damage and/or loss. Amount of Claim: \$961.83
CLAIM NO. 87-88-336

John J. Mook, of 1034 Kelly Road, St. Bernard, LA 70085, while trawling on the vessel, "MISS NORA," in Lake Borgne about 300 yards from Grassy Island and Northwest of Channel Marker, St. Bernard Parish, encountered an unidentified submerged obstruction on September 24, 1987, causing damage and/or loss. Amount of Claim: \$646.55
CLAIM NO. 87-88-339

Robert L. Casanova, Sr., of 2812 Farmsite Road, Violet, LA 70092, while trawling on the vessel, "JUDY MARIE," in Bay Eloi, St. Bernard Parish, encountered an unidentified submerged obstruction on October 15, 1987, causing damage and/or loss. Amount of Claim: \$951.64
CLAIM NO. 87-88-342

Charles Ballas, of 2104 Belmont Place, Metairie, LA 70003, while trawling on the vessel, "CHARLIE B.," in the Rigollets between Lake Pontchartrain and Lake Borgne, Orleans Parish, encountered an unidentified submerged obstruction on November 2, 1987, causing damage and/or loss. Amount of Claim: \$1,511.06
CLAIM NO. 87-88-349

Wallace Perez, Sr., of Route 1, Box 653, St. Bernard, LA 70085, while trawling on the vessel, "LADY LORRAINE," in Breton Sound, St. Bernard Parish, encountered an unidentified submerged obstruction on November 11, 1987, causing damage and/or loss. Amount of Claim: \$528.15
CLAIM NO. 87-88-354

Johnny Robinson, Jr., of Box 878, Buras, LA 70041, while trawling on the vessel, "LA 6069 BP," West Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on November 7, 1987, causing damage and/or loss. Amount of Claim: \$1,832.92
CLAIM NO. 87-88-357

Gary Bauer, of 202 Brian Drive, Slidell, LA 70458, while trawling on the vessel, "JULL MARIE," in Black Bay approximately 1/2 mile S-SW of Lonesome Isle, encountered an unidentified submerged obstruction on November 7, 1987, causing damage and/or loss. Amount of Claim: \$1,896.10
CLAIM NO. 87-88-358

Warren J. Thibodeaux, of 8922 Dinkins Street, New Orleans, LA 70127, while trawling on the vessel, "HONEY SUCKER," in Breton Sound at approximate LORAN-C readings of 29,022.9 and 46,957.8, St. Bernard Parish, encountered a submerged pipeline on November 11, 1987, causing damage and/or loss. Amount of Claim: \$885.60
CLAIM NO. 87-88-360

Hugh A. Johnson, of 2128 Pecan, St. Bernard, LA 70085, while trawling on the vessel, "SAILOR'S JOY," in the Mississippi River Gulf Outlet, at approximate LORAN-C readings of 28,883.8 and 46,989.9, St. Bernard Parish, encountered an unidentified submerged obstruction on November 5, 1987, causing damage and/or loss. Amount of Claim: \$479.06
CLAIM NO. 87-88-365

Norman J. Couture, of 3416 Campagna Dr., Chalmette, LA 70043, while trawling on the vessel, "MY LADY," in Lake Borgne, St. Bernard Parish, encountered an unidentified submerged obstruction on November 1, 1987, causing damage and/or loss. Amount of Claim: \$1,852.44
CLAIM NO. 87-88-366

Wilfred Nunez, of 2801 Bloomquist, Meraux, LA 70075, while trawling on the vessel, "LA 6007 AX," in Lake Machais, St. Bernard Parish, encountered an unidentified submerged obstruction on November 1, 1987, causing damage and/or loss. Amount of Claim: \$3,128.67
CLAIM NO. 87-88-375

August Bertoniere, of 1353 Chickasaw, Metairie, LA 70005, while trawling on the vessel, "PONTCHARTRAIN," in Lake Pontchartrain, Lincoln Beach area, Orleans Parish, encountered an unidentified submerged obstruction on October 29, 1987, causing damage and/or loss. Amount of Claim: \$577.06
CLAIM NO. 87-88-377

Bernard E. Johnson, of Route 1, Box 710-A, St. Bernard, LA 70085, while trawling on the vessel, "LA 3459 BS," in St. Helena Bay outside of Lake Machias, St. Bernard Parish, encountered an unidentified submerged obstruction on November 15, 1987, causing damage and/or loss. Amount of Claim: \$1,253.68
CLAIM NO. 87-88-386

William A. Thonn, of Route 6, Box 229-K, New Orleans, LA 70129, while trawling on the vessel, "MASTER SHAUN," in Lake Pontchartrain, Orleans Parish, encountered an unidentified submerged obstruction on October 30, 1987, causing damage and/or loss. Amount of Claim: \$850
CLAIM NO. 87-88-387

William A. Thonn, of Route 6, Box 229-K, New Orleans, LA 70129, while trawling on the vessel, "MASTER SHAUN," in Lake Borgne, Orleans Parish, encountered an unidentified submerged obstruction on November 12, 1987, causing damage and/or loss. Amount of Claim: \$835

CLAIM NO. 87-88-390

Michael Gourgues, Sr., of 10801 Wales Street, New Orleans, LA 70127, while trawling on the vessel, "MICHAEL JR.," in Chef Menteur Pass, Orleans Parish, encountered an unidentified submerged obstruction on November 25, 1987, causing damage and/or loss. Amount of Claim: \$792

CLAIM NO. 87-88-391

Miro Mjehovich, of 1426 Focis, Metairie, LA 70005, while trawling on the vessel, "BRACA-M," between Long Bay and Cox Bay, Plaquemines Parish, encountered an unidentified submerged obstruction on November 21, 1987, causing damage and/or loss. Amount of Claim: \$5,000

CLAIM NO. 87-88-393

William Soulant, III, of 213 Jacqueline Drive, Slidell, LA 70460, while trawling on the vessel, "WITH LUV SON IN LAW," in Lake Pontchartrain, at approximate LORAN-C readings 28,750.5 and 47,062.2, St. Tammany Parish, encountered an unidentified submerged obstruction on November 17, 1987, causing damage and/or loss. Amount of Claim: \$619

CLAIM NO. 87-88-395

Morris Roger, of Box 1521, Lacombe, LA 70445, while trawling on the vessel, "LA 5109 BR," in Lake Pontchartrain, St. Tammany Parish, encountered an unidentified submerged obstruction on November 19, 1987, causing damage and/or loss. Amount of Claim: \$1,363.27

CLAIM NO. 87-88-399

Joseph F. Latapie, Sr., of Route 1, Box 508-C, St. Bernard, LA 70085, while trawling on the vessel, "LA 6760 AN," in Lake Eloi, St. Bernard Parish, encountered an unidentified submerged obstruction on November 23, 1987, causing damage and/or loss. Amount of Claim: \$1,522.33

CLAIM NO. 87-88-401

Jerry Guerra, Jr., of Route 1, Box 668, Shell Beach, St. Bernard, LA 70085, while trawling on the vessel, "DISCO LADY," in Lake Borgne, St. Bernard Parish, encountered an unidentified submerged obstruction on August 31, 1987, causing damage and/or loss. Amount of Claim: \$2,915.75

CLAIM NO. 87-88-403

Rudolph Gonzales, Sr., of Route 1, Box 535-A, St. Ber-

nard, LA 70085, while trawling on the vessel, "JOHN ALLEN," in Garden Island outside of Rocks, St. Bernard Parish, encountered an unidentified submerged obstruction on November 9, 1987, causing damage and/or loss. Amount of Claim: \$1,016.52

CLAIM NO. 87-88-406

John S. Domingo, of 2024 Kingbird Blvd., St. Bernard, LA 70085, while trawling on the vessel, "CAPT. JOHN," in Breton Sound at approximate LORAN-C readings of 28,978.3 and 46,882.9, Plaquemines Parish, encountered an unidentified submerged obstruction on November 19, 1987, causing damage and/or loss. Amount of Claim: \$1,925.66

CLAIM NO. 87-88-408

Domingo Rano, of Route. 2, Box 516, St. Bernard, LA 70085, while trawling on the vessel, "CAPT. MINGO," in Lake Borgne three miles east of Alligator Point, Orleans Parish, encountered submerged piling on October 15, 1987, causing damage and/or loss. Amount of Claim: \$1,898.12

CLAIM NO. 87-88-410

Nicholas Gonzales, of 2008 Fable Dr., Meraux, LA 70075, while trawling on the vessel, "BLUE PERSUASION," in Breton Sound, encountered an unidentified submerged obstruction on September 16, 1987, causing damage and/or loss. Amount of Claim: \$2,500.06

CLAIM NO. 87-88-437

Walter A. Tarantino, Jr., of 1409 Chickasaw, Metairie, LA 70005, while trawling on the vessel, "MISS DARNELL," in Lake Pontchartrain, Jefferson Parish, encountered an unidentified submerged obstruction on October 11, 1987, causing damage and/or loss. Amount of Claim: \$1,609.13.

Any person may submit evidence or make objections in person at the hearings. Written comments can be mailed to: 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).

Gerald P. Theriot
Deputy General Counsel

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